

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57389; File No. SR-NYSEArca-2008-06)

February 27, 2008

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating to the Dissemination of the Index Value for Equity Index-Linked Securities

I. Introduction

On January 11, 2008, 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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change relating to the dissemination of the index value for Equity Index-Linked Securities.<sup>3</sup> The proposed rule change was published for comment in the Federal Register on February 11, 2008 for a 15-day comment period.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(c)(ii) currently provides that the Exchange will commence delisting or removal proceedings of an issue of Equity Index-Linked Securities (unless the Commission has approved continued trading of such Securities) if, among other circumstances, the value of the index or composite value of the indexes underlying such issue is no longer calculated or widely disseminated on at least a 15-second basis. The Exchange proposes to amend

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

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

<sup>3</sup> Equity Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities. See NYSE Arca Equities Rule 5.2(j)(6).

<sup>4</sup> See Securities Exchange Act Release No. 57273 (February 5, 2008), 73 FR 7774.

NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(c)(ii) to distinguish between indexes consisting solely of U.S. equity securities and those consisting of foreign securities or a combination of U.S. and foreign equity securities. The proposed amendment provides that the Exchange will commence delisting or removal proceedings if the underlying index value or composite index value is no longer calculated or widely disseminated: (1) on at least a 15-second basis with respect to an index or indexes containing only securities listed on a national securities exchange;<sup>5</sup> or (2) on at least a 60-second basis with respect to an index or indexes containing foreign country securities. If the official index value does not change during some or all of the period when trading is occurring on the NYSE Arca Marketplace<sup>6</sup> (for example, for indexes of foreign country securities, there may be time zone differences or holidays in the countries where such indexes' component stocks trade), then the last calculated official index value must remain available throughout NYSE Arca Marketplace trading hours. The Exchange seeks to conform the index dissemination requirements for Equity Index-Linked Securities to those for Investment Company Units, which include exchange-traded funds or "ETFs," under NYSE Arca Equities Rule 5.2(j)(3).

### III. Discussion and Commission's Findings

After careful consideration, 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.<sup>7</sup> In particular, the Commission finds that the proposed rule

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<sup>5</sup> American Depositary Shares and common shares of foreign issuers listed on U.S. national securities exchanges included in an index or indexes would be subject to the 15-second dissemination requirement.

<sup>6</sup> See NYSE Arca Equities Rule 1.1(e) (defining NYSE Arca Marketplace).

<sup>7</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

change is consistent with the requirements of Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that the Exchange's rules be designed 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 transactions in securities, 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 Commission notes that opportunities to invest in derivative securities products based not only on U.S. equity securities, but also on an international or global index of equity securities, provide additional choices to accommodate particular investment needs and objectives, to the benefit of investors. With respect to the dissemination of the value of an index that is comprised, at least in part, of non-U.S. equity component securities, the proposed 60-second standard reflects limitations, in some instances, on the frequency of intra-day trading information with respect to such foreign securities and that, in many cases, trading hours for overseas markets overlap only in part, or not at all, with NYSE Arca Marketplace trading hours.<sup>9</sup> In addition, if an index or portfolio value does not change for some of the time that the derivative securities product trades on the Exchange, the last official calculated value must remain available throughout Exchange trading hours. The Commission believes that such 60-second standard relating to the dissemination of the value of an index composed, at least in part, of foreign equity securities should apply to Equity Index-Linked Securities as well as ETFs and finds that NYSE Arca's proposal is consistent with the Exchange Act on the same basis that it

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<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See Securities Exchange Act Release No. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR-NYSEArca-2006-86) (approving generic listing standards for ETFs based on international or global indexes).

approved the other exchanges' generic listing standards for ETFs based on international or global indexes.<sup>10</sup>

The Commission finds good cause for approving the proposed rule change before the 30th day after the date of publication of notice of filing thereof in the Federal Register. The Commission notes that the proposal is substantially similar to previously approved listing standards for Investment Company Units under NYSE Arca Equities Rule 5.2(j)(3)<sup>11</sup> and for ETFs listed and traded pursuant to similar rules of other national securities exchanges.<sup>12</sup> The Commission believes that accelerated approval of the proposed rule change, which clarifies the dissemination of the value of the index underlying an issue of Equity Index-Linked Securities, should promote the continued listing and trading of Equity Index-Linked Securities to the benefit of investors. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act, to approve the proposed rule change on an accelerated basis.

#### IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the

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<sup>10</sup> See, e.g., Securities Exchange Act Release Nos. 55269 (February 9, 2007), 72 FR 7490 (February 15, 2007) (SR-NASDAQ-2006-050); 55113 (January 17, 2007), 72 FR 3179 (January 24, 2007) (SR-NYSE-2006-101); and 54739 (November 9, 2006), 71 FR 66993 (November 17, 2006) (SR-Amex-2006-78).

<sup>11</sup> See supra note 9. See also Commentary .01(b)(2) to NYSE Arca Equities Rule 5.2(j)(3).

<sup>12</sup> See supra note 10.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-NYSEArca-2008-06) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).