unsolicited written comments from members or other interested parties.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3) [sic] of the Act [9] and Rule 19b–4(f)(2) [10] 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.

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 Number SR–EDGA–2011–32 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 Number SR–EDGA–2011–32. 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 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 a.m. and 3 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–EDGA–2011–32 and should be submitted on or before November 8, 2011.

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

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–26859 Filed 10–17–11; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65544; File No. SR–NYSEARCA–2011–69]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting the Text of the FINRA Rule 7400 Series, the Order Audit Trail System (''OATS'') Rules, and Making Certain Conforming Changes

October 12, 2011.

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 October 7, 2011, 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 self-regulatory organization. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [4] and Rule 19b–4(f)(6) [5] thereunder. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

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

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b-4(f)(6).

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

The Exchange proposes to adopt the text of the FINRA Rule 7400 Series, the Order Audit Trail System (''OATS'') Rules, and make certain conforming changes. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

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 adopt the text of the FINRA Rules 7400 Series, the OATS Rules, and make certain conforming changes. The Exchange proposes this rule filing in order to harmonize its requirements with FINRA's requirements.[6]

Background

The Commission has recently approved amendments to the FINRA Rule 7400 Series to extend the OATS recording and reporting requirements to all NMS stocks and to exclude certain firms that have limited trading activities.[7] The FINRA Rule 7400 Series imposes obligations on FINRA members to record in electronic form and report to FINRA, on a daily basis, certain information with respect to orders originated, received, transmitted, modified, canceled, or executed by

[6] The Exchange's affiliates, New York Stock Exchange LLC (''NYSE'') and NYSE Amex LLC (''NYSE Amex''), are adopting substantially similar requirements. *See* SR–NYSE–2011–49 and SR–NYSEAmex–2011–74. As described below, the proposed rule change would also require ETP Holders that are not members of FINRA, which all meet the definition of a Proprietary Trading Firm in proposed Rule 7410(p), to also meet certain OATS requirements.

[7] *See* Securities Exchange Act Release No. 63311 (November 12, 2010), 75 FR 70757 (November 18, 2010) (SR–FINRA–2010–044) (''FINRA Adopting Release'').

members in OTC equity securities and equity securities listed and traded on NASDAQ. This information is used by FINRA staff to conduct surveillance and investigations of member firms for violations of FINRA rules and federal securities laws.

By extending the OATS requirements to all NMS stocks, all NYSE, NYSE Amex LLC, and NYSE Arca, Inc.-listed securities will become subject to the OATS requirement beginning October 17, 2011. As noted by FINRA in its rule proposal, by capturing OATS information for all NMS stocks, FINRA will be able to expand its existing surveillance patterns to conduct more comprehensive cross-market surveillance,[8] which is in furtherance of the Exchange's outsourcing of its surveillance and other regulatory functions to FINRA pursuant to a Regulatory Services Agreement.

The Exchange currently does not require its ETP Holders to maintain order information pursuant to an order tracking system. However, most ETP Holders are also FINRA members (''Dual Members'') and thus are currently subject to FINRA's OATS requirements.

Proposed Rule Change

Beginning October 17, 2011, Dual Members will become subject to the new FINRA OATS requirements by virtue of their status as FINRA members. Accordingly, by that date, Dual Members will need to update their existing OATS systems to accommodate all NMS stocks, including NYSE, NYSE Amex, and NYSE Arca-listed securities.[9] The Exchange proposes to harmonize its rules with the FINRA OATS requirements. In particular, the Exchange's proposal to adopt the OATS requirements will not require Dual Members to program their OATS systems any differently than they are already required to do so as a result of the FINRA OATS expansion. Moreover, because FINRA provides regulatory services on behalf of the Exchange, Dual Members would only need to report OATS information to FINRA once, both to meet the FINRA and proposed Exchange OATS requirements.

Some ETP Holders that are not members of FINRA are already members of NASDAQ, which has certain OATS obligations for proprietary trading firms under the NASDAQ Rule 6950 Series. The proposed OATS obligations for such ETP Holders are substantially similar to the existing NASDAQ OATS requirements for the same firms.

The Exchange proposes to adopt the text of the FINRA Rule 7400 Series as the NYSE Arca Equities Rule 7400 Series, with certain changes. The Exchange believes that by adopting the OATS rules, it will further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under the Regulatory Services Agreement.

The proposed NYSE Arca Equities Rule 7400 Series consists of NYSE Arca Equities Rules 7410 through 7470. Proposed NYSE Arca Equities Rule 7410 includes certain definitions to harmonize the NYSE Arca Equities Rule 7400 Series with the FINRA Rule 7400 Series. Proposed NYSE Arca Equities Rule 7410 will include all of the definitions of FINRA Rule 7410, with a few additions.[10] In particular, FINRA Rule 7410(g) and (m) cross reference NYSE rules for the definitions of index arbitrage and program trading. Because the NYSE will be deleting the rules that include those definitions, the Exchange proposes to include the text of those definitions, unchanged, in proposed NYSE Arca Equities Rule 7410(g) and (m). In addition, similar to NASDAQ Rule 6951(n), the Exchange proposes to add a definition of a proprietary trading firm in NYSE Arca Equities Rule 7410(p). Finally, for clarity, the Exchange proposes to add a definition of ''Exchange System,'' to mean the service provided by the Exchange that provides for the automated execution and reporting of transactions in NMS stocks.

