

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59886; File No. SR-NYSEArca-2009-39)

May 7, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Regarding Amendments to NYSE Arca Equities Rule 8.3 (“Listing of Currency and Index Warrants”)

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 May 1, 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, through its wholly-owned subsidiary NYSE Arca Equities, Inc. (“NYSE Arca Equities”), proposes to amend NYSE Arca Equities Rule 8.3 (“Listing of Currency and Index Warrants”) to include alternate listing standards for currency and index warrants. The text of the proposed rule change is available on the Exchange’s Web site at www.nyse.com, at the Exchange’s principal office and at the Public Reference Room of the Commission.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 8.3 to include alternate minimum distribution and market value standards for currency and index warrants.⁴ Under the proposed alternative standards, the minimum number of public holders required will not be defined, but will be determined on a case by case basis. Other criteria will require a minimum of 2,000,000 warrants together with an aggregate market value of \$12,000,000 and initial price of \$6 per warrant.

NYSE Arca Equities Rule 8.3 provides listing standards for currency and index warrants which includes, among other things, minimum distribution and market value standards. Currently, NYSE Arca Equities Rule 8.3 requires a minimum public distribution of 1,000,000 warrants together with a minimum of 400 public warrant holders, and an aggregate market value of \$4,000,000.

⁴ NYSE Arca Equities Rule 8.3 accommodates listing of currency, currency index and stock index warrants.

The Exchange proposes to add alternative standards to allow the Exchange to list warrant issues that it believes are appropriate for listing and increase its flexibility in reviewing such issues. The proposed alternative standards are similar to those previously approved by the Commission for the American Stock Exchange LLC (now known as NYSE Amex LLC) and for the Chicago Board Options Exchange (“CBOE”).⁵ Accordingly, under the proposed alternative listing standards, the minimum number of public holders required will not be defined, but will be determined on a case by case basis. Other criteria will require a minimum of 2,000,000 warrants together with an aggregate market value of \$12,000,000 and minimum price of \$6 per warrant. Because currency and index warrants are in many respects similar to currency and index options, which require no minimum number of holders upon issuance, the Exchange believes reviewing the number of public warrant holders on a case by case basis is appropriate.

The Exchange believes the proposed alternative warrant listing standards will increase the Exchange’s ability to review proposed warrant issues on a case by case basis in determining whether it is appropriate to list the particular warrant being proposed. Lastly, the Exchange believes that the approval of the alternative warrant listing standard will help foster competition between the Exchange and other national securities

⁵ See Securities Exchange Act Release No. 43611 (November 22, 2000), 65 FR 75326 (December 1, 2000 (SR-CBOE-99-14) (order approving a proposed rule change relating to listing criteria for stock index warrants in CBOE Rule 31.5E); Securities Exchange Act Release No. 45036 (November 6, 2001), 66 FR 57760 (November 16, 2001) (SR-Amex-2001-89) (notice of filing and immediate effectiveness of proposed rule change relating to currency and index warrant listing standards in Section 106 of the American Stock Exchange LLC Company Guide).

exchanges that have implemented the alternative warrant listing standards proposed herein.⁶

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)⁷ of the Act in general and furthers the objectives of Section 6(b)(5)⁸ 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 regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, and, in general to protect investors and the public interest. The proposed rule change will allow the listing and trading of currency and index warrants on the Exchange under standards previously implemented by other national securities exchanges, which the Exchange believes 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 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.

⁶ See note 5, *supra*.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative for 30 days after the date of filing, 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) thereunder.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.¹¹ However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay and designate the proposed rule change operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposed alternative listing standards are substantially identical to rules of other national

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its 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.

securities exchanges.¹² Therefore, the Commission designates the proposal operative upon filing.¹³

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.¹⁴

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-2009-39 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.

¹² See supra note 5.

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

¹⁴ 15 U.S.C. 78s(b)(3)(C).

All submissions should refer to File Number SR-NYSEArca-2009-39. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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-2009-39 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.¹⁵

Florence E. Harmon
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).