

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57460; File No. SR-NYSEArca-2008-12)

March 10, 2008

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Pricing Information for Components Underlying Currency-Linked Securities

I. Introduction

On January 17, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change relating to pricing information for components underlying Currency-Linked Securities.³ The proposed rule change was published for comment in the Federal Register on February 5, 2008.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(III)(1) to permit the listing of Currency-Linked Securities where the pricing information for some or all of the components of the Currency Reference Asset is the generally accepted forward price for the currency exchange rate in question. The ability for an issuer to use forward pricing information

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Currency-Linked Securities are securities that provide for payment at maturity of a cash amount based on the performance of one or more currencies, or options or currency futures or other currency derivatives or Currency Trust Shares (as defined in NYSE Arca Equities Rule 8.202), or a basket or index of any of the foregoing (“Currency Reference Asset”). See NYSE Arca Equities Rule 5.2(j)(6).

⁴ See Securities Exchange Act Release No. 57227 (January 29, 2008), 73 FR 6759 (“Notice”).

under proposed NYSE Arca Equities Rule 5.2(j)(6)(B)(III)(1)(b) for any component of a Currency Reference Asset would be restricted to the following currencies, based on high volumes of forward contract transactions in such currencies: U.S. Dollar, Euro, Japanese Yen, British Pound Sterling, Swiss Franc, Canadian Dollar, Australian Dollar, Brazilian Real, Chinese Renminbi, Czech Koruna, Danish Krone, Hong Kong Dollar, Hungarian Forint, Indian Rupee, Indonesian Rupiah, Korean Won, Mexican Peso, Norwegian Krone, New Zealand Dollar, Philippine Peso, Polish Zloty, Russian Ruble, Swedish Krona, South African Rand, Singapore Dollar, Taiwan Dollar, Thai Baht or New Turkish Lira (collectively, the “High Volume Global Currencies”).⁵

In addition, the forward price will be used for pricing purposes only to the extent that the Currency Reference Asset is based on the forward price. In the event a Currency Reference Asset is based on the forward price, and the forward price becomes unavailable due to a holiday, the spot price may be used for calculating the price of the component(s) comprising the Currency Reference Asset. The pricing information of such Currency Reference Asset on the following business day must be the forward price. This exception is intended to permit certain hedged products that use forward pricing information to use the spot price, which is quoted in the United

⁵ See Bank for International Settlements (“BIS”), Triennial Central Bank Survey of Foreign Exchange and Derivatives Market Activity in April 2007, Statistical Annex Tables – Foreign Exchange Markets (2007) (“2007 BIS Report”); BIS, Triennial Central Bank Survey of Foreign Exchange and Derivatives Market Activity in April 2004, Statistical Annex Tables – Foreign Exchange Markets (2004); and BIS, Triennial Central Bank Survey of Foreign Exchange and Derivatives Market Activity in April 2001, Statistical Annex Tables – Foreign Exchange Markets (2001). Additional information regarding the over-the-counter (“OTC”) foreign exchange market, global geographic foreign exchange trading centers, calculation of the generally accepted forward price, and regulation and oversight of the foreign exchange markets, among others, can be found in the Notice. See id.

States, when the forward price, which is derived from the spot price, is unavailable due to a foreign holiday.

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.⁶ In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,⁷ 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 believes that opportunities to invest in derivative securities products based not only on the spot value, but also on the forward price, of a foreign currency provide additional choices to accommodate particular investment needs and objectives, should benefit investors. The Commission notes that the foreign exchange market as a whole, which is predominantly OTC, is a highly liquid market.⁸ The Commission also notes that outright

⁶ 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).

⁷ 15 U.S.C. 78f(b)(5).

⁸ The Exchange states that, in 2007, the average daily spot turnover accounted for over US\$1 trillion, and the average daily forward turnover accounted for US\$362 billion. See supra notes 4 and 5.

forward transactions account for a material percentage of reported daily volume on the foreign exchange markets.⁹

In the interest of assuring sufficient liquidity of the underlying components and thereby protecting investors of Currency-Linked Securities that are based on the generally accepted forward price for the currency exchange rate in question, the use of forward pricing information for any such component of a Currency Reference Asset would be limited to the High Volume Global Currencies. The Commission notes that Currency-Linked Securities that satisfy the applicable requirements under NYSE Arca Equities Rule 5.2(j)(6) would be able to be listed and traded pursuant to Rule 19b-4(e) under the Act.¹⁰ The Commission believes that, to list and trade Currency-Linked Security products based on forward prices of foreign currencies pursuant to Rule 19b-4(e) under the Act, limiting such foreign currencies to the High Volume Global Currencies is an appropriate measure to assure sufficient liquidity in the underlying components.¹¹ In addition, the forward price should be used for pricing purposes only to the extent that the Currency Reference Asset is based on the forward price.¹² The Commission

⁹ See id.

¹⁰ See 17 CFR 240.19b-4(e). Rule 19b-4(e)(1) under the Act provides that the listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4 under the Act (17 CFR 240.19b-4(c)(1)), if the Commission has approved, pursuant to Section 19(b) of the Act (15 U.S.C. 78s(b)), the SRO’s trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.

¹¹ The Commission further notes that, if the Exchange seeks to list and trade a Currency-Linked Security product based on forward prices of non-High Volume Global Currencies, it can do so by filing a proposed rule change pursuant to Sections 19(b)(1) of the Act.

¹² The proposal also states that, with respect to a Currency-Linked Security that is based on the forward price of a foreign currency, if the forward price is not available due to a holiday, the spot price may be used for calculating the pricing information of the Currency Reference Asset. The pricing information on the following business day must

believes that the proposed rule change, which seeks to expand the types of components on which Currency-Linked Securities are based, should promote the listing and trading of additional Currency-Linked Securities and thereby support greater options and competition in such products, to the benefit of investors and the public interest.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-NYSEArca-2008-12) be, and it hereby is, approved.

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

Florence E. Harmon
Deputy Secretary

be based on the forward price. See proposed Commentary .01 to NYSE Arca Equities Rule 5.2(j)(6)(B)(III).

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).