Proposed NYSE Arca Equities Rule 7420 establishes the applicability of the rule to all ETP Holders and their associated persons [11] and all executed or unexecuted orders for all NMS stocks traded on the Exchange.

Proposed NYSE Arca Equities Rule 7430, which is substantially the same as FINRA Rule 7430, requires ETP Holders to synchronize and maintain their business clocks that are used for purposes of recording the date and time of any event that must be recorded pursuant to the NYSE Arca Equities rules with reference to a time source designated by the Exchange.

Proposed NYSE Arca Equities Rule 7440, which is based on Nasdaq Rule 6954, incorporates the FINRA Rule 7440 order data recording requirements. FINRA Rule 7440 requires members to record specified order information, including order origination and receipt information and order transmittal information, in a format specified by FINRA. Proposed NYSE Arca Equities Rule 7440 makes clear that pursuant to NYSE Arca Equities Rule 0 and the Exchange's Regulatory Services Agreement with FINRA, FINRA will capture order information on behalf of the Exchange and that FINRA Rules 7420 through 7460 will be construed as NYSE Arca Equities Rules 7420 through 7460 for compliance purposes. As such, complying with FINRA Rule 7440 and submitting OATS reports to FINRA will meet the requirements of proposed NYSE Arca Equities Rule 7440; Dual Members will not need to make separate submissions to the Exchange. Proposed NYSE Arca Equities Rule 7440 requires ETP Holders to assign and enter a unique order identifier to all orders that are electronically transmitted to the Exchange System. Dual Members already use such unique order identifiers when submitting orders to FINRA; thus, the proposed rule change would not impose new or different requirements than currently exist with respect to them.

As with proposed NYSE Arca Equities Rule 7440, proposed NYSE Arca Equities Rule 7450 requires ETP Holders to comply with the FINRA Rule 7450 order data transmission requirements as if FINRA Rule 7450 were part of the Exchange's rules. Accordingly, Dual Members who meet the FINRA order data submission requirements will also be meeting the Exchange order data transmission requirements. Similar to Nasdaq Rule 6955, proposed NYSE Arca Equities Rule 7450 will require Proprietary Trading Firms to comply with the order data transmission requirements only when they receive a request from the Exchange, i.e., FINRA, to submit order information.

Proposed NYSE Arca Equities Rule 7460, which is substantially the same as FINRA Rule 7460, states that a violation of the OATS Rules is a violation of NYSE Arca Equities Rule 2010.

Finally, proposed NYSE Arca Equities Rule 7470 establishes the exemptions to the order recording and data transmission requirements for manual

[8] *Id.* at 70758.

[9] FINRA has been actively working with all of its members, including Dual Members, to provide technical specifications for FINRA members to update their OATS systems to be compliant by the October 17, 2011 deadline. *See e.g., http://www.finra.org/Industry/Compliance/MarketTransparency/OATS/TechnicalSpecifications/.*

[10] The Exchange does not propose to adopt FINRA Rule 7410(o)(2) because the Exchange does not have any ETP Holders that were approved as a FINRA member pursuant to NASD IM–1013–1 or NASD IM–1013–2, which are NASD interpretive materials applicable to NYSE and NYSE Amex Floor-based member organizations only.

[11] The term ''Associated Person'' is defined in NYSE Arca Equities Rule 1.1(f) as a person who is a partner, officer, director, member of a limited liability company, trustee of a business trust, employee of an ETP Holder or any person directly or indirectly controlling, controlled by or under common control with an ETP Holder.

orders if the exemption is consistent with the protection of investors and the public interest, subject to certain criteria. The exemption is limited to a period of two years; however, subsequent exemptions may be requested. This proposed rule is also substantially the same as FINRA Rule 7470.

The Exchange proposes several technical changes to FINRA's OATS rule text. First, for consistency with Exchange rules, the Exchange proposes to (i) change all references from ''members'' to ''ETP Holders'' and from ''FINRA'' or ''NASDAQ'' to ''the Exchange,'' [12] respectively, (ii) add or modify the definitions for ''Exchange System,'' ''Proprietary Trading Firm,'' ''Index Arbitrage,'' and ''Program Trading,'' as described above and (iii) delete references to ''OTC equity security,'' which do [sic] not trade at the Exchange and thus is a moot reference. Second, rather than adopt the full text of FINRA Rules 7440 and 7450, which detail the recording of order information and order data transmission requirements, the Exchange modeled its proposed Rules 7440 and 7450 on NASDAQ's Rules 6954 and 6955, which instead cross-reference such requirements.[13] Third, consistent with a recent FINRA rule filing, the Exchange has adopted the July 10, 2015 extension date in NYSE Arca Equities Rule 7470.[14]

