

### III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.<sup>19</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 29, 2015. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 12, 2015.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,<sup>20</sup> in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Exchange concludes that individual CUSIPs comprising the municipal bond offering can be expected to be relatively fungible to one another and that consideration of the aggregate size of the municipal bond offering, rather than the individual bond component, does not raise concerns regarding pricing or liquidity of the applicable municipal bond index components or of the Units overlying the applicable index. With respect to these conclusions, the Commission seeks comment on whether the generic listing criterion proposed to be amended would continue to serve to ensure that the underlying securities of these fixed income indexes are sufficiently liquid and price-transparent, and that, when applied in conjunction with the other

applicable generic listing requirements, would minimize potential manipulation.

Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2015-01 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Numbers SR-NYSEArca-2015-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of these filings also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2015-01 and should be submitted on or before May 29, 2015. Rebuttal comments should be submitted by June 12, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Brent J. Fields,**  
Secretary.

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74865; File No. SR-NYSEArca-2015-34]

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE Arca Integrated Feed To Add a Late Fee In Connection With Failure To Submit the Non-Display Use Declaration**

May 4, 2015.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 24, 2015, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend the fees for NYSE Arca Integrated Feed to add a late fee in connection with failure to submit the non-display use declaration, operative on May 1, 2015. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

<sup>19</sup> Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

<sup>20</sup> See *supra* note 3.

<sup>21</sup> 17 CFR 200.30-3(a)(57).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend the fees for NYSE Arca Integrated Feed, as set forth on the NYSE Arca Equities Proprietary Market Data Fee Schedule ("Fee Schedule"), to add a late fee in connection with failure to submit an updated non-display use declaration. The proposed change to the Fee Schedule would be operative on May 1, 2015.

The Exchange established the current fees for non-display services for NYSE Arca Integrated Feed in April 2013 and amended those fees in September 2014.<sup>4</sup> The 2013 Non-Display Filing established a requirement that data recipients that receive real-time NYSE Arca market data subject to Non-Display Use fees submit a declaration with respect to their use of non-display data.<sup>5</sup> In connection with the fee changes in the 2014 Non-Display Filing, the Exchange required data recipients that receive real-time NYSE Arca market data subject to Non-Display Use fees to complete and submit an updated Non-Display Use Declaration by September 1, 2014.<sup>6</sup> The 2014 Non-Display Filing also established that data recipients are required to submit an updated annual Non-Display Use Declaration by January 31st of each year beginning in 2016. In addition, if a data recipient's use of real-time NYSE Arca market data changes at any time after the data recipient submits a Non-Display Use Declaration, the data recipient must inform the Exchange of the change by completing and submitting at the time of the change an

updated declaration reflecting the change of use.

The Exchange notes that if a data recipient does not timely submit a Non-Display Use Declaration, the Exchange does not have up-to-date information about the data recipient's data use and therefore may not be charging the correct fees to the data recipient. In order to correctly assess fees for the non-display use of NYSE Arca Integrated Feed, the Exchange needs to have current and accurate information about the use of NYSE Arca Integrated Feed. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting customer records in connection with late Non-Display Use Declarations. The purpose of the proposed late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations.

The Exchange proposes to establish a Non-Display Declaration Late Fee of \$1,000 per month. The proposed fee would be charged to any data recipient that pays an Access Fee for NYSE Arca Integrated Feed that has failed to timely complete and submit a Non-Display Use Declaration.

With respect to the Non-Display Use Declaration that was due by September 1, 2014, the Non-Display Declaration Late Fee would apply to NYSE Arca Integrated Feed data recipients that have not submitted the Non-Display Use Declaration by June 30, 2015, and would apply beginning July 1, 2015 and for each month thereafter until the data recipient has completed and submitted the Non-Display Use Declaration. With respect to the annual Non-Display Use Declaration due by January 31st of each year beginning in 2016, the Non-Display Declaration Late Fee would apply to data recipients that fail to complete and submit the annual Non-Display Use Declaration by the January 31st due date, and would apply beginning February 1st and for each month thereafter until the data recipient has completed and submitted the annual Non-Display Use Declaration.<sup>7</sup> A Non-Display Use Declaration that is clearly incomplete would not be considered to

have been completed and submitted to the Exchange on time.

