

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57521; File No. SR-NYSEArca-2008-27)

March 18, 2008

Self-Regulatory Organizations; NYSE Arca, Inc; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delete NYSE Arca Rule 6.88 – Pacific Options Exchange Trading System

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> notice is hereby given that on March 13, 2008, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by NYSE Arca. NYSE Arca has designated this proposal as one that neither significantly affects the protection of investors or the public interest nor imposes any significant burden on competition, under Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 is proposing to amend its rules to delete NYSE Arca Rule 6.88 because it has determined that rule to be obsolete. The text of the proposed rule change is available on the Exchange’s Web site, [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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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> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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.

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

1. Purpose

Upon review of NYSE Arca Rule 6.88, the Exchange has determined that the rule is outdated and obsolete. This rule relates to options trading on the Pacific Options Exchange Trading System ("POETS"). The Exchange, however, no longer uses POETS for options trading. Therefore, the Exchange proposes to eliminate the text of this Rule and reserve the rule number for future use.

POETS was the Exchange's automated trading system comprised of the options order routing system, the automatic execution system (Auto-Ex), the on-line limit order book system (Auto-Book), and the automatic market quote update system (Auto-Quote). All functionality contained in the POETS system has been completely decommissioned. Its replacement, PCX Plus, was fully implemented as of March 2005.<sup>5</sup> Since then, the Exchange decommissioned PCX Plus and implemented its current options trading

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<sup>5</sup> See Securities Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129 (May 19, 2003) (SR-PCX-2002-36) (order approving establishment of the PCX Plus system).

platform, the OX system, during the third quarter of 2006.<sup>6</sup> At the time POETS was decommissioned and PCX Plus was implemented, rules pertaining to POETS were eliminated, as obsolete, from the Exchange's rule set.<sup>7</sup> Rule 6.88 inadvertently remained within the Exchange's rule set without purpose or regulatory impact.

The Exchange has no plans to reactivate the POETS system; therefore, any rules governing its use are outdated and unnecessary. By eliminating the text of this rule, the Exchange hopes to eliminate any unnecessary confusion for its members.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it will promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and protect investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>6</sup> See Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR-NYSEArca-2006-13) (order approving establishment of the OX trading platform system).

<sup>7</sup> See Securities Exchange Act Release No. 53221 (February 3, 2006), 71 FR 6811 (February 9, 2006) (SR-PCX-2005-102) (order approving elimination of obsolete rules related to POETS).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

The Exchange has asked the Commission to waive the 30-day operative delay in order to allow the Exchange to remove an obsolete rule without delay. The Commission believes such waiver is consistent with the protection of investors and the public interest because the existing rule regarding the POETS system is obsolete and serves no purpose related to the administration of the Exchange.<sup>11</sup> Waiver of the 30-day operative delay specified in Rule 19b-4(f)(6) will allow the Exchange to update its Rules without delay.

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<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

For these reasons, the Commission designates the proposals to be operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### 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](mailto:rule-comments@sec.gov). Please include File No. SR-NYSEArca-2008-27 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-2008-27. 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 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-2008-27 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.<sup>12</sup>

Florence E. Harmon  
Deputy Secretary

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