SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67785; File No. SR-NYSEArca-2012-48)

September 5, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Amending NYSE Arca Equities Rule 7.31(h) to Add a PL Select Order

I. Introduction

On May 22, 2012, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend NYSE Arca Equities Rule 7.31(h) to add a PL Select Order. The proposed rule change was published for comment in the Federal Register on June 8, 2012.[3] A designation of a longer period for Commission action was published in the Federal Register on July 26, 2012.[4] The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend NYSE Arca Equities Rule 7.31(h) to add a PL Select Order. The PL Select Order would be a subset of a Passive Liquidity ("PL") Order.[5] NYSE Arca Equities Rule 7.31(h)(7) would define the PL Select Order as a PL Order that would not interact with an incoming order that: (i) has an immediate-or-cancel ("IOC") time in force

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

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 67101 (June 4, 2012), 77 FR 34115 ("Notice").

4 See Securities Exchange Act Release No. 67475 (July 20, 2012), 77 FR 43879 (Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Amending NYSE Arca Equities Rule 7.31(h) To Add a PL Select Order Type).

5 See NYSE Arca Equities Rule 7.31(h)(4).

condition,[6] (ii) is an ISO,[7] or (iii) is larger than the size of the PL Select Order. The PL Select Order would otherwise, except for the specified restrictions on trading with certain incoming orders, operate as a PL Order and retain its standing in execution priority among PL Orders. In the instances when an incoming order meets one of the PL Select Order restrictions, the PL Select Order would not interact with the incoming order and could be traded through.

The Exchange believes that the restrictions on trading with incoming IOC or ISO orders would enable Users[8] to designate that their PL Orders would not trade with interest that would never become displayed or passive liquidity on the Exchange. The Exchange believes that the final restriction would serve to attract larger-sized PL Orders because the User would not have to risk having the PL Select Order being swept up by larger-sized contra interest, thereby obviating the primary purpose of the PL Order types: to provide price improvement.

The Exchange further proposes that upon notice to ETP Holders, the Corporation[9] may suspend the entry of PL Select Orders. If such provision is invoked, Users may continue to submit PL Orders, but would not be able to enter PL Select Orders and all open PL Select Orders on the NYSE Arca trading book would be cancelled back to the User. The Exchange believes that it is appropriate to be able to suspend the entry of PL Select Orders in circumstances where the volume of orders creates an issue with the ability of the Exchange to timely process inbound orders to the Exchange.

Because of the related technology changes that this proposed rule change would require, the Exchange proposes to announce the initial implementation date via Trader Update.

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6 See NYSE Arca Equities Rule 7.31(e).

7 See NYSE Arca Equities Rule 7.31(jj).

8 See Arca Equities Rule 1.1(yy) (defining the term "User").

9 See Arca Equities Rule 1.1(k) (defining the term "Corporation").

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The Commission finds the instant proposed rule change to be consistent with the Act. The Commission notes that the Exchange believes that the proposed rule change should allow PL Select Order users to avoid interacting with market participants that are submitting orders primarily for the purpose of probing for or "pinging" hidden interest on the NYSE Arca book as opposed to adding liquidity to the market. The Exchange also indicates that the probing or "pinging" interest that PL Select Orders would avoid is more likely to come from professional traders than non-professional traders. In addition, the Exchange believes that use of the PL Select Order could attract displayed liquidity that would be eligible for execution against PL Select Orders or posting on the NYSE Arca book if not executed by PL Select Orders or other resting liquidity.

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10 In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

11 15 U.S.C. 78f(b)(5).

The Commission notes further that the Exchange believes that, because PL Select Orders would not interact with larger-sized incoming interest, market participants could be incentivized to use PL Select Orders to provide price improvement opportunities, thereby promoting more favorable executions for the benefit of public customers. In addition, the Exchange believes that market participants also could be incentivized to route more aggressively priced, displayable interest to the Exchange because of an increased likelihood of receiving price improvement.

Based on the Exchange's statements, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR-NYSEArca-2012-48) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill
Deputy Secretary

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12 15 U.S.C. 78s(b)(2).

13 17 CFR 200.30-3(a)(12).