

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-63133; File No. SR-NYSEArca-2010-93)

October 19, 2010

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. to Establish a Pilot Program to List Series with Additional Expiration Months for Each Class of Options Opened for Trading on the Exchange

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on October 18, 2010, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 proposes to adopt Commentary .09 to NYSE Arca Options Rule 6.4 to establish a Pilot Program to list additional expiration months for each class of options opened for trading on the Exchange. The text of the proposed rule change is available at the Exchange, on the Commission’s website at [www.sec.gov](http://www.sec.gov), at the Commission’s Public Reference Room, and [www.nyse.com](http://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 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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a Pilot Program to list additional expiration months for each class of options opened for trading on the Exchange, similar to a Pilot Program recently approved for use by the International Securities Exchange, Inc. ("ISE"),<sup>3</sup> by adding proposed Commentary .09 to NYSE Arca Options Rule 6.4, Series of Options Open for Trading.

Pursuant to NYSE Arca Rule 6.4(a), the Exchange currently opens four expiration months for each class of options open for trading on the Exchange, the first two being the two nearest months, regardless of the quarterly cycle on which that class trades; the third and fourth being the next two months of the quarterly cycle previously designated for that specific class. For example, if the Exchange listed in late May a new equity option on a January-April-July-October quarterly cycle, the Exchange would list the two nearest term months (June and July) and the next two months of the cycle (October and January). When the June series expires, the Exchange would add the August series as the next nearest month. And when the July series expires, the Exchange would add the September series.

The Exchange believes that there is market demand for a greater number of expiration months. The Exchange therefore proposes to adopt a Pilot Program pursuant to which it will list up to an additional two expiration months, for a total of six expiration months for each class of options open for trading on the Exchange. The proposal will become effective on a pilot basis for a period of twelve months to commence on the next full month after approval is received to

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<sup>3</sup> See Exchange Act Release No. 63104 (October 14, 2010) approving SR-ISE-2010-91.

establish the pilot program. Under the proposal, the additional months listed pursuant to the pilot program will result in four consecutive expiration months plus two months from the quarterly cycle. For example, for option classes in the January cycle that have expiration months of June, July, October, and January, the Exchange would additionally list the August and September series. For options classes in the February quarterly cycle that have expiration months of October, November, February, and May, the Exchange would additionally list the December and January series. Under the proposal, no additional LEAP Series will be created.

The Exchange seeks to limit the proposed rule change to 20 actively traded options classes. By limiting the pilot to a small number of classes, the Exchange will be able to gauge interest in the pilot while limiting any additional demands on system resources. It has been estimated that this pilot could add up to six or seven percent to current quote traffic, although changes in market maker quoting behavior may reduce that increase by up to half. The Exchange believes that a limited pilot is a prudent step to determine actual market demand for additional expiration months.

If the Exchange were to propose an extension or an expansion of the pilot program, or should the Exchange propose to make the pilot program permanent, NYSE Arca will submit, along with any filing proposing such amendments to the pilot program, a pilot program report (“Report”) that will provide an analysis of the Pilot Program covering the first nine months of the pilot program and shall submit the Report to the Commission at least sixty (60) days prior to the expiration date of the pilot program. The Report will include, at a minimum: (1) data and written analysis on the open interest and trading volume in the classes for which additional expiration months were opened; (2) an assessment of the appropriateness of the options classes selected for the pilot program; (3) an assessment of the impact of the pilot program on the

capacity on NYSE Arca, OPRA, and on market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the pilot program and how NYSE Arca addressed such problems; (5) any complaints that NYSE Arca received during the operation of the pilot program and how NYSE Arca addressed them; and (6) any additional information that would assist the Commission in assessing the operation of the Pilot Program.

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of additional expiration months listed pursuant to this proposed rule change.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934<sup>4</sup> (the “Act”) in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>5</sup> in particular, in that it is designed to promote just and equitable principles of trade, 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. In particular, the Exchange believes listing additional near-term expiration months will offer investors more variety in trading options series that were previously not available. The Exchange believes this proposal will also generate additional volume in these options classes without significantly taxing system resources.

### 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.

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<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.<sup>8</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>9</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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.

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 C.F.R. 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.

<sup>8</sup> See supra note 3.

<sup>9</sup> 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).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2010-93 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-2010-93. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, 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-2010-93 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.<sup>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).