The Exchange proposes to implement the NYSE Arca Equities Rule 7400 Series at the same time that FINRA implements its Rule 7400 Series amendments with respect to Dual Members [15] and on January 31, 2012 with respect to ETP Holders that are not FINRA members. The Exchange proposes to give additional time to such ETP Holders because most of them have not been subject to OATS requirements in the past and may need additional time to program their systems in order to comply with the proposed rule change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[16] in general, and furthers the objectives of Section 6(b)(5),[17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between NYSE Arca Equities Rules and FINRA Rules. The changes that Dual Members will be required to make for the FINRA OATS requirements will meet the requirements of the Exchange's proposed adoption of OATS. The Exchange further believes that the proposed rule change will promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under the Regulatory Services Agreement with respect to all ETP Holders, including non-FINRA members. To the extent the Exchange has proposed changes that differ from the FINRA version of the Rules, such changes are generally technical in nature and do not change the substance of the proposed NYSE Arca Equities Rules.

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.

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

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 for 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 Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6)(iii) [19] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission is waiving the 30-day operative period.[22] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as the waiver will allow the Exchange's OATS requirements to be in place on the same date as the new FINRA OATS requirements. The Commission notes that the FINRA OATS requirements, which will be phased-in beginning October 17, 2011, would already apply to Dual Members.[23] Further, for the small number of ETP Holders that are not

[12] The Exchange notes that pursuant to NYSE Arca Equities Rule 0, references to the ''Exchange'' in its rules may also refer to FINRA. The Exchange will advise ETP Holders via an Information Memo whether a reference to the Exchange in the proposed Rule 7400 Series will require an ETP Holder to report directly to the Exchange or to FINRA on the Exchange's behalf. However, the Exchange anticipates that all OATS reporting will be submitted directly to FINRA, on behalf of the Exchange. To the extent that the Exchange or any of its facilities collect OATS data on behalf of ETP Holders, such information will be used for regulatory purposes only.

[13] *See* Securities Exchange Act Release No. 53128 (Jan. 13, 2006), 71 FR 3550 (Jan. 23, 2006) (File No. 10–131).

[14] *See* Securities Exchange Act Release No. 64717 (June 21, 2011), 76 FR 37384 (June 27, 2011) (SR–FINRA–2011–029).

[15] FINRA has announced that it will begin to phase-in the new recording and reporting requirements under its Rule 7400 Series beginning on October 17, 2011. *See* SR–FINRA–2011–055. FINRA also has announced that members may elect to report all NMS stocks beginning on October 17, 2011; however, only those securities required to be reported within each phase will be subject to all OATS matching processing, with all NMS stocks being reported by November 28, 2011. *See http://www.finra.org/Industry/Compliance/MarketTransparency/OATS/OATSReport/P124073*.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6)(iii). Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its 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.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] *See supra* note 15.

FINRA members, the Exchange has represented that they have received ample notice of the proposed change and will be given additional time, until January 31, 2012, to comply with the proposed rule change. Finally, the Commission notes that the proposed rule change is consistent with FINRA and Nasdaq rules previously approved by the Commission. The Commission, therefore, designates the proposed rule change to be operative upon filing with the Commission.

At any time within 60 days of the filing of the 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.

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 Number SR–NYSEARCA–2011–69 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 Number SR–NYSEARCA–2011–69. 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 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 a.m. and 3 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 Number SR–NYSEARCA–2011–69 and should be submitted on or before November 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–26858 Filed 10–17–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65541; File No. SR–EDGX–2011–31]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

October 12, 2011.

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 September 30, 2011, the EDGX Exchange, Inc. (the ''Exchange'' or the ''EDGX'') filed with the Securities and Exchange Commission (''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 fees and rebates applicable to Members [3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.com.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

Purpose

The Exchange proposes to decrease the charge assessed for removing liquidity fromthe Exchange from $0.0030 per share to $0.0029 per share. In the Exchange's feeschedule, these modifications are reflected in Flags N, W, 6 and PI, where liquidityis removed. The Exchange proposes adding footnote 12 to state that a removal rate of$0.0029 per share applies where an MPID's add liquidity ratio is equal to or greaterthan 10%. The add liquidity ratio is defined as ''added'' flags/(''added'' flags + ''removal'' flags) × 100, where added flags includeB, H, V, Y, MM, 3, or 4 and removal flags include MT, N, W, PI, or 6. The removalrate of $0.0029 per share applies to single MPIDs only as share volume calculationsfor wholly owned affiliates cannot be aggregated across multiple MPIDs on aprospective basis. The Exchange also proposes to add language to state that theremoval rate of $0.0030 per share will apply where a Member does not meet the addliquidity ratio of at least 10%.

The Exchange proposes to add the RR Flag for orders that are routed to the EDGA Exchange and remove liquidity using routing strategies IOCX and IOCT, as defined in Exchange Rules 11.9(b)(3)(l) and (m). The Exchange proposes to assess a charge of $0.0007 per share to account for the pass-through of the proposed EDGA fee for removing liquidity.

The Exchange proposes to add the PI Flag to the fee schedule for orders that

[24] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.