SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68912; File No. SR-NYSEArca-2013-13)

February 12, 2013

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rule 7.11 to establish rules to comply with the requirements of the Plan to Address Extraordinary Market Volatility submitted to the Commission pursuant to Rule 608 of Regulation NMS

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 January 31, 2013, 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 Exchange Rule 7.11 to establish rules to comply with the requirements of Plan to Address Extraordinary Market Volatility submitted to the Commission pursuant to Rule 608 of Regulation NMS. The text of the proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, on the Commission's website 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

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

2 15 U.S.C. 78a.

3 17 CFR 240.19b-4.

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 Exchange Rule 7.11 to establish rules to comply with the requirements of the Plan to Address Extraordinary Market Volatility submitted to the Commission pursuant to Rule 608 of Regulation NMS under the Act (the "Plan"). The Exchange proposes to adopt the changes for a pilot period that coincides with the pilot period for the Plan, which is currently scheduled as a one-year pilot to begin on April 8, 2013.

Background

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, i.e., the "flash crash," the equities exchanges and FINRA have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. Among the measures adopted include pilot plans for stock-by-stock trading pauses[4] and related changes to the equities market clearly erroneous execution rules[5] and more stringent equities market maker quoting requirements.[6] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[7] In addition, the Commission

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4 See, e.g., Exchange Rule 7.11.

5 See, e.g., Exchange Rule 7.10.

6 See, e.g., Exchange Rule 7.23.

7 See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4-631) (Order Approving, on a Pilot Basis, the National Market System

approved changes to the equities market-wide circuit breaker rules on a pilot basis to coincide with the pilot period for the Plan.[8]

The Plan is designed to prevent trades in individual NMS Stocks from occurring outside of specified Price Bands.[9] As described more fully below, the requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the requirements specified in the Plan.[10] As set forth in more detail in the Plan, Price Bands consisting of a Lower Price Band and an Upper Price Band for each NMS Stock are calculated by the Processors.[11] When the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band, the Processors shall disseminate such National Best Bid (Offer) with an appropriate flag identifying it as unexecutable. When the National Best Bid (Offer) is equal to the Upper (Lower) Price Band, the Processors shall distribute such National Best Bid (Offer) with an appropriate flag identifying it as a Limit State Quotation.[12] All trading centers in NMS Stocks must maintain written policies and procedures that are reasonably designed to prevent the

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Plan To Address Extraordinary Market Volatility).

8 See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR-BATS-2011-038; SR-BYX-2011-025; SR-BX-2011-068; SR-CBOE-2011-087; SR-C2-2011-024; SR-CHX-2011-30; SR-EDGA-2011-31; SR-EDGX-2011-30; SR-FINRA-2011-054; SR-ISE-2011-61; SR-NASDAQ-2011-131; SR-NSX-2011-11; SR-NYSE-2011-48; SR-NYSEAmex-2011-73; SR-NYSEArca-2011-68; SR-Phlx-2011-129).

9 Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

10 The Exchange is a Participant in the Plan.

11 See Section V(A) of the Plan.

12 See Section VI(A) of the Plan.

display of offers below the Lower Price Band and bids above the Upper Price Band for NMS Stocks. Notwithstanding this requirement, the Processor shall display an offer below the Lower Price Band or a bid above the Upper Price Band, but with a flag that it is non-executable. Such bids or offers shall not be included in the National Best Bid or National Best Offer calculations.[13]

Trading in an NMS Stock immediately enters a Limit State if the National Best Offer (Bid) equals but does not cross the Lower (Upper) Price Band.[14] Trading for an NMS stock exits a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the market does not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause pursuant to Section VII of the LULD Plan, which would be applicable to all markets trading the security.[15] In addition, the Plan defines a Straddle State as when the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State. For example, assume the Lower Price Band for an NMS Stock is $9.50 and the Upper Price Band is $10.50, such NMS stock would be in a Straddle State if the National Best Bid were below $9.50, and therefore non-executable, and the National Best Offer were above $9.50 (including a National Best Offer that could be above $10.50). If an NMS Stock is in a Straddle State and trading in that stock deviates from normal trading characteristics, the Primary Listing Exchange may declare a trading pause for that NMS Stock.

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13 See Section VI(A)(3) of the Plan.

14 See Section VI(B)(1) of the Plan.

15 The primary listing market would declare a trading pause in an NMS Stock; upon notification by the primary listing market, the Processor would disseminate this information to the public. No trades in that NMS Stock could occur during the trading pause, but all bids and offers may be displayed. See Section VII(A) of the Plan.

Proposed Amendment to Rule 7.11

The Exchange is required by the Plan to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan. In response to the new Plan, the Exchange proposes to amend its Rules accordingly.

