SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade of Shares of RiverFront Dynamic US Dividend Advantage ETF and RiverFront Dynamic US Flex-Cap ETF Under NYSE Arca Equities Rule 8.600

April 8, 2016.

On February 5, 2016, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change in the Federal Register on February 25, 2016. On April 7, 2016, the Exchange submitted Amendment No. 1 to the proposed rule change. The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act provides that, within 45 days of the publication of notice of 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 within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, designates May 25, 2016, 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–2016–28), as modified by Amendment No. 1.

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

Robert W. Errett,
Deputy Secretary.

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Reduce the Synchronization Tolerance for Computer Clocks That Are Used To Record Events in NMS Securities and OTC Equity Securities

April 8, 2016.

I. Introduction

On February 9, 2016, the Financial Industry Regulatory Authority, Inc. ("FINRA") 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 reduce the synchronization tolerance for computer clocks that are used to record events in NMS Securities, including standardized options and OTC Equity Securities. The proposed rule change was published for comment in the Federal Register on February 25, 2016. Four comments were received in response to the proposal. This Order approves the proposed rule change.

II. Description of the Proposed Rule Change

FINRA rules require that firms synchronize their business clocks in conformity with procedures prescribed by FINRA. Specifically, FINRA Rule 7430 requires that firms synchronize their business clocks for purposes of recording the date and time of any event that must be recorded pursuant to the FINRA By-Laws or other FINRA rules (i.e., the time a trade was executed or the time an order was received or routed), with reference to a time source designated by FINRA. Current OATS technical specifications provide that all computer system clocks and mechanical time stamping devices must be synchronized to within one

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milliseconds must comply with the new standard within 18 months of the effective date.

III. Comment Letters

The Commission received four comment letters on the proposal. Healthy Markets supports the proposal noting: “[s]ub-second clock synchronization standards are an important element of market data and audit trail reliability, and most market technology is already synchronized at tolerances far more precise than the fifty milliseconds proposed.” Further, it states that “[c]lock synchronization is a critical component of today’s market structure and is long overdue for reform,” and notes that “[t]ighter synchronization standards would enhance regulators’ abilities to surveil for manipulative trading practices.” The commenter suggests that FINRA recognize the differences between “extremely time-sensitive trading firms and other market participants” by imposing a higher standard on the firms it labels “extremely time-sensitive.” A second commenter urges “higher time synchronization requirements than proposed.” FIF indicates that its members “generally agree the 50 millisecond clock synchronization requirement is appropriate for order and execution events” and acknowledges the “compelling regulatory need for fine precision time stamps on order and execution events,” however, FIF expresses concern about FINRA proposing this rule given the pending implementation of the CAT NMS Plan. The fourth commenter requests that “FINRA provide a list of impacted execution events” and acknowledges the “important element of market data and audit trail reliability, and most market technology is already synchronized at tolerances far more precise than the fifty milliseconds proposed.” Finally, in the filing, FINRA stated that it has accommodated such concerns in two ways. First, FINRA tailored the proposal so that the 50 millisecond standard would apply only to NMS Securities and OTC Equity Securities and not to fixed income securities. Second, FINRA proposed a phased implementation schedule for the 50 millisecond standard that allows firms that capture time in milliseconds to comply with the 50 millisecond standard within six months of the effective date of the rule and firms that do not capture time in milliseconds to comply with the new standard within 18 months of the effective date.

5 Any time provider may be used for synchronization; however, all clocks and time stamping devices must remain accurate to within a one-second tolerance of the NIST atomic clock. This tolerance includes (1) the difference between the NIST standard and a time provider’s clock, (2) the transmission delay from the source and (3) the amount of drift of the member firm’s clock. The OATS technical specifications further specify that computer system and mechanical clocks must be synchronized every business day before market open to ensure the accuracy of recorded order event timestamps.

6 See Rule 600(b)(46) of Regulation NMS; 17 CFR 242.600(b)(46).

7 See FINRA Rule 64200.

8 The proposal does not change the current clock synchronization requirement for members’ mechanical time stamping devices or computer clocks that are used to record events for securities other than NMS securities or OTC Equity Securities.

