

United States Postal Service to Add Priority Mail & First-Class Package Service Contract 24 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date*: August 4, 2016; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Natalie R. Ward; *Comments Due*: August 12, 2016.

5. *Docket No(s)*: MC2016-174 and CP2016-253; *Filing Title*: Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 25 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date*: August 4, 2016; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Natalie R. Ward; *Comments Due*: August 12, 2016.

6. *Docket No(s)*: MC2016-175 and CP2016-254; *Filing Title*: Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 30 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date*: August 4, 2016; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Katalin K. Clendenin; *Comments Due*: August 12, 2016.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,  
*Secretary*.

[FR Doc. 2016-18997 Filed 8-9-16; 8:45 am]  
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## POSTAL SERVICE

### Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

**AGENCY**: Postal Service™.  
**ACTION**: Notice.

**SUMMARY**: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES**: *Effective date*: August 10, 2016.

**FOR FURTHER INFORMATION CONTACT**: Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION**: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 4, 2016,

it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 30 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2016-175, CP2016-254.

Stanley F. Mires,  
*Attorney, Federal Compliance*.  
[FR Doc. 2016-18907 Filed 8-9-16; 8:45 am]  
BILLING CODE 7710-12-P

## POSTAL SERVICE

### Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

**AGENCY**: Postal Service™.  
**ACTION**: Notice.

**SUMMARY**: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES**: *Effective date*: August 10, 2016.

**FOR FURTHER INFORMATION CONTACT**: Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION**: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 4, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 25 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2016-174, CP2016-253.

Stanley F. Mires,  
*Attorney, Federal Compliance*.  
[FR Doc. 2016-18916 Filed 8-9-16; 8:45 am]  
BILLING CODE 7710-12-P

## POSTAL SERVICE

### Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

**AGENCY**: Postal Service™.  
**ACTION**: Notice.

**SUMMARY**: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES**: *Effective date*: August 10, 2016.

**FOR FURTHER INFORMATION CONTACT**: Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION**: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 4, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 24 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2016-173, CP2016-252.

Stanley F. Mires,  
*Attorney, Federal Compliance*.  
[FR Doc. 2016-18918 Filed 8-9-16; 8:45 am]  
BILLING CODE 7710-12-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78477; File No. 4-668]

**Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment No. 4 to the National Market System Plan Governing the Process of Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail by BATS Exchange, Inc., BATS-Y Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.**

August 4, 2016.

### I. Introduction

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that, on July 14, 2016, BATS Exchange, Inc., BATS-Y Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC,

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

ISE Gemini, LLC, ISE Mercury, Miami International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively, “SROs” or “Participants”), filed with the Securities and Exchange Commission (the “Commission”) a proposal to amend the Plan Governing the Process of Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail (the “Selection Plan”).<sup>3</sup>

The SROs propose to amend the Selection Plan to add the Investors’ Exchange, LLC (“IEX”) as a Participant to the Selection Plan. The SROs also propose to replace references in the Plan to “Nasdaq OMX BX, Inc.,” “NASDAQ OMX PHLX LLC,” “BATS Exchange, Inc.,” “BATS–Y Exchange, Inc.,” “EDGA Exchange, Inc.,” and “EDGX Exchange, Inc.” with references to “NASDAQ BX, Inc.,” “NASDAQ PHLX LLC,” “Bats BZX Exchange, Inc.,” “Bats BYX Exchange, Inc.,” “Bats EDGA Exchange, Inc.,” and “Bats EDGX Exchange, Inc.,” respectively. In each case, the relevant exchange filed proposed rule changes to implement the name change.<sup>4</sup> A copy of the proposed amendment to the Selection Plan (“Amendment No. 4”) is attached as Exhibit A hereto. The Commission is publishing this notice to solicit comments from interested persons on proposed Amendment No. 4 to the Selection Plan.

