SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67844; File No. SR-NYSEArca-2012-75)

September 12, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Amending NYSE Arca Equities Rule 7.37(c) to Provide that the Tracking Order Process is Available Only for Orders that are Eligible to Route to an Away Market

## I. Introduction

On July 11, 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 7.37(c) to provide that the Tracking Order Process is available only for orders that are eligible to route to an away market. The proposed rule change was published for comment in the Federal Register on July 30, 2012.[3] 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 7.37(c) to specify that only orders that are eligible to route to an away market would participate in the Tracking Order Process. This proposed rule change would make Rule 7.37(c) consistent with the manner by which the Exchange operates the Tracking Order Process.

NYSE Arca Equities Rule 7.37 sets forth the Order Execution process at the Exchange. The Tracking Order Process is the fourth step in the Order Execution process, and is preceded by

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

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 67490 (July 24, 2012), 77 FR 44702 ("Notice").

the Directed Order Process, Display Order Process and Working Order Process.[4] Currently, Rule 7.37(c) states that if an order has not been executed in its entirety in one of the processes preceding the Tracking Order Process, such order will enter the Tracking Order Process for potential matching and execution against Tracking Orders.[5] Rule 7.37(c) does not specify that among the orders that are not fully executed in the processes preceding the Tracking Order Process, it is only those that are eligible to route to an away market that participate in the Tracking Order Process. The proposed rule change would add this specification to Rule 7.37(c) to make the rule consistent with the operation of the Tracking Order Process.

The Exchange also proposes to delete provisions in current rule 7.37(c) stating that any portion of an order received from another market center or market participant is cancelled immediately, and an incoming order that is designated as an ISO does not interact in the Tracking Order Process. According to the Exchange, these provisions are obviated by the proposed clarification in Rule 7.37(c) that only routable order types participate in the Tracking Order Process.

## 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.[6] In particular, the Commission finds that the proposed rule change is

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4 See NYSE Arca Equities Rule 7.37.

5 Tracking Orders are undisplayed, priced round lot orders that are eligible for execution in the Tracking Order Process against orders equal to or less than the aggregate size of the Tracking Order interest at that price. See NYSE Arca Equities Rule 7.31(f).

6 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).

consistent with Section 6(b)(5) of the Act,[7] 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 notes that the Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market by providing transparency regarding the type of orders that are eligible to interact in the Tracking Order Process and eliminating obsolete rule text. Based on the Exchange's statements, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act.[8]

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7 15 U.S.C. 78f(b)(5).

8 The Commission notes that it recently approved a proposal by EDGA Exchange, Inc. to add a new order type called the Route Peg Order, which is a non-displayed limit order that, similar to the Tracking Order, is eligible to execute against only routable orders. See Securities Exchange Act Release No. 67726 (August 24, 2012), 77 FR 52771 (August 30, 2012) (SR-EDGA-2012-28).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR-NYSEArca-2012-75) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill
Deputy Secretary

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30-3(a)(12).