

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55312; File No. SR-NYSEArca-2007-16)

February 16, 2007

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Size Quote Pilot Program

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 February 14, 2007, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items substantially have been prepared substantially by NYSE Arca. NYSE Arca has designated the proposed rule change as one constituting a non-controversial rule change under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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

NYSE Arca, Inc. is proposing to amend its rules in order to restore certain rule text to Rule 6.47 regarding the SizeQuote Pilot Program (“Pilot Program”) and to extend the Pilot Program, for a one-year period ending February 15, 2008. The text of the proposed rule change is available at (<http://www.nyse.com>), NYSE Arca, and the Commission’s Public Reference Room.

---

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

<sup>2</sup> 17 CFR 240.19b-4.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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

In its filing with the Commission, NYSE Arca 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 in Item IV below. NYSE Arca 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 purpose of this proposal is to restore rule text that was inadvertently deleted from NYSEArca Rule 6.47(f) and to extend, for a one year period, the Exchange's SizeQuote Pilot Program. The Pilot Program was initially established when the Exchange filed SR-PCX-2005-35.<sup>5</sup> The Pilot Program was extended when the Exchange filed PCX-06-09,<sup>6</sup> and was set to expire on February 15, 2007.

The rule text relating to the Size Quote Pilot Program was mistakenly deleted from the Rules of NYSE Arca when the Exchange proposed, and subsequently received approval for SR-NYSEArca 2006-13.<sup>7</sup> Due to an oversight on behalf of Exchange staff,

---

<sup>5</sup> See Securities Exchange Act Release No. 51576 (April 19, 2005), 70 FR 21488 (April 26, 2005).

<sup>6</sup> See Securities Exchange Act Release No. 53315 (February 15, 2006), 71 FR 9406 (February 23, 2006).

<sup>7</sup> See Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR- NYSEArca-2006-13) (approval of OX trading rules).

See also telephone conversation between Glenn Gsell, Director, NYSE Arca, Ira Brandriss, Special Counsel, Division of Market Regulation ("Division"), Commission, and Jennifer Dodd, Special Counsel, Division, Commission, on February 15, 2007.

certain sections of established rule text, that the Exchange intended to keep in the Rules, were inadvertently deleted by the filing. The Exchange now proposes to restore the rule text covering the Pilot Program.

The Exchange has represented that at the completion of the Pilot Program, NYSE Arca would provide to the Commission a report summarizing the effectiveness of the SizeQuote program. While the Exchange believes that the SizeQuote Mechanism can be an effective tool for Floor Brokers to use while executing large size orders in open outcry, the mechanism has not been used frequently enough to supply sufficient evidence to evaluate the effectiveness of the Pilot Program. In order to allow for additional time to compile sufficient evidence as to the effectiveness of the Pilot Program, NYSE Arca proposes to extend the Pilot Program for an additional one-year period ending February 15, 2008. At the end of the extended Pilot Program, the Exchange believes it will be able supply the Commission with a report summarizing the effectiveness of the program.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>9</sup> in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

### 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.

---

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</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

The Exchange has neither solicited nor received written comments on 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: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

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.

NYSE Arca has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal raises no new regulatory issues and will merely allow the Exchange more time to assess the

---

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 C.F.R. 240.19b-4(f)(6). Rule 19b-4(f)(6) also 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. NYSE Arca has satisfied the five-day pre-filing requirement.

effectiveness of the Pilot Program. Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>12</sup>

#### 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-2007-16 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2007-16. 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

---

<sup>12</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. 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-2007-16 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Florence E. Harmon  
Deputy Secretary

---

<sup>13</sup> 17 CFR 200.30-3(a)(12).