## II. Description of the Plan

Set forth in this Section II is the statement of the purpose of Amendment No. 4 to the Selection Plan, along with the information required by Rule 608(a)(4) and (5) under the Exchange Act,<sup>5</sup> as prepared and submitted by the SROs to the Commission.<sup>6</sup>

\* \* \* \* \*

### Background

The Selection Plan was initially filed with the Commission on September 4,

2013,<sup>7</sup> approved on February 21, 2014,<sup>8</sup> and subsequently amended three times.<sup>9</sup> The Selection Plan governs the process for how the Participants will evaluate and select a Plan Processor and develop the National Market System Plan Governing the Consolidated Audit Trail Pursuant to Rule 613 of Regulation NMS under the Exchange Act (“CAT NMS Plan”).

### Requirements Pursuant to Rule 608(a)

#### A. Description of the Amendments to the Selection Plan

On June 17, 2016, the Commission approved IEX’s registration as a national securities exchange pursuant to Section 6 of the Exchange Act.<sup>10</sup> Pursuant to Section II(B) of the Selection Plan, the Participants propose amending the Selection Plan to add IEX as a Participant thereto. Section II(B) of the Selection Plan states:

Any entity approved by the SEC as a national securities exchange or national securities association under the Exchange Act after the effectiveness of the Plan shall become a Participant by satisfying each of the following requirements: (1) effecting an amendment to the Plan by executing a copy of the Plan as then in effect (with the only change being the addition of the new Participant’s name in Section II of the Plan) and submitting such amendment to the SEC for approval; and (2) providing each then-current Participant with a copy of such executed Plan. The amendment shall be effective when it is approved by the SEC in accordance with SEC Rule 608 or otherwise becomes effective pursuant to SEC Rule 608.<sup>11</sup>

Accordingly, IEX has executed a copy of the Selection Plan as currently in effect, with the addition of IEX’s name to Section II of the Selection Plan, and provided each existing Participant a copy of the executed Selection Plan. With this submission, the Participants submit the executed Selection Plan to the Commission for approval on behalf of IEX. A copy of the executed version of the Selection Plan is attached hereto.<sup>12</sup>

<sup>7</sup> See Securities Exchange Act Release No. 70892 (November 15, 2013), 78 FR 69910 (November 21, 2013).

<sup>8</sup> See Securities Exchange Act Release No. 71596 (February 21, 2014), 79 FR 11152 (February 27, 2014).

<sup>9</sup> See Securities Exchange Act Release No. 75192 (June 17, 2015), 80 FR 36028 (June 23, 2015); Securities Exchange Act Release No. 75980 (September 24, 2015), 80 FR 58796 (September 30, 2015); and Securities Exchange Act Release No. 77917 (May 25, 2016), 81 FR 35072 (June 1, 2016).

<sup>10</sup> See Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41142 (June 23, 2016).

<sup>11</sup> See Selection Plan, Section II(B), available at [www.catnmsplan.com](http://www.catnmsplan.com).

<sup>12</sup> See Exhibit B.

The Participants also propose to amend the Selection Plan to replace references to “NASDAQ OMX BX, Inc.,” “NASDAQ OMX PHLX LLC,” “BATS Exchange, Inc.,” “BATS–Y Exchange, Inc.,” “EDGA Exchange, Inc.,” and “EDGX Exchange, Inc.” with references to “NASDAQ BX, Inc.,” “NASDAQ PHLX LLC,” “Bats BZX Exchange, Inc.,” “Bats BYX Exchange, Inc.,” “Bats EDGA Exchange, Inc.,” and “Bats EDGX Exchange, Inc.,” respectively. In each case, the relevant exchange filed proposed rule changes to implement the name change.<sup>13</sup>

The proposed amendments to the text of the Selection Plan are set forth in Exhibit A.

### B. Governing or Constituent Documents

Not applicable.

### C. Implementation of Amendment

The terms of the proposed amendment will become effective upon filing pursuant to Rule 608(b)(3)(iii) of the Exchange Act because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (b)(1) of Rule 608,<sup>14</sup> if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act.

