

comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX 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

A. Introduction

The PCX proposes to offer ETP Holders the ability to display their identities with orders entered into the ArcaEx. The identity order feature would offer an ETP Holder the choice to display its unique ETPID with a specified order. Alternatively, an ETP Holder may choose to remain anonymous.

Any identity orders entered into ArcaEx would be included in the Arca Book data feed that ArcaEx makes available free of charge to Users⁵ and other subscribers. Identity orders would also be included in the ArcaEx limit order book that is displayed for free on the ArcaEx Web site.

ArcaEx would process orders designated as identity orders no differently from other orders sent to ArcaEx. PCXE Rules 7.36 (Order Ranking and Display) and 7.37 (Order Execution) set forth the order interaction process for orders entered on the ArcaEx. Orders designated as identity orders would be ranked, displayed, and executed under the same criteria (under PCXE Rules 7.36 and 7.37) as anonymous orders in the ArcaEx. ArcaEx has no capacity limitations on the number of identity orders that could be displayed for an individual security.

The purpose of the identity order feature is to provide more visibility to those ETP Holders who may choose to identify their ETPIDs with their trading interest in a particular security. The PCX believes that the identity order feature would benefit investors by increasing market transparency in an automatic execution venue such as ArcaEx. By providing a mechanism by which ETP Holders could display their identities, ArcaEx hopes to attract more orders and contribute more liquidity to the market while adding to the transparency of trading interest.

⁵ See PCXE Rule 1.1(yy) for the definition of "User."

B. Order Interaction

As with all orders entered on ArcaEx, identity orders would be centrally processed for execution by computer, subject to the price, time, and priority rules that govern the automated matching and execution of orders. No ETP Holder has any special control over the timing of an execution or any special order handling advantages on ArcaEx. All Users would see and be privy to the same orders ranked in the ArcaEx Book. No User would have special access to trading interest that is not also available to others on ArcaEx, and all Users would have the equivalent opportunity to receive fills.

An ETP Holder displaying an identity order would be subject to the same rules applicable to the ETP Holder's orders entered on ArcaEx on an anonymous basis.⁶ Use of the identity order by ETP Holders would not require registration as a Market Maker⁷ on ArcaEx under PCXE rules. Market Maker status is available only to those ETP Holders who seek registration as Market Makers.⁸ Only those ETP Holders that seek registration as a Market Makers are required to maintain two-sided markets in return for the benefits of Market Maker status, e.g., the ArcaEx rebates to Market Makers for the execution of "Q Orders"⁹ and the ability to obtain exempt credit under Regulation T. ETP Holders that elect to use the identity order would have no commitment to ArcaEx to maintain two-sided identity orders on a continuous basis.

C. Market Makers

With respect to Market Makers, the PCX's proposal would not alter the responsibilities of Market Makers, nor does it change the manner in which

⁶ For example, ETP Holders would remain prohibited from trading ahead of customer limit orders pursuant to PCXE Rule 6.16(a), which provides that "[n]o ETP Holder may accept and hold an unexecuted limit order from its customer (whether its own customer or a customer of another ETP Holder) and continue to trade on the Corporation the subject security for its own account at prices that would satisfy the customer's limit order, without executing that limit order; provided, however, that an ETP Holder may negotiate specific terms and conditions applicable to the acceptance of limit orders. * * *

⁷ See PCXE Rule 1.1(u) states that "[t]he term 'Market Maker' shall refer to an ETP Holder that acts as a Market Maker pursuant to Rule 7."

⁸ PCXE Rule 7.20(a) states that "[n]o ETP Holder shall act as a Market Maker in any security unless such ETP Holder is registered as a Market Maker in such security by the Corporation pursuant to this Rule. * * * PCXE Rule 7.23 and Rule 7.34(b) set forth the obligations of market makers and apply only to those ETP Holders who are registered as Market Makers. For example, a Market Maker must maintain a two-sided order or "Q Order" in every stock in which the Market Maker is registered.

⁹ See PCXE Rule 7.31(k) for the definition of "Q Order."

Market Maker orders would be processed and executed within ArcaEx. Market Makers are obligated to enter and maintain continuous, two-sided limit orders in the securities in which they are registered. There would be no limit, however, on the number of orders a Market Maker may enter into ArcaEx, whether anonymous or identity orders. A Market Maker would be able to maintain multiple proprietary orders, including multiple Q Orders in the securities in which were registered. Under the proposal, Market Makers would be permitted to use the identity order feature for any and all of the orders that they are eligible to use. As with any identity order, a Market Maker's ETPID would be displayed in relation to a specified order. A Market Maker may choose to make the Q Order or any other order an identity order.¹⁰

Whether utilizing anonymous orders or identity orders, Market Makers would remain subject to the rules governing their conduct and the handling of orders. Specifically, PCXE Rule 7.26(a) states that a Market Maker must maintain an information barrier between the market making activities and other business activities, including conducting a public securities business and acting as a General Authorized Trader ("GAT")¹¹ on ArcaEx. This separation between the Market Making activities of an ETP Holder and the handling of public orders is an important mechanism to separate the Market Maker from knowledge of pending transactions, order flow information, and other sensitive information at other parts of the firm.¹² As long as the Market Maker has an effective system of internal controls that operate to prevent the Market Making desk from obtaining knowledge of customers' limit orders that are received for execution by other business units of the broker-dealer, the Market Maker does not have responsibilities to protect customer limit orders received by other parts of the firm.¹³

¹⁰ As stated above, ArcaEx has no capacity limitations on the number of identity orders that can be displayed for an individual security.

¹¹ Rule 1.1(o) defines a General Authorized Trader "GAT" to mean "an authorized trader who performs only non-market making activities on behalf of an ETP Holder."

¹² See PCXE Rule 7.26(b).

¹³ For example, where an ETP Holder has an agency desk and a Market Maker desk, both desks will be permitted to use identity orders. Should an agency desk utilize identity orders to represent customer orders, Market Makers from the same firm would not have responsibilities to protect the customer orders, assuming an appropriate information barrier is in place. Once the agency desk displays an identity order in the ArcaEx limit order book, the price time rules in the automated execution system of the ArcaEx ensure that the