agreements, disclosures, and opinions to BD/FCM customers to clarify key aspects of the regulatory framework that will govern their participation in a program to commingle and portfolio margin CDS positions and to ensure that appropriate levels of margin are collected. Because the Order is still in effect, the Commission believes it is prudent to extend this collection of information.

The Commission estimates that 45 firms may seek to avail themselves of the conditional exemptive relief provided by the Order and therefore would be subject to the information collection.[2] The Commission estimates that each of the 45 firms that may seek to avail themselves of the conditional exemptive relief provided by the Order would spend a total of 3,430 burden hours to comply with the existing collection of information, calculated as follows: (20 hours to develop a subordination agreement for each non-affiliate cleared credit default swap customers in accordance with paragraph IV(b)(1)(ii) of the Order) × (109 non-affiliate credit default swap customers)[3] + ((20 hours to develop a subordination agreement for each affiliate cleared credit default swap customers in accordance with paragraph IV(b)(2)(ii) of the Order) + (2 hours developing and reviewing the opinion required by paragraph IV(b)(2)(iii) of the Order)) × (11 affiliate credit default swap customers) + (1,000 hours to seek the Commission's approval of margin methodologies under paragraph IV(b)(3) of the Order) + (8 hours to disclose information to customers under paragraph IV(b)(6) of the Order) = 3,430 burden hours, or approximately 154,350 burden hours in the aggregate, calculated as follows: (3,430 burden hours per firm) × (45 firms) = 154,350 burden hours. Amortized over three years, the annualized burden hours would be 1,143 hours per firm, or a total of 51,450 for all 45 firms.

The Commission further estimates that each respondent will incur a one-time cost of $8,000 in outside legal cost expenses per firm, calculated as follows: (200 hours to obtain opinions of counsel from affiliate cleared credit default swap customers under paragraph IV(b)(2)(iii) of the Order) × ($400 per hour for outside legal counsel) = $8,000, for an aggregate burden of $360,000, calculated as follows: ($8,000 in external legal costs per firm) × (45 firms) = $360,000. Amortized over three years, the annualized capital external cost would be $2,667 per firm, or a total of $120,000 for all 45 firms.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 15, 2016.

Robert W. Errett,

Deputy Secretary.

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[2] The Commission bases this estimate on the total number of entities that are dually registered as broker-dealers and futures commission merchants. *See* Financial Data for FCMs as of July 31, 2015, Commodity Futures Trading Commission, available at *http://www.cftc.gov/MarketReports/FinancialDataforFCMs/index.htm.*

[3] Based on information that the Commission receives on a monthly basis, as well as current projections regarding the estimated increase in the number of customers per respondent, the Commission anticipates an average number of credit default swap customers to be 120 per respondent, 109 of which would be non-affiliates and 11 of which would be affiliates. The Commission notes that these estimates are based on current data and the current regulatory framework.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77371; File No. SR–NYSEMKT–2016–33]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Its Price List Effective March 1, 2016

March 15, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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 its Price List to exclude from its average daily volume and certain other calculations any trading day on which the Exchange is not open for the entire trading day and/or a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours. The Exchange proposes to implement the fee change effective March 1, 2016. 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, on the Commission's Web site at *http://www.sec.gov,* 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to exclude from its average daily volume (''ADV'') and certain other calculations any trading day on which the Exchange is not open for the entire trading day and/or a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours. The Exchange proposes to implement the fee change effective March 1, 2016.

As provided in the Exchange's Price List, many of the Exchange's transaction fees and credits are based on trading, quoting and liquidity thresholds that member organizations, including

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Designated Market Makers (''DMMs''), Supplemental Liquidity Providers (''SLPs''), and Retail Liquidity Providers (''RLPs''), must satisfy in order to qualify for the particular rates. The Exchange believes that trading suspensions or disruptions can prevent member organizations, including DMMs, SLPs and RLPs, from engaging in normal trading, quoting and liquidity in their assigned securities, leading to decreased quoting and trading volume compared to ADV. Accordingly, for purposes of determining transaction fees and credits for these market participants based on quoting and/or liquidity levels, ADV, and consolidated ADV (''CADV''), the Exchange proposes to add text to current footnote 1 to the Price List that would permit the Exchange to exclude any trading day on which (1) the Exchange is not open for the entire trading day and/or (2) a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours. The Exchange's proposal is consistent with the rules of its options trading facility [4] and its affiliate NYSE Arca, Inc.[5]

The proposed change would allow the Exchange to exclude days where the Exchange declares a trading halt in all securities or honors a market-wide trading halt declared by another market. The Exchange's proposal would be similar to the current provision in the Price List whereby, for purposes of DMM liquidity credits based on the CADV in all Exchange-listed stocks in a current month, ADV calculations can exclude early closing days.[6] Generally, this applies to certain days before or after a holiday observed by the Exchange.[7] The Exchange's proposal is consistent with the rules of other self-regulatory organizations.[8]

The Exchange believes that artificially low volumes of trading on days when the Exchange is not open for the entire trading day reduces the average daily activity of member organizations both daily and monthly. Given the decreased trading volumes, the numerator for the monthly calculation (*e.g.,* trading volume) would be correspondingly lower, but the denominator for the threshold calculations (*e.g.,* the number of trading days) would not necessarily be decreased, and could result in an unintended increase in the cost of trading on the Exchange, a result that is unintended and undesirable to the Exchange and its member organizations. The Exchange believes that the authority to exclude days when the Exchange is not open for the entire trading day would provide member organizations with greater certainty as to their monthly costs and diminish the likelihood of an effective increase in the cost of trading.[9]