The Exchange proposes to add Rule 7.11(a)(1) to define that "Plan" means the Plan to Address Extraordinary Market Volatility Submitted to the Securities and Exchange Commission Pursuant to Rule 608 of Regulation NMS under the Securities Exchange Act of 1934, Exhibit A to Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012), as it may be amended from time to time. The Exchange proposes to add Rule 7.11(a)(2) to state that the Exchange is a Participant in, and subject to the applicable requirements of, the Plan, which establishes procedures to address extraordinary volatility in NMS Stocks. In addition, proposed Rule 7.11(a)(1) provides that all capitalized terms not otherwise defined in this Rule shall have the meanings set forth in the Plan or Exchange rules, as applicable.

The Exchange proposes to add Rule 7.11(a)(3) to provide that ETP Holders shall comply with the applicable provisions of the Plan. The Exchange believes that this requirement will help ensure compliance by its members with the provisions of the Plan as required pursuant to Section II(B) of the Plan.[16]

The Exchange proposes to add Rule 7.11(a)(4) to provide that Exchange systems shall not display or execute buy (sell) interest above (below) the Upper (Lower) Price Bands, unless such interest is specifically exempted under the Plan. The Exchange believes that this requirement is reasonably designed to enable compliance with the limit up-limit down and

16 See Section II(B) of the Plan.

trading pause requirements specified in the Plan, by preventing executions outside the Price Bands as required pursuant to Section VI(A)(1) of the Plan.[17]

The Exchange proposes Rules regarding the treatment of certain trading interest on the Exchange in order to prevent executions outside the Price Bands and to comply with the new LULD Plan. In particular, the Exchange proposes to add Rule 7.11(a)(5) that provides that Exchange systems shall cancel buy (sell) interest that is priced or could be executed above (below) the Upper (Lower) Price Band.[18] Specifically, the Exchange proposes the following provision regarding the canceling of certain trading interest:

- <u>Marketable Trading Interest</u>. Incoming marketable interest, including market orders, IOC orders, and limit orders, shall be executed, or if applicable, routed to an away market, to the fullest extent possible, subject to Rules 7.31(a)(1) – (3) (Trading Collars for market orders) and 7.31(b)(2) (price check for limit orders), at prices at or within the Price Bands. Any unexecuted portion of such incoming marketable interest that cannot be executed at prices at or within the Price Bands shall be cancelled and the ETP Holder shall be notified of the reason for the cancellation.

The Exchange believes this provision is reasonably designed to prevent executions outside the Price Bands as required by the limit up-limit down and trading pause requirements specified in the Plan. The Exchange believes that allowing marketable trading interest to execute to the extent possible within the Price Bands and cancelling any unexecuted portion of such interest that cannot be executed at prices at or within the Price Bands, is reasonably designed to prevent executions in violation with the limit up-limit down and trading pause requirements.

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[17] <u>See</u> Section VI(A)(1) of the Plan.

[18] Sell short orders that are not eligible for repricing instructions will be treated as any other order pursuant to Rule 7.11(a)(5). <u>See</u> proposed Exchange Rule 7.11(a)(6)(D).

The Exchange believes that adding certainty to the treatment of marketable trading interest in these situations will encourage market participants to continue to provide liquidity to the Exchange and thus promote a fair and orderly market.

In addition, the Exchange proposes to add 7.11(a)(6) that provides that Exchange systems shall reprice certain specified limit orders for which ETP Holders have entered an instruction for the Exchange to reprice a buy (sell) order that is priced above (below) the Upper (Lower) Price Band to the Upper (Lower) Price Band rather than cancel the order. Specifically, the Exchange proposes the following provisions regarding the repricing certain specified limit orders:

- Instructions to Reprice. Instructions to reprice eligible orders shall be applicable to both incoming and resting orders. If the Price Bands move and the original limit price of a repriced order is at or within the Price Bands, Exchange systems shall reprice such limit order to its original limit price.
- Time Priority of Repriced Orders. Each time an eligible order is repriced, it shall receive a new time priority.
- Eligible Limit Order Types. The following order types are eligible for repricing instructions: Adding Liquidity Only Orders (Rule 7.31(nn)), Discretion Limit Order (Rule 7.31(h)(2)(B)), Discretionary Order (Rule 7.31(h)(2)), Limit Order (7.31(b)), Passive Discretionary Order (Rule 7.31(h)(2)(A)), PNP ISO (Rule 7.31(w)), PNP Order (Rule 7.31(w)), Proactive if Locked Reserve Order (Rule 7.31(hh)), Random Reserve Order (Rule 7.31(h)(3)(B)), Reserve Order (Rule 7.31(h)(3)), Sweep Reserve Order (Rule 7.31(h)(3)(A)), Primary Until 9:45 Order (Rule 7.31(oo)), Primary After 3:55 Order (Rule 7.31(pp)), and Primary Sweep Order (Rule 7.31(kk)).