### D. Development and Implementation Phases

Not applicable.

### E. Analysis of Impact on Competition

Not applicable.

### F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

### G. Statement That the Amendments Have Been Approved by the Plan Sponsors

The Selection Plan provides that, except with respect to the addition of new Participants, amendments to the Selection Plan shall be effected by

<sup>13</sup> See note 4, *supra*.

<sup>14</sup> The Commission notes that if it abrogated an amendment, the Commission could require the amendment to be refiled in accordance with subparagraph (a)(1) of Rule 608. See 17 CFR 242.608(b)(3)(iii).

<sup>3</sup> See Letter from the Participants to Brent J. Fields, Secretary, Commission, dated July 13, 2016.

<sup>4</sup> Securities Exchange Act Release Nos. 76656 (December 15, 2015), 80 FR 79381 (December 21, 2015) (for NASDAQ BX, Inc.); 76654 (December 15, 2015), 80 FR 79396 (December 21, 2015) (for NASDAQ PHLX LLC); 77307 (March 7, 2016), 81 FR 12996 (March 11, 2016) (for Bats BZX Exchange, Inc.); 77308, 81 FR 12975 (March 11, 2016) (for Bats BYX Exchange, Inc.); 77299, 81 FR 12759 (March 10, 2016) (for Bats EDGA Exchange, Inc.); and 77298 (March 4, 2016), 81 FR 12757 (March 10, 2016) (for Bats EDGX Exchange, Inc.).

<sup>5</sup> See 17 CFR 242.608(a)(4) and (a)(5).

<sup>6</sup> See Letter from the SROs to Brent J. Fields, Secretary, Commission, dated July 13, 2016.

means of a written amendment that: (1) sets forth the change, addition, or deletion; (2) is executed by over two-thirds of the Participants; and (3) is approved by the SEC pursuant to Rule 608, or otherwise becomes effective under Rule 608.<sup>15</sup> The proposed amendment has been executed by all of the Participants and has consequently been approved by the SROs.

With respect to new Participants, an amendment to the Selection Plan may be effected by the new national securities exchange or national securities association in accordance with Section II of the Selection Plan. As discussed above, IEX has executed the existing version of the Selection Plan, with IEX's name added to Section II, provided each existing Participant a copy of the executed Selection Plan, and is providing the Commission with a copy of the executed version with this submission.

#### H. Terms and Conditions of Access

Not applicable.

#### I. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

#### J. Method and Frequency of Processor Evaluation

Not applicable.

#### K. Dispute Resolution

Not applicable.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Amendment No. 4 to the Selection Plan is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-668 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 4-668. 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 Amendment to the Plan that are filed with the Commission, and all written communications relating to the Amendment to the Plan 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 10:00 a.m. and 3:00 p.m. Copies of the submission will also be available for inspection and copying at the Participants' principal offices. 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 4-668 and should be submitted on or before August 31, 2016.

By the Commission.

**Robert W. Errett,**  
Deputy Secretary.

#### Exhibit A

##### Proposed Amendment Text

Additions italicized; deletions bracketed.

#### Plan Processor Evaluation and Selection Plan

##### II. Participants

###### (A) List of Participants

The Participants are as follows:

- (1) [BATS] *Bats BYX Exchange, Inc.*
- (2) [BATS Y-Exchange,] *Bats BZX Exchange, Inc.*
- (3) Bats EDGA Exchange, Inc.
- (4) Bats EDGX Exchange, Inc.
- ([3] 5) BOX Options Exchange LLC
- ([4] 6) C2 Options Exchange, Incorporated
- ([5] 7) Chicago Board Options Exchange, Incorporated
- ([6] 8) Chicago Stock Exchange, Inc.
- ([7] EDGA Exchange, Inc.)
- ([8] EDGX Exchange, Inc.)
- (9) Financial Industry Regulatory Authority, Inc.
- (10) International Securities Exchange, LLC
- (11) Investors' Exchange, LLC
- ([11] 12) ISE Gemini, LLC
- ([12] 13) ISE Mercury, LLC