Similarly, the Exchange proposes to modify its Price List to permit the Exchange to exclude from the above calculations shares traded on a trading day where a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours even if such disruption would not be categorized as a complete outage of the Exchange's system. Such a disruption may occur where a certain securities traded on the Exchange are unavailable for trading due to an Exchange system issue or where, while the Exchange may be able to perform certain functions with respect to accepting and processing orders, the Exchange may be experiencing a failure to another significant process, such as routing to other market centers, that would lead member organizations that rely on such process to avoid utilizing the Exchange until the Exchange's entire system was operational. Once again, the Exchange's proposal is consistent with the rules of other self-regulatory organizations.[10]

The Exchange is not proposing any changes to the level of rebates currently being provided on the Exchange, or to the thresholds required to achieve each rebate tier.

The proposed change is also not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that it is reasonable to permit the Exchange to eliminate from the calculation days on which the market is not open the entire trading day because it preserves the Exchange's intent behind adopting volume-based pricing. Similarly, the Exchange believes that its proposal is reasonable because it will help provide member organizations with a greater level of certainty as to their level of rebates and costs for trading in any month where the Exchange experiences such a system disruption on one or more trading days. The Exchange is not proposing to amend the thresholds member organizations must achieve to become eligible for, or the dollar value associated with, the tiered rebates or fees. By eliminating the inclusion of a trading day on which a system disruption occurs, the Exchange would almost certainly be excluding a day that would otherwise lower members' and member organizations' trading volume, thereby making it more likely for member organizations to meet the minimum or higher tier thresholds and thus incentivizing member organizations to increase their participation on the Exchange in order to meet the next highest tier.

The Exchange further believes that the proposal is reasonable because the proposed exclusion seeks to avoid penalizing member organizations that might otherwise qualify for certain tiered pricing but that, because of a significant Exchange system problem,

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[4] See NYSE Amex Options Fee Schedule (''The Exchange may exclude from its monthly calculations of contract volume any day that (1) the Exchange is not open for the entire trading day and/or (2) a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours'').

[5] See NYSE Arca Options Fees and Charges (''The Exchange may exclude from the calculation of ADV contracts traded any day that (1) the Exchange is not open for the entire trading day and/or (2) a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption'').

[6] See footnote 4 in the Price List.

[7] For example, the Exchange is closed on Thanksgiving Day and closes early on the Friday immediately following Thanksgiving Day (*e.g.,* Friday, November 25, 2016).

[8] *See* notes 6–7, *supra; see also* NASDAQ Stock Market LLC Rule 7018(j) (''For purposes of determining average daily volume and total consolidated volume under this rule, any day that the market is not open for the entire trading day will be excluded from such calculation.''); International Securities Exchange, LLC Fee Schedule (''For purposes of determining Priority Customer ADV, any day that the regular order book is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from such calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.'').

[9] *See, e.g.,* Securities Exchange Act Release No. 70657 (October 10, 2013), 78 FR 62899 (October 22, 2103) (SR–ISE–2013–51).

[10] *See* notes 6–7, *supra; see also* BATS BZX Exchange Fee Schedule (''The Exchange excludes from its calculation of ADAV and ADV shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption''), on any day with a scheduled early market close and on the last Friday in June (the ''Russell Reconstitution Day'').

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

would not participate to the extent that they might have otherwise participated. The Exchange believes that certain systems disruptions could preclude some member organizations from submitting orders to the Exchange even if such issue is not actually a complete systems outage.

Finally, the Exchange believes that the proposal is equitable and not unfairly discriminatory because the methodology for the monthly calculations would apply equally to all member organizations and to all volume tiers. The Exchange notes that, although unlikely, there is some possibility that a certain small proportion of member organizations may have a higher ADV as a percentage of average daily volume with their activity included from days where the Exchange experiences a system disruption. The Exchange believes that the proposal would still be equitable and not unfairly discriminatory given that the impacted universe is potentially quite small and that the proposal would benefit the overwhelming majority of market participants and would make the overall cost of trading on the Exchange more predictable for the membership as a whole.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,[13] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that, with respect to monthly calculations for rebates, there are very few instances where the exclusion would be invoked, and if invoked, would have little or no impact on trading decisions or execution quality. On the contrary, the Exchange believes that the proposal fosters competition by avoiding a penalty to member organizations for days when trading on the Exchange is disrupted for a significant portion of the day and would result in lower total costs to end users, a positive outcome of competitive markets. Further, other options exchanges have adopted rules that are substantially similar to the change in ADV calculation being proposed by the Exchange.[14]

[13] 15 U.S.C. 78f(b)(8).

[14] See note 5, supra.

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)[15] of the Act and subparagraph (f)(2) of Rule 19b–4[16] 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)[17] 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.* Please include File Number SR–NYSEMKT–2016–33 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEMKT–2016–33. 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 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–NYSEMKT–2016–33 and should be submitted on or before April 11, 2016.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–06229 Filed 3–18–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77374; File No. SR–NYSEARCA–2016–42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.33 To Conform the Exchange's Rules to Industry-Wide Standards for Recording the Capacity in Which an ETP Holder Executes a Transaction

March 15, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 4, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.