9 FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 90 days following Commission approval. See Notice, 81 FR at 9553.

10 See supra, note 4.

11 See Healthy Markets letter at 1–2.

12 See Kubitz letter.

13 See FIF letter at 1.

14 See FIF letter at 2.

15 See FIF letter at 1. FIF also raises concerns about applying the synchronization requirement to post-trade activities. See pages 1–3. The National Market System Plan, Governing the Consolidated Audit Trail (“CAT NMS Plan”) was required by Rule 613 under the Act, which directed FINRA and the national securities exchanges to submit a national market systems plan to govern the creation, implementation, and maintenance of a consolidated audit trail and central repository. See Securities Exchange Act Release No. 67457 [July 17, 2012], 77 FR 45722 (Aug. 1, 2012) (“Rule 613 Adop/Release”). The CAT NMS Plan submitted by the national securities exchanges and FINRA on February 27, 2015 is available at http://www.catnmsplan.com/.

16 See Thomson Reuters letter at 1.

17 See id. at 2.

18 See Notice, 81 FR at 9551.

19 See Notice, 81 FR at 9550.

20 See id.

21 See Notice, 81 FR at 9551.

22 See Notice, 81 FR at 9553.

23 See id.
standard is an important element of market data reliability, and it may be sometime before the clock-synchronization requirements of the CAT NMS Plan take effect. Consequently, FINRA stated that it relies on the accuracy of market data to fulfill its regulatory obligations as a national securities association. Accordingly, FINRA believes it has a current need to tighten the clock synchronization standard for events that must be recorded pursuant to the FINRA By-Laws or other FINRA Rules.

Two commenters suggested that FINRA should consider differentiating between market participants when setting clock-synchronization standards. For instance, one commenter stated that FINRA should recognize differences between extremely time-sensitive trading firms and other market participants, and suggested differentiating between co-located broker-dealers and others. Similarly, one commenter suggested that firms that co-locate their equipment to an exchange datacenter should be held to tighter requirements.

In the filing, FINRA stated that audit trail integrity relies on the ability to accurately sequence events for a given period of time, including events generated by firms that do not engage in high-frequency trading. FINRA believes it is important to apply the same standard to all computer-related events, regardless of firm size or activity type.

IV. Discussion and Commission Findings

After carefully considering the proposed rule change and the comment letters, 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 association. In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission agrees with the commenter’s observation that clock synchronization is a “critical component of today’s market structure.” Tightening the clock synchronization requirement to 50 milliseconds will bolster FINRA’s ability to meet its regulatory obligations as a national securities association. As the Commission has noted, time drift away from a universal, synchronized standard is an important issue to address to enhance the integrity of audit trail data. The Commission agrees with the commenter’s observation that updating clock synchronization standards is important to improve transparency and enhance surveillance and enforcement capabilities. Further, the Commission believes that FINRA’s decision to have a consistent clock synchronization standard across the industry at this time is a reasonable decision. The Commission believes it is important to pursue a 50 millisecond standard at this time so that FINRA can compile more accurate audit trail data and conduct surveillance with more precise time-sequenced data, rather than waiting for the issue to be addressed by the CAT NMS Plan.

Tighter synchronization is critical to precisely reconstructing market events, as the commenter noted, which will facilitate FINRA’s efforts to detect and prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. In addition, the Commission notes that the proposed rule change does not alter the events that are covered by the clock synchronization requirement.

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with Section 15A of the Act.

V. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR–FINRA–2016–005) be and hereby is approved.

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

Robert W. Errett,
Deputy Secretary.

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Rule 6.1A

April 8, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”), and Rule 19b–4 thereunder, notice is hereby given that on April 4, 2016, Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 proposed to amend Rule 6.1A related to Extended Trading Hours. The text of the proposed rule change is provided below.

Rule 6.1A. Extended Trading Hours

(a)–(j) No change.

(k) Index Values. While it may not be calculated and disseminated at all times during Extended Trading Hours, current values of VIX will be widely disseminated at least once every fifteen