- ([13] 14) Miami International Securities Exchange LLC
- ([14] 15) NASDAQ [OMX] BX, Inc.
- ([15] 16) NASDAQ [OMX] PHLX LLC
- ([16] 17) The Nasdaq Stock Market LLC
- ([17] 18) National Stock Exchange, Inc.
- ([18] 19) New York Stock Exchange LLC
- ([19] 20) NYSE MKT LLC
- ([20] 21) NYSE Arca, Inc.

\* \* \* \* \*

BATS BYX EXCHANGE, INC.

BY: \_\_\_\_\_

BATS EDGA EXCHANGE, INC.

BY: \_\_\_\_\_

BOX OPTIONS EXCHANGE LLC

BY: \_\_\_\_\_

CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED

BY: \_\_\_\_\_

[EDGA EXCHANGE, INC.]

BY: \_\_\_\_\_

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.

BY: \_\_\_\_\_

[ISE GEMINI, LLC] *INVESTORS' EXCHANGE, LLC*

BY: \_\_\_\_\_

BATS BZX [Y-EXCHANGE] EXCHANGE, INC.

BY: \_\_\_\_\_

BATS EDGA EXCHANGE, INC.

BY: \_\_\_\_\_

C2 OPTIONS EXCHANGE, INCORPORATED

BY: \_\_\_\_\_

CHICAGO STOCK EXCHANGE, INC.

BY: \_\_\_\_\_

[EDGA EXCHANGE, INC.]

BY: \_\_\_\_\_

INTERNATIONAL SECURITIES EXCHANGE, LLC

BY: \_\_\_\_\_

[ISE GEMINI, LLC] ISE

BY: \_\_\_\_\_

[MIAMI INTERNATIONAL SECURITIES EXCHANGE LLC] *ISE MERCURY, LLC*

BY: \_\_\_\_\_

NASDAQ [OMX PHLX LLC] *BX, INC.*

BY: \_\_\_\_\_

[NATIONAL STOCK EXCHANGE, INC.] *THE NASDAQ STOCK MARKET LLC*

BY: \_\_\_\_\_

[NYSE MKT LLC] *NEW YORK STOCK EXCHANGE LLC*

BY: \_\_\_\_\_

*NYSE ARCA, INC.*

BY: \_\_\_\_\_

[NASDAQ OMX BX, INC.] *MIAMI INTERNATIONAL SECURITIES EXCHANGE LLC*

BY: \_\_\_\_\_

[THE] NASDAQ *PHLX* [STOCK MARKET] LLC

BY: \_\_\_\_\_

<sup>15</sup> See Notice of Selection Plan, *supra* note 5.

[NEW YORK STOCK EXCHANGE LLC]  
 NATIONAL STOCK EXCHANGE, INC.  
 BY: \_\_\_\_\_  
 NYSE MKT LLC [ARCA, INC.]  
 BY: \_\_\_\_\_

[FR Doc. 2016-18908 Filed 8-9-16; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78479; File No. SR-  
 NYSEArca-2016-105]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule

August 4, 2016.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on July 29, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (“Fee Schedule”). The Exchange proposes to implement the fee change effective August 1, 2016. The proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at 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 purpose of this filing is to add the concepts of “Appointed OFP” and “Appointed MM” to the Exchange’s Fee Schedule, effective August 1, 2016, which would increase opportunities for firms to qualify for various volume tier discounts and rebates.

