

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56819; File No. SR-NYSEArca-2007-115)

November 19, 2007

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change Relating to Rule 6.87 – Obvious Error

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 8, 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, II, and III below, which Items have been substantially 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 amend NYSE Arca Rule 6.87 governing obvious errors. Specifically, the Exchange proposes a revised review procedure for contesting decisions made pursuant to the options obvious error rule. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and 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 Exchange 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

in Item IV below. The Exchange 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 Exchange proposes to amend NYSE Arca Rule 6.87 governing options obvious errors. Specifically, the Exchange proposes a revised review procedure for contesting decisions made pursuant to the obvious error rule. Currently, NYSE Arca Rule 6.87 provides that the Exchange will determine whether an “Obvious Error”³ has occurred after a market maker believes and notifies the Exchange that it participated in a transaction that was the result of an Obvious Error. If the Exchange believes that an Obvious Error has occurred, the Exchange will take one of the following actions depending on the parties to the trade: (1) adjust the price with an adjustment; (2) bust the trade; or (3) adjust the trade without an adjustment penalty. Currently, if a party does not agree with the action taken by the Exchange, the party may appeal the decision to the Exchange’s Board of Directors (“Board”) pursuant to NYSE Arca Rule 10.14.

The Exchange proposes to amend Rule 6.87 by removing the Board appeal process pursuant to Rule 10.14 and replacing it with a revised appeal process. Proposed NYSE Arca Rule 6.87 would permit a party affected by the determination of an Obvious Error to request an appeal to the Obvious Error Panel (“OE Panel”) to review the determination made by the Exchange’s representative pursuant to Rule 6.87(a)(3). The OE Panel would be comprised of the

³ “Obvious Error” is defined in NYSE Arca Rule 6.87(a)(1).

NYSE Arca Chief Regulatory Officer (“CRO”), or a designee of the CRO,⁴ and representatives from two options and trading permit firms (“OTP Firms”).⁵ One representative on the OE Panel will be from an OTP Firm directly engaged in market making activities and one representative on the OE Panel will be from an OTP Firm directly engaged in the handling of options orders for public customers.

In addition, requests for an appeal would have to be made via facsimile or e-mail within thirty minutes after the party requesting the appeal is given notification of the initial determination. Thereafter, the OE Panel would review the information and may overturn or modify the action taken by the Officer. Such determination by the OE Panel would be considered a final action by the Exchange on the matter at issue. All final determinations made by the OE Panel would be rendered, without prejudice, as to the rights of the parties to the transaction to submit their dispute to arbitration. The Exchange states that the revised process is intended to provide a timely appeal for OTP Firms and options and trading permit holders (“OTP Holders”) in place of the lengthy Board appeals process currently provided in Rule 10.14.

Finally, if the OE Panel upholds the Exchange’s decision made pursuant to Rule 6.87(a)(4) to bust or adjust a trade, the Exchange would assess a \$500.00 fee against the OTP

⁴ The Exchange represents that a designee of the CRO would be an employee of the Exchange, working closely with and reporting directly to, the CRO, such as one of the Directors of Options Regulation. The Exchange notes that the International Securities Exchange, LLC (“ISE”) designates an obvious error panel to independently make appeals decisions and also to overturn or modify actions taken by the ISE. See ISE Rule 720.

⁵ The Exchange proposes to designate at least ten (10) OTP Firm representatives to be called upon to serve on the OE Panel. In no case would the OE Panel include a person related to a party to the trade in question. To the extent reasonably possible, the Exchange proposes to call upon the designated representatives to participate on an OE Panel on an equally frequent basis.

Holder or OTP Firm that initiated the request for appeal. The Exchange believes that assessing a \$500.00 fee would discourage frivolous and abusive practices of the appeal process.

The Exchange is also proposing amendments to Rule 10.14 to remove the Board appeals process for Rule 6.87, and remove the appeals process from Commentary .02 of Rule 6.87.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market 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.

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 by the Exchange with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve the proposed rule change; or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

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-2007-115 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2007-115. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. 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-2007-115 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.⁸

Florence E. Harmon
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).