

the Top-Tier Fund and the reasonably foreseeable effects of the investment by the Top-Tier Fund on the Underlying Fund's expense ratio; (f) the reasonably foreseeable effects of participation in the Special Servicing Agreement on the Underlying Fund's expense ratio; and (g) any conflicts of interest that the Advisers, any affiliated person of the Advisers, or any other affiliated person of the Underlying Fund may have relating to the Underlying Fund's participation in the Special Servicing Agreement.

3. Prior to approving a Special Servicing Agreement on behalf of an Underlying Fund, the Board of the Underlying Fund, including a majority of the Independent Directors/Trustees, will determine that: (a) The Underlying Fund Payments under the Special Servicing Agreement are expenses that the Underlying Fund would have incurred if the shareholders of the Top-Tier Fund had instead purchased shares of the Underlying Fund through the same broker-dealer or other financial intermediary; (b) the amount of the Underlying Fund Payments is less than the amount of Underlying Fund Benefits; and (c) by entering into the Special Servicing Agreement, the Underlying Fund is not engaging, directly or indirectly, in financing any activity which is primarily intended to result in the sale of shares issued by the Underlying Fund.

4. In approving a Special Servicing Agreement, the Board of a Fund will request and evaluate, and Advisers will furnish, such information as may reasonably be necessary to evaluate the terms of the Special Servicing Agreement and the factors set forth in condition 2 above, and make the determinations set forth in conditions 1 and 3 above.

5. Approval by the Fund's Board, including a majority of the Independent Directors/Trustees, in accordance with conditions 1 through 4 above, will be required at least annually after the Fund's entering into a Special Servicing Agreement and prior to any material amendment to a Special Servicing Agreement.

6. To the extent Underlying Fund Payments are treated, in whole or in part, as a class expense of an Underlying Fund, or are used to pay a class-based expense of a Top-Tier Fund, conditions 1 through 5 above must be met with respect to each class of a Fund as well as the Fund as a whole.

7. Each Fund will maintain and preserve the Board's findings and determinations set forth in conditions 1 and 3 above, and the information and considerations on which they were

based, for the duration of the Special Servicing Agreement, and for a period not less than six years thereafter, the first two years in an easily accessible place.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68382; File No. SR-NYSEARCA-2012-136]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing And Immediate Effectiveness of Proposed Rule Change to Allow for the Split-Price Priority Provisions to Apply to Open Outcry Trading of Cabinet Trades

December 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that, on November 30, 2012, 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 and II below, which Items have been prepared by the Exchange. 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 NYSE Arca Options Rule 6.80 to allow for the split-price priority provisions to apply to open outcry trading of cabinet trades. The text of the proposed rule change is available on the Exchange's Web site at 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 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, Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 6.80 to provide that the split-price priority provisions in Rule 6.75(h) apply to accommodation trades ("cabinet trades") in open outcry.³

³ See Rule 6.75(h). Rule 6.75(h) regarding priority on split-price transaction occurring in open outcry specifically provides the following: (1) If an OTP Holder or OTP Firm purchases (sells) one or more option contracts of a particular series at a particular price or prices, the OTP Holder or OTP Firm must, at the next lower (higher) price at which another OTP Holder or OTP Firm bids (offers), have priority in purchasing (selling) up to the equivalent number of option contracts of the same series that the OTP Holder or OTP Firm purchased (sold) at the higher (lower) price or prices, provided that the OTP Holder or OTP Firm's bid (offer) is made promptly and continuously and that the purchase (sale) so effected represents the opposite side of a transaction with the same order or offer (bid) as the earlier purchase or purchases (sale or sales). This paragraph only applies to transactions effected in open outcry; (2) If an OTP Holder or OTP Firm purchases (sells) fifty or more option contracts of a particular series at a particular price or prices, he/she shall, at the next lower (higher) price have priority in purchasing (selling) up to the equivalent number of option contracts of the same series that he/she purchased (sold) at the higher (lower) price or prices, but only if his/her bid (offer) is made promptly and the purchase (sale) so effected represents the opposite side of the transaction with the same order or offer (bid) as the earlier purchase or purchases (sale or sales). The Exchange may increase the "minimum qualifying order size" above 100 contracts for all products. Announcements regarding changes to the minimum qualifying order size shall be made via an Exchange Bulletin. This paragraph only applies to transactions effected in open outcry; (3) If the bids or offers of two or more OTP Holders or OTP Firms are both entitled to priority in accordance with subsections (1) or (2), it shall be afforded them, insofar as practicable, on an equal basis; (4) Except for the provisions set forth in Rule 6.75(h)(2), the priority afforded by this rule is effective only insofar as it does not conflict with customer limit orders represented in the Consolidated Book. Such orders have precedence over OTP Holders' or OTP Firms' orders at a particular price; customer limit orders in the Consolidated Book also have precedence over OTP Holders' or OTP Firms' orders that are not superior in price by at least the MPV; and (5) Floor Brokers are able to achieve split price priority in accordance with paragraphs (1) and (2) above.

