

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56908; File No. NYSEArca-2007-121)

December 5, 2007

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Rule 6.37B and the Quoting Obligations of Lead Market Makers

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 27, 2007, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared substantially by NYSE Arca. 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 proposes to amend Exchange Rule 6.37B in order to update the quoting obligations of Lead Market Makers (“LMMs”). The text of the proposed rule change is available at NYSE Arca, the Commission’s Public Reference Room, and www.nysearca.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, 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

The purpose of this rule change is to update the quoting obligations for LMMs, contained in NYSE Arca Rule 6.37B.

In 2003, the Exchange established a continuous quoting obligation for LMMs,³ in conjunction with the introduction of its electronic trading system then known as PCX Plus.⁴ This obligation called for an LMM to provide continuous two sided-quotations throughout the trading day in its appointed issues. The quoting obligation was subsequently amended in 2005⁵ so that an LMM needed only to supply continuous quotations for 99% of the time that the Exchange is open for trading in each issue.

Under the PCX Plus system, in addition to LMMs, there were three other categories of Market Makers: Remote Market Makers, Floor Market Makers, and Supplemental Market Makers. Of these three, only Remote Market Makers had a minimum continuous quoting obligation. Given that fact that not all Market Makers had minimum quoting requirements, coupled with the fact that the Exchange had a relatively small number of registered Remote Market Makers,⁶ the Exchange believed that a 99% continuous quoting obligation for LMMs would serve as a mechanism to help ensure that there would be adequate liquidity in any issue, throughout the trading day.

³ See Securities Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129 (May 19, 2003) (SR-PCX-2002-36).

⁴ PCX Plus was replaced in 2006 by the OX system, NYSE Arca's present electronic trading platform.

⁵ See Securities Exchange Act Release No. 51740 (May 25, 2005), 70 FR 32686 (June 3, 2005) (SR-PCX-2005-64).

⁶ At the time PCX Plus was introduced in October 2003, in addition to LMMs, there were five registered Remote Market Makers subject to continuous quoting obligations.

With the introduction of the Exchange's current electronic trading platform, the OX system, in 2006, the Exchange reclassified the Remote Market Maker, Supplemental Market Maker, and Floor Market Maker into one classification, simply called Market Maker. Under rules adopted by the Exchange in conjunction with the implementation of the OX system, all Market Makers now have minimum continuous quoting obligations.⁷ Due to the fact that all Market Makers now have some minimum quoting obligations, coupled with an increase in the number of Market Makers providing quotations on a continuous basis,⁸ the Exchange no longer believes that it necessary for an LMM to be held to a 99% quoting obligation in order for there to be adequate liquidity in a given issue. Therefore, the Exchange is proposing to update Rule 6.37B(b) by reducing an LMMs continuous quoting obligation from 99% to 90%.

The Exchange also seeks to add certain exemptions to Rule 6.37B. Specifically, when determining whether a LMM has met its 90% quoting obligation, the Exchange would not consider the duration of any periods where a technical failure on the part of the Exchange prevents the LMM from providing continuous quotations. Also, the Exchange would retain the discretion to consider other exceptions to this continuous electronic quote obligation based on demonstrated legal or regulatory requirements or other mitigating circumstances. Finally, the Exchange proposes to amend the review period for this obligation, from a quarterly basis to a monthly basis. The shorter time period would allow the Exchange to better monitor an LMMs performance.

⁷ NYSE Arca Rule 6.37B(c) states that a Market Maker must provide continuous two sided quotations throughout the trading day in its appointed issues for 60% of the time the Exchange is open for trading in each issue.

⁸ As of October 31, 2007, in addition to Lead Market Makers, there were fifty-five registered Market Makers subject to continuous quoting obligations.

The Exchange does not believe that lowering the LMM quoting obligation would adversely affect the quality of the Exchange's markets or lead to a material decrease in liquidity. Rather, the Exchange believes its current market structure with its high rate of participation by LMMs and Market Makers permits the lowering of the quoting obligation without fear of losing liquidity.⁹

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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 to and perfect the mechanisms of a free and open market and a national market system.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

⁹ Also, the Exchange notes that NYSE Arca Rule 6.37B(d), which states that in the interest of maintaining a fair and orderly market, a Market Maker may be called upon by a Trading Official to maintain continuous quotes in one or more series of an option issue, shall continue to apply.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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

- (A) by order approve such 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-2007-121 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-2007-121. 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 the 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-2007-121 and should be submitted on or before [insert date 21 days after publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).