Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] 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 Exchange stated that it believes that waiver of the 30-day operative delay is appropriate because the Commission has already approved the adoption of the new MPL Order type. In addition, the Exchange stated that it has not yet implemented the MPL Order out of concern that the existing rule text would limit the opportunities for execution. By waiving the operative delay, the Exchange would be able to expeditiously make MPL Orders, including MPL–ALO Orders, available to member organizations in a manner that is consistent with existing Rule 72, thereby enhancing order execution opportunities for all member organizations. Thus, the Exchange believes that the proposed rule change would protect investors and the public interest because it would enable all interest that is eligible to interact at a price point to be considered for a trade with an MPL–ALO Order. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[14]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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)[15] of the Act to determine whether the proposed rule 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 email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2014–15 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–NYSEMKT–2014–15. 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 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 10:00 a.m. and 3:00 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–NYSEMKT–2014–15 and should be submitted on or before March 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–02875 Filed 2–10–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71479; File No. SR–NYSEArca–2013–141]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Adopt New NYSE Arca Equities Rule 7.25 To Create a Crowd Participant Program on a Pilot Basis to Incent Competitive Quoting and Trading Volume in Exchange-Traded Products by Market Makers Qualified With the Exchange as CPs

February 5, 2014.

On December 6, 2013, 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 adopt the Crowd Participant Program, a one-year pilot program, to incent competitive quoting and trading volume in exchange-traded products (''ETPs'') by Market Makers qualified with the Exchange as Crowd Participants. The proposed rule change was published for comment in the **Federal Register** on December 26, 2013.[3] The Commission received no comment letters on the proposal.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71146 (Dec. 19, 2013), 78 FR 78426.

[4] 15 U.S.C. 78s(b)(2).

within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would, among other things, create a one-year pilot program, the Crowd Participant Program, for issuers of certain ETPs listed on the Exchange.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates March 26, 2014, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2013–141).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–02872 Filed 2–10–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71486; File No. SR–FINRA–2014–004]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Amendments to FINRA Rule 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements)

February 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 24, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. On February 4, 2014, FINRA filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

FINRA is proposing to amend FINRA Rule 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements) to expand the circumstances in which termination fees and rights of first refusal are permissible; exempt from the filing requirements certain collective investment vehicles that are not registered as investment companies; and make clarifying, non-substantive changes regarding documents filed through FINRA's electronic filing system.[4]

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

1. *Purpose*

FINRA Rule 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements) (the ''Rule''), among other things, regulates underwriting compensation, requires the filing of specified information in connection with public offerings in which members will participate, and prohibits unfair arrangements in connection with public offerings of securities. FINRA proposes to amend the Rule's provisions regarding unfair arrangements to: (1) Expand the circumstances under which members and issuers may negotiate termination fees and rights of first refusal (''ROFR''), with specified conditions; (2) exempt from the filing requirements exchange-traded funds formed as grantor or statutory trusts; and (3) codify the electronic filing requirement.

Termination Fees and Rights of First Refusal

Rule 5110(f) (Unreasonable Terms and Arrangements) sets forth terms and arrangements that, when proposed in connection with a public offering of securities, are considered unfair and unreasonable. Rule 5110(f)(2)(D) addresses fees in connection with a public offering of securities that is not completed according to the terms of agreement between the issuer and underwriter (''terminated offering''). Specifically, paragraph (D) generally provides that it is unfair and unreasonable for a member to arrange for the payment of any compensation by an issuer in connection with a terminated offering (''termination fee'' or ''tail fee''). Paragraph (D) further clarifies that this prohibition does not include compensation negotiated and paid in connection with a separate transaction that occurs in lieu of the proposed offering, or reimbursement of out-of-pocket accountable expenses actually incurred by the member.[5]

Currently, paragraph (f)(2)(E) of Rule 5110 provides that, in the event that an issuer terminates an offering with an underwriter and subsequently consummates a similar transaction, a termination fee may be permissible under certain circumstances. Historically, FINRA has only considered permitting termination fee arrangements under this provision where the subsequent transaction is an exchange offer or similar offering where members provide substantial structuring or advisory services (beyond that traditionally provided in connection with a distribution of a public offering).[6] In such cases, FINRA believes that a

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

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

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, FINRA: (1) modified *Exhibit 5* to correct a marking error; and (2) modified Form 19b–4 on page 4 and Exhibit 1 on page 17 to replace the language ''exchange-traded funds formed as grantor or statutory trusts'' with the language ''collective investment vehicles that are not registered as investment companies.'' This Notice reflects the changes made by Amendment No. 1.

[4] The effective date of the electronic filing requirements under Rule 5110 was July 12, 2002. *See Notice to Members 02–26.*

[5] Rule 5110(f)(2)(C) prohibits payment of commissions or reimbursement of expenses to an underwriter prior to the commencement of the sale of the securities being offered, except for a reasonable advance against out-of-pocket accountable expenses actually anticipated to be incurred by the underwriter. To the extent such expenses are not actually incurred, any advance received must be reimbursed to the issuer.

Paragraph (D) currently provides that the reimbursement of out-of-pocket accountable expenses actually incurred by the member will not be presumed to be unfair or unreasonable under normal circumstances. The proposed amendment modifies paragraph (D) to specify that out-of-pocket accountable expenses must be *bona fide.*

[6] *See Notice to Members 97–82* (November 1997). Further, the Rule provides that a tail fee may not have a duration of more than two years from the date the member's services are terminated; however, the Rule provides that a member may demonstrate on the basis of information satisfactory to FINRA that an arrangement of more than two years is not unfair or unreasonable under the circumstances.