Example: Market quote is \$1.00-1.20, with customer interest in the book at the offer price. Floor Broker announces a market order to buy 100 contracts. Market Maker A ("MM-A") is alone in responding "Sell 50 at \$1.15 and 50 at \$1.20" (for an equivalent net price of \$1.175).

Because MM-A is willing to sell contracts at the lower price of \$1.15, MM-A then has priority over

Continued

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

An “accommodation” or “cabinet” trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading provides a way for market participants to effect transactions in such options at a minimal cost. Cabinet trading is conducted in accordance with Rule 6.80 Accommodation Transactions (Cabinet Trades),⁴ which provides that cabinet trading shall be conducted in accordance with other Exchange rules, except as otherwise provided in Rule 6.80, and sets forth specific procedures for engaging in cabinet trading. Pursuant to Rule 6.80(a), the Exchange designates options issues as eligible for cabinet trading pursuant to Rule 6.80. Such designations are made pursuant to requests from market participants.

Current Rule 6.80 provides for both manual and electronic cabinet trading—with manual cabinet trading pursuant to Rule 6.80(b) and electronic cabinet trading pursuant to Rule 6.80(c). Rule 6.80(b)(3) expressly provides that the split-price priority provisions otherwise applicable to open outcry trading pursuant to Rule 6.75(f) do not apply to open outcry trading in cabinet trades. Because split-price priority provisions are only applicable to open outcry trading, 6.80(c), which governs electronic trading of cabinet trading, does not include this provision.

The Exchange believes that split-price priority provisions should apply to open outcry cabinet trading, and that the existing restriction unnecessarily limits the ability of market participants to manually trade cabinet orders on the floor. The current restriction unnecessarily restricts business by not making available certain prices which are available on other exchanges. Split-price priority in open outcry trading of cabinet trades provides an extra incentive for market participants to both

price improve and facilitate the efficient trading of options contracts that are worthless or not actively trading. The Exchange notes that neither CBOE nor PHLX have a similar restriction on cabinet trades, and allow for split-price priority for cabinet trades on the trading floor.⁵ In addition, NYSE MKT recently filed for immediate effectiveness a proposed rule change to allow split-price priority for open outcry trading of cabinet trades.⁶

Accordingly, the Exchange therefore proposes to delete the language from Rule 6.80(3) that states that the split-price priority provisions of 6.75(h) shall not apply. The Exchange believes that providing market participants the ability to have split-price priority when trading cabinet orders in open outcry will help facilitate the trading of options positions that are worthless or not actively traded. The Exchange believes that the proposal should lead to more aggressive quoting by trading crowd participants on the floor, which in turn could lead to better executions. A trading crowd participant might be willing to trade at a better price for a portion of an order if they were assured of trading with the balance of the order at the next price increment. As a result, Floor Brokers representing orders in the trading crowd might receive better-priced executions. The Exchange notes that cabinet trades are infrequent in nature and that, even though the Exchange Rules provide that cabinet trades may be traded electronically, the Exchange has not designated any options issues to trade electronically pursuant to Rule 6.80, because market participants have never requested to do so. Thus, the fact that split-price priority is available for manual and not electronic, will have no impact on ongoing electronic cabinet trading.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market

and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that allowing for the split-pricing priority provisions to apply to open outcry trading of cabinet trades will better facilitate the trading of options contracts that are worthless or not actively traded. The proposed change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, by aligning the Exchange’s Rules with the rules on other options exchanges that conduct manual cabinet trading.