Specifically, the Exchange proposes to allow NYSE Arca Market Makers (“Market Makers”) to designate an Order Flow Provider (“OFP”)<sup>4</sup> as its “Appointed OFP” and to likewise allow OFPs to designate a Market Maker as its “Appointed MM.”<sup>5</sup> As proposed, OTP Holders and OTP Firms (each, an “OTP”; collectively, “OTPs”) would effectuate the designation—of an Appointed OFP or Appointed MM—by each sending an email to the Exchange.<sup>6</sup> The Exchange would view corresponding emails as acceptance of such an appointment and would only recognize one such designation for each party once every 12-months, which designation would remain in effect unless or until the Exchange receives an email from either party indicating that the appointment has been terminated.<sup>7</sup> The Exchange believes that this requirement would impose a measure of exclusivity and would enable both parties to rely upon each other’s, and potentially increase, transaction volumes executed on the Exchange, which is beneficial to all Exchange participants.

The Exchange proposes to allow an OTP to opt to combine its volume with that of its Appointed OFP/Appointed MM to qualify for the various incentive programs offered on the Exchange. First, an OTP with an Appointed OFP/Appointed MM would be able to aggregate certain of its volumes with that of its Appointed OFP/Appointed MM for purposes of qualifying for certain posting credits available in the Customer and Professional Customer Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues (“Customer Posting Tiers”) and Market Maker Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues and

<sup>4</sup> See Rule 6.1A(a)(21) (defining OFP as any OTP Holder that submits, as agent, orders to the Exchange).

<sup>5</sup> See proposed Endnote 15 to Fee Schedule.

<sup>6</sup> See *id.*

<sup>7</sup> See *id.*

SPY (“Market Maker Posting Tiers”).<sup>8</sup> Currently, an OTP can only aggregate its volume with that of its affiliate(s).<sup>9</sup> The concept of Appointed OFP/Appointed MM would apply in those instances where an OTP qualifies for a favorable fee by calculating qualifying volume through combining its transactions with that of Appointed OFP/Appointed MM. However, an OTP that has both an Appointed OFP/Appointed MM and any affiliate(s) may only aggregate volumes with one of these two, not both. Thus, the Exchange proposes to modify the Fee Schedule to provide that in calculating qualifications for monthly posting credits, “the Exchange would include the activity of either (i) affiliates or (ii) an Appointed OFP/Appointed MM.”<sup>10</sup> To make clear that the volume of any affiliate(s) or an Appointed OFP/Appointed MM may be included in the monthly calculations for achieving any of the tiers, the Exchange proposes to remove the asterisks from Tiers 2 and 5 of the Customer Posting Tiers and the Super Tier of the Market Maker Posting Tiers, as well as the corresponding asterisk at the bottom of each table.

In addition to the Customer Posting Tiers and the Market Maker Posting Tiers, as proposed, volumes of an Appointed OFP/Appointed MM (or, of any affiliate(s)) would also be applied in calculating whether an OTP achieved credits or rebates available through the Exchange’s other incentive programs, including (i) the Customer and Professional Customer Incentive Program; (ii) the Market Maker Incentive Program; (iii) the Customer and Professional Customer Posting Credit Tiers In Non Penny Pilot Issues; and (iv) the Discount in Take Liquidity Fees for Professional Customer, Market Maker, Firm, and Broker Dealer Liquidity Removing Orders. In this regard, Exchange proposes to add language making clear that the calculations for achieving the monthly volume thresholds would include transaction volume from any of an OTP’s affiliates or its Appointed MM or Appointed OFP (as applicable), which would add clarity and transparency to the Fee Schedule. As noted above, an OTP that has both

<sup>8</sup> See *id.*

<sup>9</sup> See Fee Schedule, available here, [https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE\\_Arca\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf) (explicitly providing that OTPs may combine volumes with affiliates to take advantage of Tiers 2 and 5 of the Customer Posting Tiers, and the Super Tier of the Market Maker Posting Tiers). See also Endnote 8 citing Rule 1.1(a) (defining an affiliate as being a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified).

<sup>10</sup> See proposed Endnote 8 to Fee Schedule Fee.

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

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

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