

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56625; File No. SR-NYSEArca-2007-73)

October 5, 2007

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change Relating to Extended Hours Trading of Investment Company Units and Portfolio Depository Receipts

On July 26, 2007, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NYSE Arca Equities Rules 5.2(j)(3) (Investment Company Units) and 8.100 (Portfolio Depository Receipts). The proposed rule change was published for comment in the Federal Register on September 4, 2007.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The Exchange proposes to amend the above-cited rules to permit Investment Company Units and Portfolio Depository Receipts listed or traded on the NYSE Arca Marketplace pursuant to Rule 19b-4(e) under the Act⁴ to be traded in the Opening Session (4:00 a.m. to 9:30 a.m. Eastern Time (“ET”)) without the requirement that an updated intraday indicative value (“IIV”) or index value be disseminated.⁵ The Exchange, however, must continue to disseminate an updated IIV and index value during the Core Trading Session (9:00 a.m. to 4:15 p.m.). The Exchange intends to distribute to its ETP Holders and make available on its Web site at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56328 (August 28, 2007), 72 FR 50705.

⁴ 17 CFR 240.19b-4(e).

⁵ In a related filing, the Commission is approving NYSE Arca’s proposal to expand the trading hours of certain ETFs to include all three trading sessions. See Securities Exchange Act Release No. 56329 (August 28, 2007) (SR-NYSEArca-2007-75).

www.nyse.com a Regulatory Information Bulletin titled “Exchange-Traded Funds — Extended Trading Hours” that discloses the risks involved in trading in the Opening and Late Trading Session, including the lack of dissemination of the index value and IIV, lower liquidity, higher volatility and wider spreads. NYSE Arca’s Regulatory Information Bulletin will also highlight that investors may be at disadvantage to market professionals during the Opening and Late Sessions in that they may not have access to the updated index value or IIV that would otherwise be available during the Core Trading Session. In addition, in a separate filing with the Commission, the Exchange recently amended NYSE Arca Equities Rule 7.34(e) to require ETP Holders to disclose to customers additional risks associated with extended hours trading in new derivative securities products.⁶

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act.⁷ The Commission believes that the proposal reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in Section 6(b)(5). Trading during extended hours carries more risks than during regular business hours. With ETFs in particular, customers who trade when an IIV is not calculated and publicly disseminated may be at a disadvantage to professional traders who have their own means of calculating a reliable estimate of the net asset value. The Exchange has represented that it will distribute to its ETP Holders an information bulletin that discusses this particular risk and other risks of trading ETFs outside of

⁶ See Securities Exchange Act Release No. 56270 (August 15, 2007), 72 FR 47109 (August 22, 2007) (SR-NYSEArca-2007-74).

⁷ 15 U.S.C. 78f(b)(5).

normal business hours. In view of these additional disclosures, the Commission believes it is reasonable and consistent with the Act for the Exchange to extend the trading hours of certain ETFs in the manner described in this proposal.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NYSEArca-2007-73) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Nancy M. Morris
Secretary

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).