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.

Self-Regulatory Organization’s Statement on Comment 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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

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.

all orders in the Book and trading crowd at the next higher price, in this case 1.20, for an equal number of contracts. The priority afforded by this provision allows MM-A to trade ahead of any like priced customer orders in the Book.

⁴ Rule 6.80 currently provides for cabinet transactions to occur via open outcry at a cabinet price of a \$1 per option contract in any options series open for trading in the Exchange, except that the Rule is not applicable to trading in option classes participating in the Penny Pilot Program. Under the procedures, bids and offers (whether opening or closing a position) at a price of \$1 per option contract may be represented in the trading crowd by a Floor Broker or by a Market Maker or provided in response to a request by a Trading Official, a Floor Broker or a Market Maker, but must yield priority to all resting orders in the Cabinet (those orders held by the Trading Official, and which resting cabinet orders may be closing only). So long as both the buyer and the seller yield to orders resting in the cabinet book, opening cabinet bids can trade with opening cabinet offers at \$1 per option contract.

⁵ See CBOE Rules 6.54 and 6.47; PHLX Rule 1059. CBOE and PHLX both conduct their cabinet trading via open out-cry. Split-price priority is available for open out-cry trading on both CBOE and PHLX, with no restriction for cabinet trades.

⁶ See Securities Exchange Act Release No. 68128 (November 1, 2012), 77 FR 68186 (November 15, 2012) [sic] (SR-NYSEMKT-2012-55). See also NYSE MKT Rule 968NY.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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. Please include File Number SR-NYSEARCA-2012-136 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEARCA-2012-136. 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 such filing also will be available for inspection and copying at the principal office of NYSE Arca. 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-2012-136 and should be submitted on or before January 3, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68387; File No. SR-FINRA-2012-053]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Establish Optional TRACE Data Delivery Services and Related Fees

December 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 30, 2012, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA Rule 7730 to establish certain optional Trade Reporting and Compliance Engine ("TRACE") data delivery services and fees in connection with such optional services.

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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 these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B,

and C below, of the most significant aspects of such statements.

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

1. Purpose

FINRA proposes to amend Rule 7730 to establish two new optional TRACE data delivery services, TRACE Data Delivery Plus and TRACE Data Delivery Secure File Transfer Protocol ("TRACE Data Delivery SFTP"), and fees in connection with such optional services. Firms will have the option to enroll in neither, one or both of these services.

Background

The FINRA Automated Data Delivery System ("FINRA ADDS") is a secure Web site that provides a firm, by market participant identifier ("MPID"), access to TRACE trade journal files. The TRACE trade journal files in FINRA ADDS are available for Asset-Backed Securities transactions as well as for corporate bonds and Agency Debt Securities ("Corporate/Agency Debt Securities").³ The Asset-Backed Securities trade journal files are separate from the Corporate/Agency Debt Securities trade journal files.

Currently, to access the transaction information in FINRA ADDS, a firm must have an MPID for trade reporting. Entitled users of the MPID must submit a request for a trade journal file for a specified date, which must be within 30 calendar days prior to the date of the request. A "report" is provided in response to the firm's request.

FINRA ADDS generates a separate report for each data archive (Asset-Backed Securities or Corporate/Agency Debt Securities) requested as well as a separate report for each date requested. Thus, a single report is a trade journal file for one date listing all transactions to which the requesting MPID was a party that were reported on that date

³ Transactions in Asset-Backed Securities began to be reported to TRACE on May 16, 2011, and TRACE trade journal files on FINRA ADDS are available from that date. See *Regulatory Notice* 11-20 (May 2011). Transactions in Corporate/Agency Debt Securities became available on FINRA ADDS as a result of the migration of the reporting of such securities and related data functions from legacy TRACE technology to the Multi-Product Platform ("MPP"), which occurred on February 6, 2012. See *Regulatory Notice* 11-53 (November 2011). Accordingly, the FINRA ADDS trade journal files for Corporate/Agency Debt Securities transactions are available only for transactions that are reported on or after February 6, 2012. Corporate/Agency Debt Securities transactions reported prior to February 6, 2012 are not available on FINRA ADDS.

¹¹ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.