

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59264; File No. SR-NYSEArca-2009-02)

January 16, 2009

Self-Regulatory Organizations; Notice of Filing of and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. to Amend or Eliminate Unnecessary Rule Text

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on January 8, 2009, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 amend or eliminate several of its rules in order to remove unnecessary rule text related to terms or systems that are now obsolete. The text of the proposed rule change is attached to the proposed rule change as Exhibit 5. A copy of this filing is available on the Exchange’s Web site at www.nyse.com, at the Exchange’s principal office 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, the self-regulatory organization 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 those statements may be examined at the places

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The purpose of this filing by NYSE Arca is to correct certain NYSE Arca cross-references and remove obsolete and unnecessary rule text. By abolishing these out-dated references and correcting cross-references, the Exchange is not changing or altering any obligation, rights, policies or practices enumerated within its rules.

The specific proposed changes are discussed in further detail below.

- Rule 5.3(g). Criteria for Underlying Securities: The Exchange is changing the numbering within the rule because two separate rule filings were approved at different times which affected the numbering within the rule.⁴
- Rule 6.20(a). Time Synchronization: The Exchange is changing the rule reference from Rule 4.25 to Rule 11.18.
- Rule 6.34. Trading by OTP Holders and OTP Firms on the Floor: The Exchange is eliminating the references to Rule 6.38 and Rule 6.52(a) in Commentary .01 as those rules are obsolete and no longer exist.
- Rule 6.48(c). Discretionary Transaction: The Exchange is changing the rule reference from Rule 6.39 to Rule 6.84.
- Rule 6.75(f)(1). Priority and Order Allocation Procedures – Open Outcry: The Exchange is eliminating the phrase related to “Exchange officer” as this now obsolete.

⁴ See SR-NYSEArca-2008-108, Securities Exchange Act Release No. 34-59004 [sic] (November 24, 2008) 73 FR 207 [sic] (October 24, 2008) [sic] (filing seeking approval for listing and trading of options on Managed Fund Shares) and SR-NYSEArca-2008-66, Securities [sic] Act Release No. 34-59055 [sic] (December 4, 2008) 73 FR 238 [sic] (December 10, 2008) (filing seeking approval for Listing and Trading Options on Shares of the iShares COMEX Gold Trust and the iShares Silver Trust).

- Rule 6.78(e)(1)(E). Transactions Off the Exchange: The Exchange is changing the rule reference from Rule 8.103 to Rule 5.33.
- Rule 6.78. Transaction Off the Exchange. Commentary: The Exchange is removing the Rule 7.9 Meaning of Premium Bids and Offers, Index Options reference as this rule is now obsolete and no longer exists.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, because 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, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change will clarify the rule cross-references and eliminate unnecessary confusion in its rule structure.

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

The Exchange does not believe that the proposed rule change will impose 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

No written comments were solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)(iii) thereunder.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6)¹¹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹² 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 believes the waiver of this period will allow it to immediately remove outdated and obsolete references and terms contained in Exchange rules without delay. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because such waiver will allow the Exchange to promptly remove obsolete references and terms contained in its rules, thereby

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

avoiding further potential confusion and ensuring that the rule text of the Exchange is accurate.¹³ Therefore, the Commission designates the proposal as operative upon filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2009-02 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-NYSEArca-2009-02. 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

¹³ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 on official business days between the hours of 10:00 am and 3:00 pm. Copies of such 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-2009-02 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.¹⁴

Florence E. Harmon
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).