- Sell Short Orders. For an order type eligible for repricing instructions that is also a short sell order, during a Short Sale Price Test, as set forth in Rule 7.16(f), short sale orders priced below the Lower Price Band shall be repriced to the higher of the Lower Price Band or the Permitted Price, as defined in Rule 7.16(f)(ii). Sell short orders that are not eligible for repricing instructions will be treated as any other order pursuant to Rule 7.11(a)(5).
- Original Order Instructions. Any interest repriced pursuant to Exchange Rule 7.11(a)(6) shall return to its original order instructions for purposes of a re-opening transaction following a Trading Pause.

The Exchange believes these provisions are reasonably designed to prevent executions outside the Price Bands as required by the limit up-limit down and trading pause requirements specified in the Plan. The Exchange believes that allowing certain specified limit orders for which ETP Holders have entered instructions that would otherwise execute outside the Prices Bands to reprice and receive a new time stamp, is reasonably designed to prevent executions in violation of the limit up-limit down and trading pause requirements. The Exchange notes that the receiving of a new timestamp instead of retaining the original during repricing should have no impact on the priority amongst the orders repriced, because their ranking after repricing will be in the same time order as before repricing, based on the order time when initially entered.[19]

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[19] Example 1 - the Exchange receives three limit orders to buy that are eligible for repricing instructions – A, B, C. The orders are received in that time order. Order A and B, are priced outside of the Price Bands (higher than the Upper Band), but Order C has a limit price within the Price Bands. Orders A and B will be repriced to the Upper Band and receive a new timestamp. The new order priority would be A, B, C, because A and B are repriced sequentially in the order originally received at the price of the Upper Band, while Order C has a lower limit price within the Price Bands.

However, the Exchange also notes that because repriced orders will receive a new time priority, such orders would not necessarily retain their previous priority in the order

Similarly, when orders repriced pursuant to proposed Rule 7.11(a)(6) return to their original order instructions for purposes of the re-opening transaction following a Trading Pause, their ranking will continue to be in the same time order as before repricing, based on the order time when initially entered.[20]

The Exchange believes that the proposal provides a transparent methodology that encourages participants to price orders within the Price Bands and treats repriced orders in a fair and consistent manner. The Exchange believes that adding certainty to the treatment and priority

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queue when compared to orders that do not get repriced. A later arriving order that is priced at the Price Bands could have time priority compared to an order that was repriced pursuant to the order instructions because the original order pricing was outside the Price Bands.

Example 2 – the Exchange receives three limit orders to buy that are eligible for repricing instructions – A, B, C. The orders are received in that time order. Order A and B, are priced outside of the Price Bands (higher than the Upper Band), but Order C has a limit price at the Upper Band. The new order priority would be C, A, B, because C is not getting repriced it keeps its original timestamp, while Orders A and B are repriced sequentially in the order originally received at the price of the Upper Band.

20 Assume the same scenario as Example 1 in note 18. Order A and B, are priced outside of the Price Bands (higher than the Upper Band), but Order C has a limit price within the Price Bands. Orders A and B will be repriced to the Upper Band and receive a new time stamp. With the new order priority being A, B, C, because A and B are repriced sequentially in the order originally received at the price of the Upper Band, while Order C has a lower limit price within the Price Bands. After a Trading Pause, Orders A and B return to their original price pursuant to their original order instructions. The new order priority for the reopening auction will be A, B, C, because A and B are repriced sequentially in the order originally received at the higher original limit price, while C has a lower limit price.

Assume the same scenario as Example 2. Order A and B, are priced outside of the Price Bands (higher than the Upper Band), but Order C has a limit price at the Upper Band. With the new order priority would be C, A, B, because C is not getting repriced it keeps its original timestamp, while Orders A and B are repriced sequentially in the order originally received at the price of the Upper Band. After a Trading Pause, Orders A and B return to their original price pursuant to their original order instructions. The new order priority for the reopening auction will be A, B, C, because A and B are repriced sequentially in the order originally received at the higher original limit price, while C has a lower limit price.

of trading interest in these situations will encourage market participants to continue to provide liquidity to the Exchange and thus promote a fair and orderly market.