In addition to adding the Non-Display Declaration Late Fee for NYSE Arca Integrated Feed to the Fee Schedule, the Exchange proposes to add an endnote to the Fee Schedule that would specify the effective dates for the Non-Display Declaration Late Fee as described above, and to change the numbering for the existing endnotes as needed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and Sections 6(b)(4) and 6(b)(5) of the Act,<sup>9</sup> in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that it is reasonable to impose a late fee in connection with the submission of the Non-Display Use Declaration. In order to correctly assess fees for the non-display use of NYSE Arca Integrated Feed, the Exchange needs to have current and accurate information about the use of NYSE Arca Integrated Feed. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting and following up on payments owed in connection with late Non-Display Use Declarations. The purpose of the late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations. The Non-Display Declaration Late Fee is equitable and not unfairly discriminatory because it will apply to all data recipients that choose to subscribe to the NYSE Arca Integrated Feed.

The Non-Display Declaration Late Fee is also consistent with similar pricing adopted in 2013 by the Consolidated Tape Association ("CTA").<sup>10</sup> The CTA imposes a monthly fee of \$2,500 for each of Network A and Network B for firms that fail to comply with their reporting obligations in a timely manner.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(4), (5).

<sup>10</sup> See Securities Exchange Act Release No. 70010 (July 19, 2013), 78 FR 44984 (July 25, 2013) (SR-CTA/CQ-2013-04).

<sup>4</sup> See Securities Exchange Act Release Nos. 69315 (Apr. 5, 2013), 78 FR 21668 (Apr. 11, 2013) (SR-NYSEArca-2013-37) ("2013 Non-Display Filing") and 73011 (Sept. 5, 2014), 79 FR 54315 (Sept. 11, 2014) (SR-NYSEArca-2014-93) ("2014 Non-Display Filing").

<sup>5</sup> The non-display fee structure established in the 2013 Non-Display Filing replaced a monthly reporting obligation with respect to non-display devices with the requirement to submit the non-display use declaration. The Exchange also notes that if a data recipient only subscribes to products for which there are no non-display usage fees, e.g., NYSE Arca Realtime Reference Prices, then no declaration is required.

<sup>6</sup> The current form of the Non-Display Use Declaration reflected the changes to the non-display fees set forth in the 2014 Non-Display Filing and replaced the NYSE Euronext Non-Display Use Declaration established in connection with the 2013 Non-Display Filing.

<sup>7</sup> The Exchange will be proposing to establish the Non-Display Declaration Late Fee with respect to each Market Data product on the Fee Schedule that includes Non-Display Fees.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data. In addition to being able to choose which proprietary data products (if any) to use and how to use them, a user can avoid the late fees that are the subject of this filing entirely by simply complying with the requisite deadlines.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of fierce competition to sell proprietary data products and for order flow, as well as numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase (the returns on use being a particularly important aspect of non-display uses of proprietary data).

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) <sup>11</sup> of the Act and subparagraph (f)(2) of Rule 19b-4 <sup>12</sup>

thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) <sup>13</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2015-34 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEARCA-2015-34. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2015-34, and should be submitted on or before May 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Brent J. Fields,**

*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-74866; File No. SR-NYSEArca-2015-15]**

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to the List and Trade Shares of the Principal EDGE Active Income ETF Under NYSE Arca Equities Rule 8.600**

May 4, 2015.

#### **I. Introduction**

On March 12, 2015, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act") <sup>2</sup> and Rule 19b-4 thereunder, <sup>3</sup> a proposed rule change to list and trade shares ("Shares") of the Principal EDGE Active Income ETF ("Fund") under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on March 27, 2015.<sup>4</sup> On April 14, 2015, the Exchange filed Amendment No. 1 to the proposal.<sup>5</sup> The Commission received no

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 74562 (March 23, 2015), 80 FR 16477 ("Notice").

<sup>5</sup> In Amendment No. 1, the Exchange: (1) Clarifies that the Fund's investments in restricted securities (Rule 144A securities) will be limited to fixed income securities; and (2) specifies that the Fund will not invest in debt that is in default at the time

Continued

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</sup> 15 U.S.C. 78s(b)(2)(B).