

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57906; File No. SR-NYSEArca-2008-40)

June 2, 2008

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change
Relating to the Listing and Trading of Shares of the NETS Tokyo Stock Exchange REIT Index
Fund

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 May 22, 2008, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (“NYSE Arca Equities”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially 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 proposes to list and trade shares (“Shares”) of the NETSTM Tokyo Stock Exchange REIT Index Fund (“Fund”) issued by the NETS Trust (“Trust”). The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and www.nyse.com.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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

¹ 15 U.S.C. 78s(b)(1).

in Item IV below. The Exchange 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

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 5.2(j)(3), the Exchange’s listing standards for Investment Company Units (“ICUs”).³

The Fund seeks to provide investment results that correspond generally to the price and yield performance, before fees and expenses, of publicly-traded securities in the aggregate in the Japanese market, as represented by the Tokyo Stock Exchange REIT Index (“Underlying Index” or “Index”). The Underlying Index is a market capitalization weighted index consisting of stocks of all of the real estate investment trusts traded primarily on the Tokyo Stock Exchange.

The Exchange is submitting this proposed rule change because the Underlying Index does not meet all of the “generic” listing requirements of Commentary .01(a)(B) to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs based on international or global indexes. The Underlying Index meets all such requirements except for those set forth in Commentary .01(a)(B)(2).⁴ The Exchange represents that: (1) except for Commentary .01(a)(B)(2) to NYSE

² 17 CFR 240.19b-4.

³ An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). See NYSE Arca Equities Rule 5.2(j)(3)(A).

⁴ Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) provides that component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares.

Arca Equities Rule 5.2(j)(3), the Shares currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to ICUs shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A-3⁵ under the Act for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to ICUs including, but not limited to, requirements relating to the dissemination of key information such as the Index value and Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and Information Bulletin to ETP Holders, as set forth in prior Commission orders approving the generic listing rules applicable to the listing and trading of ICUs.⁶

As of April 11, 2008, there were 41 stocks in the Index. For the period of October 2007 up to and including March 2008, component stocks that in the aggregate accounted for at least 90% of the weight of the Index had a minimum worldwide monthly trading volume of 2,918 shares.⁷

⁵ 17 CFR 240.10A-3.

⁶ See, e.g., Securities Exchange Act Release Nos. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR-NYSEArca-2006-86) (approving generic listing standards for ICUs based on international or global indexes); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR-PCX-2001-14) (approving generic listing standards for ICUs and Portfolio Depositary Receipts); and 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR-PCX-98-29) (approving rules for the listing and trading of ICUs). See also email from Michael Cavalier, Associate General Counsel, NYSE Euronext, to Christopher W. Chow, Special Counsel, Commission, dated June 2, 2008.

⁷ During the same period, component stocks that in the aggregate accounted for at least 90% of the weight of the Index had an average worldwide monthly trading volume of 16,693 shares. The Exchange notes, however, that the average price of the Index stocks was extremely high compared to prices of stocks included in index ETFs generally. As of March 31, 2008, the average price of the stocks in the Index was approximately \$5,350. The total market capitalization of the Index stocks was \$42,391,307,254 and the average market capitalization of the Index stocks was \$1,033,934,323. The average

In view of the high average price of the Index component stocks, as noted above, the Exchange believes it is appropriate to use global notional volume traded (number of shares traded multiplied by price of security) as a measure of the trading activity of such stocks. For the period of October 2007 up to and including March 2008, component stocks that in the aggregate accounted for 93.42% of the weight of the Index each had global notional volume traded per month of at least \$25,000,000, averaged over the last six months. The Exchange believes that averaged notional volume traded is an appropriate measure of the liquidity of component stocks of the Index. Specifically, notional volume nullifies the volume discrepancies that generally occur between low priced and high priced stocks⁸ and averaging the volume and notional volume over a specific time period (e.g., six months) eliminates seasonal volume fluctuations that may occur in the trading volume of a particular underlying security represented in an index.

Detailed descriptions of the Fund, the Underlying Index, procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement⁹ or on the Web site for the Fund (www.netsetfs.com), as applicable.

market capitalization of the Index stocks in the top 70% of the Index weight was \$2,015,574,320. There were 15 stocks in the bottom 10% weight of the Index. The highest weighted stock was Nippon Building Fund Inc. REIT, which accounted for 16.25% of the Index weight.

⁸ For example, a stock priced at \$10 per share that trades 2,500,000 shares in a month has a notional volume of \$25,000,000. Conversely, a stock priced at \$100 per share that trades 250,000 shares in a month has a notional volume of \$25,000,000.

⁹ See the Trust's Registration Statement on Form N-1A, dated February 13, 2008 (File Nos. 333-147077 and 811-22140) ("Registration Statement").

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and Section 6(b)(5) of the Act,¹¹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange states that written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve such proposed rule change, or

¹⁰ 15 U.S.C. 78f.

- B. institute proceedings to determine whether the proposed rule change should be 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 e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2008-40 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2008-40. This file number should be included on the subject line if e-mail 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 inspection and copying in the Commission's Public Reference Room, 100 F Street,

¹¹ 15 U.S.C. 78f(b)(5).

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-NYSEArca-2008-40 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Acting Secretary

¹² 17 CFR 200.30-3(a)(12).