The Exchange proposes Rule 7.11(a)(7) that provides that the Exchange systems shall not route buy (sell) interest to an away market displaying a sell (buy) quote that is above (below) the Upper (Lower) Price Band. However, the Exchange shall route orders with a primary market modifier regardless of price, specifically the Primary Only Order (Rule 7.31(x)), Primary Until 9:45 Order (Rule 7.31(oo)), Primary After 3:55 Order (Rule 7.31(pp)), and Primary Sweep Order (Rule 7.31(kk)). Since the Exchange does not control the timing of the execution of the order on the primary market, it would be difficult for the Exchange to anticipate when the order may violate a Price Band when such order is on the Primary Market. For these specific orders, the Exchange believes that the primary market is best positioned to prevent an execution of the order outside the Price Bands. The Exchange believes that this provision is reasonably designed to prevent an execution outside the Price Bands in a manner that promotes compliance with the limit up-limit down and trading pause requirements specified in the Plan.

In addition, the Exchange proposes Rule 7.11(a)(8) that provides that the Exchange may declare a Trading Pause for a NMS Stock listed on the Exchange when (i) the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State; and (ii) trading in that NMS Stock deviates from normal trading characteristics. An Exchange Official may declare such Trading Pause during a Straddle State if such Trading Pause would support the Plan's goal to address extraordinary market volatility.[21] The Exchange

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[21] The Exchange will develop written policies and procedures to determine when to declare a Trading Pause in such circumstances.

believes that this provision is reasonably designed to comply with Section VII(A)(2) of the Plan.[22]

Consistent with the Plan's requirements for the Exchange to establish, maintain, and enforce policies and procedures that are reasonably designed to comply with the trading pause requirements specified in the Plan, the Exchanges also proposes to amend the Rules regarding Trading Pauses to correspond with the LULD Plan. The Exchange proposes to provide that during Phase 1 of the Plan, a Trading Pause in Tier 1 NMS Stocks subject to the requirements of the Plan, shall be subject to Plan requirements and Rule 7.11(b)(2); a Trading Pause in Tier 1 NMS Stocks not yet subject to the requirements of the Plan shall be subject to the requirements in paragraphs (b)(1) – (6) of this Rule; and a Trading Pause in Tier 2 NMS Stocks shall be subject to the requirements set forth in Rule 7.11(b)(1)(B) – (6). The proposed change will allow the Trading Pause requirements in Rule 7.11(b)(1) to continue to apply to Tier 1 NMS Stocks during the beginning of Phase I until they are subject to the Plan requirements. Once the Plan has been fully implemented and all NMS Stocks are subject to the Plan, a Trading Pause under the Plan shall be subject to Exchange Rule 7.11(b)(2). These proposed changes are designed to comply with Section VIII of the Plan to ensure implementation of the Plan's requirements.[23]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[24] in general, and furthers the objectives of Section 6(b)(5),[25] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect

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22 See Section VII(A)(2) of the Plan.

23 See Section VIII of the Plan.

24 15 U.S.C. 78f (b).

25 15 U.S.C. 78f(b)(5).

the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposal promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system by ensuring that the Exchange systems will not display or execute trading interest outside the Price Bands as required by the limit up-limit down and trading pause requirements specified in the Plan. Specifically, the proposal is reasonably designed to ensure that the trading interest on the Exchange is either repriced or canceled in a manner that promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system. Further, the proposal is designed to enable market participants to continue to trade NMS Stocks within the Price Bands in compliance with the Plan with certainty on how certain orders and trading interest will be treated. Thus, reducing uncertainty regarding the treatment and priority of trading interest with the Price Bands should help encourage market participants to continue to provide liquidity during times of extraordinary market volatility that occur during Regular Trading Hours.

The proposal also promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system by ensuring that orders in NMS Stocks are not routed to other exchanges in situations where an execution may occur outside Price Bands, and thereby is reasonably designed to prevent an execution outside the Price Bands in a manner that promotes compliance with the limit up-limit down and trading pause requirements specified in the Plan.

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. The proposed changes are being made to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan, of which other equities exchanges are also Participants of. Other competing equity exchanges are subject to the same limit up-limit down and trading pause requirements specified in the Plan. Thus, the proposed changes will not impose any burden on competition while providing certainty of treatment and execution of trading interest on the Exchange to market participants during periods of extraordinary volatility in NMS stock while in compliance with the limit up-limit down and trading pause requirements specified in the Plan.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[26] and Rule 19b-4(f)(6) thereunder.[27] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to

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26 15 U.S.C. 78s(b)(3)(A)(iii).

27 17 CFR 240.19b-4(f)(6).

Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

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) of the Act[28] 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 e-mail to rule-comments@sec.gov. Please include File No. SR-NYSEArca-2013-13 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 20549-1090.

All submissions should refer to File No. SR-NYSEArca-2013-13. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all

[28] 15 U.S.C. 78s(b)(2)(B).

comments on the Commission's Internet website (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 website 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 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 No. SR-NYSEArca-2013-13 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill
Deputy Secretary

[29] 17 CFR 200.30-3(a)(12).