

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101127; File No. SR-NYSEARCA-2024-80)

September 20, 2024

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the NYSE Arca Options Proprietary Market Data Fee Schedule

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 September 16, 2024, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) 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 Proprietary Market Data Fee Schedule (“Fee Schedule”) applicable to various market data products. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange,

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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 the Fee Schedule applicable to various market data products. More specifically, the Exchange proposes to adopt a free trial program for NYSE Arca options market data products, effective September 16, 2024.⁴

The Exchange proposes a one-month free trial for any firm that subscribes to a particular NYSE Arca options market data product for the first time. As proposed, a first-time subscriber would be any firm that has not previously subscribed to a particular NYSE Arca options market data product listed on the Fee Schedule. As proposed, a first-time subscriber of a particular NYSE Arca options market data product would not be charged the Access Fee, Non-Display Fee, any applicable Professional and Non-Professional User Fee, and Redistribution Fee for that product for one calendar month. For example, a firm that currently subscribes to the Arca Options Complex would be eligible to receive a free one-month trial of the Arca Options Product, whether in a display-only format or for non-display use. On the other hand, a firm that currently pays an Access Fee and receives the Arca Options Product for non-display use would not be eligible to receive a free one-month trial of the Arca Options Product in a display-only format. The proposed free trial would be for the first full calendar month following the date a subscriber is approved to receive trial access to the particular NYSE Arca options market data product. The Exchange would provide the one-month free trial for each particular product to each subscriber once.

⁴ The Exchange originally filed to amend the Fee Schedule on September 3, 2024 (SR-NYSEARCA-2024-73). SR-NYSEARCA-2024-73 was subsequently withdrawn and replaced by this filing.

The Exchange believes that providing a one-month free trial to Exchange real-time market data products listed on the Fee Schedule would enable potential subscribers to determine whether a particular NYSE Arca options market data product provides any benefit to their business models before fully committing to expend development and implementation costs related to the receipt of that product, and is intended to encourage increased use of the Exchange's market data products by defraying some of the development and implementation costs subscribers would ordinarily have to expend before using a product. The Exchange notes that other exchanges have similar free trial programs.⁵

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁶ in general, and furthers the objectives of Section 6(b)(4),⁷ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. In addition, the Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.⁸

⁵ See The Nasdaq Stock Market LLC (“Nasdaq”) Equity 7 Pricing Schedule, Section 112(b)(1) and Cboe Exchange, Inc. Fees Schedule.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78k-1.

The Exchange believes that the proposed rule change to provide Exchange real-time market data products listed on the Fee Schedule to new customers free-of-charge for their first subscription month is reasonable because it would allow vendors and subscribers to become familiar with the feeds and determine whether they suit their needs without incurring fees. It is also intended to incentivize Redistributors to enlist more subscribers to subscribe to Exchange market data products to broaden the products' distribution. Making a new market data product available for free for a trial period is consistent with offerings of other exchanges. As noted above, other exchanges offer new subscribers a similar waiver of market data fees.⁹

The Exchange believes the proposal to provide Exchange real-time market data products listed on the Fee Schedule to new customers free-of-charge for their first subscription month is equitable because the free trial would apply to any first-time subscriber, regardless of the use they plan to make of the feed. As proposed, any first-time subscriber would not be charged the Access Fee, Non-Display Fee, any applicable Professional and Non-Professional User Fee, or Redistribution Fee for any of the real-time market data products listed on the Fee Schedule for one calendar month. The Exchange believes it is equitable to restrict the availability of this one-month free trial to customers that have not previously subscribed to any Exchange real-time market data product, since customers who are current or previous subscribers are already familiar with the products and whether they would suit their needs.

The Exchange believes that the proposed rule change to provide for a one-month free trial period to test is not unfairly discriminatory because the financial benefit of the fee waiver would be available to all firms subscribing to the Exchange's real-time market data products for the first time on a free-trial basis. The Exchange believes there is a meaningful distinction between

⁹ See note 5, supra.

customers that are subscribing to a market data product for the first time, who may benefit from a period within which to set up and test use of the product before it becomes fee liable, and users that are already receiving the Exchange's market data products. The Exchange believes that the limited period of the free trial would not be unfairly discriminatory to other users of the Exchange's market data products because it is designed to provide a reasonable period of time to set up and test a new market data product. The Exchange further believes that providing a free trial for one calendar month would ease administrative burdens for data recipients to subscribe to a new data product and eliminate fees for a period before such users are able to derive any benefit from the data.

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

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price these data products is constrained by competition among exchanges that offer similar data products to their customers. The Exchange believes that the proposed free trial program does not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed trial would apply to first time subscribers on an equal and non-discriminatory basis. Further, the Exchange believes that the proposed program does not impose a burden on competition on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposal would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to lower their prices or provide a free trial to better compete with the Exchange's offering. Indeed, other national

securities exchanges already offer similar free trial programs today.¹⁰ The proposed rule change is also designed to enhance competition by providing an incentive to Redistributors to enlist new subscribers to subscribe to Exchange's real-time market data products.

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 has become effective upon filing pursuant to Section 19(b)(3)(A)¹¹ of the Act and paragraph (f) [sic] thereunder. 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2024-80 on the subject line.

¹⁰ See note 5, *supra*.

¹¹ 15 U.S.C. 78s(b)(3)(A).

Paper Comments:

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

All submissions should refer to file number SR-NYSEARCA-2024-80. 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 website (<https://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 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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright

protection. All submissions should refer to file number SR-NYSEARCA-2024-80 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Vanessa A. Countryman,
Secretary.

¹² 17 CFR 200.30-3(a)(12).