

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62019; File No. SR-NYSEArca-2010-16)

April 30, 2010

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Amending Rule 6.37A and Rule 6.64

On March 11, 2010, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4² thereunder to amend the bid-ask differentials for market maker quotations outlined in NYSE Arca Rule 6.37A(b)(4) and amend NYSE Arca Rule 6.64(b) to establish bid-ask parameters in the OX System to be used during the opening auction process (“Auction”) and to implement an associated conforming change to NYSE Arca Rule 6.87. The proposed rule change was published for comment in the Federal Register on March 30, 2010.³ The Commission received no comment letters regarding the proposal. This order approves the proposed rule change.

Currently, NYSE Arca Rule 6.37A(b)(4) specifies the bid-ask differential requirements applicable to market maker quotations when electronically bidding and offering on the OX System during an Auction. The Exchange now proposes to replace the applicable bid-ask differentials for market maker quoting obligations during an Auction, with the \$5 quote differential that is in place at all other times.

NYSE Arca also proposes to establish parameters for the opening auction as described in Rule 6.64. Pursuant to this proposed rule change, the OX System will not conduct an Auction in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 61759 (March 23, 2010), 75 FR 15758 (“Notice”).

a given series unless the composite NYSE Arca bid-ask is within an acceptable range. For the purposes of the Auction, an acceptable range will be the bid-ask parameters pursuant to Rule 6.37(b)(1)(A)-(E). These bid-ask differentials are identical to the existing legal width differentials for market maker Auction quotations which this filing proposes to delete. The Exchange represented that by establishing price protection parameters within the Auction process of the OX System, rather than just as a requirement for submitted quotes, customers and other market participants will be afforded a higher level of price protection than they presently have on NYSE Arca.

In addition, the Exchange proposes a minor change to Rule 6.87-Obvious Errors and Catastrophic Errors. Rule 6.87(b)(2)(B) presently contains a reference to bid-ask differentials pursuant to Rule 6.37A(b)(4)-(5). Due to the proposed changes contained in this filing related to the bid-ask differentials of Rule 6.37A(b)(4)-(5), the Exchange proposes to now reference the bid-ask differentials contained in Rule 6.37(b)(1)(A)-(E). The bid-ask differentials of each rule are identical, therefore the change will not alter in any way the methods used by the Exchange when making obvious error determinations.

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 exchange⁴ and, in particular, the requirements of Section 6 of the Act.⁵ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁶ which requires, among other things, that the rules of a national securities

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

exchange be 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, and, in general, to protect investors and the public interest.

The Commission notes that the requirements provided under the Exchange's current quote parameters applicable during the Auction are not being eliminated but instead are being transferred and integrated into the Auction process itself. Pursuant to the proposed rule change, the OX System will not conduct an Auction in a given series unless the BBO is within an acceptable range, delineated by the parameters in NYSE Arca Rule 6.37(b)(1)(A)-(E), the identical width differentials for market maker Auction quotations that currently exist. The Commission believes that establishing parameters in the Auction process itself instead should enhance efficiency in pricing for customers and other market participants. Lastly, the proposed conforming changes to NYSE Arca Rule 6.87 are not substantive and thus do not raise any regulatory concerns. For these reasons, the Commission finds that the proposed changes are consistent with the Act.

THEREFORE, IT IS ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-NYSEArca-2010-16) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).