

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63584; File No. SR-NYSEArca-2010-88)

December 21, 2010

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Various NYSE Arca Equities Rules to Harmonize Them with Financial Industry Regulatory Authority Rules

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 13, 2010, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 various NYSE Arca Equities rules in order to (1) harmonize them with Financial Industry Regulatory Authority (“FINRA”) rules and (2) make certain administrative changes that include, but are not limited to, correcting spelling errors and eliminating confusing or duplicative language and unnecessary references to terms or systems that are now obsolete. 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The purpose of this rule filing is (1) to make minor substantive amendments to NYSE Arca Equities Rule 2.16 in order to harmonize it with Article V, Section 3 and Article IV, Section 1(c) of FINRA's By-Laws and (2) to make certain administrative changes to various NYSE Arca Equities rules in order to remove confusing or duplicative language and unnecessary references to terms or systems that are now obsolete. By making such administrative changes, the Exchange is not changing or altering any obligations, rights, policies, or practices enumerated within its rules.

NYSE Arca Equities Rule 2.16(b) requires an ETP Holder to electronically file amendments to any document in connection with an application for an ETP within ten business days of the occurrence requiring the amendment. Article IV, Section 1(c) of FINRA's By-Laws permits thirty days for such filing. Similarly, NYSE Arca Equities Rule 2.16(c) requires an ETP Holder to electronically file within ten business days the Uniform Termination Notice for Securities Industry Registration (Form U-5) with FINRA's Web CRD when a person associated with the ETP Holder terminates his or her affiliation with the ETP Holder. Article V, Section 3 of FINRA's By-Laws permits thirty days for such filing. Accordingly, the Exchange proposes to

extend the ten business day requirement in the above rules to thirty days in order to harmonize with FINRA's By-Laws.

Administrative Changes

In July, 2007, the NASD and certain departments within NYSE Regulation were consolidated into FINRA. However, some NYSE Arca Equities rules still incorrectly reference the NASD. Where appropriate, the Exchange proposes to replace references to NASD with FINRA. The following NYSE Arca Equities rules will reflect this change: Rule 1.1, Rule 2.3, Rule 6.18, Rule 9.13, and Rule 12. These changes are administrative in nature and do not impose any new regulatory requirements on ETP Holders or other market participants on NYSE Arca Equities.

The SEC's Regulation NMS, which became effective in August, 2005, was designed to modernize and strengthen the national market system for equities and replace the outdated Intermarket Trading System ("ITS"). However, several NYSE Arca Equities rules still reference ITS. Accordingly, the Exchange proposes to eliminate all outdated references to ITS. The following NYSE Arca Equities rules will reflect this change: Rule 1.1, Rule 3.5, Rule 6.8, Rule 6.10, Rule 6.12, Rule 7.31, Rule 7.37, Rule 9.14, and Rule 10.12. Additionally, before Regulation NMS and before Nasdaq became a national securities exchange, the NBBO price protection provision set forth in NYSE Arca Equities Rule 7.37 did not apply to orders in Nasdaq securities. The Exchange proposes to eliminate all language in NYSE Arca Equities Rule 7.31 that states the NBBO price protection provision set forth in Rule 7.37 will not apply to orders in Nasdaq securities. Finally, because no securities are trade-through exempt under Regulation NMS, the Exchange proposes to eliminate all references to trade-through exempt securities in NYSE Arca Equities Rule 7.31.

NYSE Arca Equities Rule 1.1(z) provides that “[t]he term ‘Nasdaq Market Maker’ shall mean (1) a Nasdaq market maker as defined in NASD Rule 4200(a)(22), as amended from time to time, or (2) an electronic communications network (“ECN”).” On August 1, 2006, NASDAQ ceased operations as an ECN and began operations as a national securities exchange, rendering the “Nasdaq Market Maker” concept obsolete. As a result, NASD Rule 4200(a)(22) was replaced by FINRA Rule 6320A(a)(4), which does not contain any reference to “Nasdaq Market Makers.” Therefore, the Exchange proposes to eliminate existing NYSE Arca Equities Rule 1.1(z) in order to remove outdated and unnecessary references to terms and systems that are now obsolete. Similarly, because Rule 7.18(a) is concerned only with access to the NYSE Arca Marketplace by “Nasdaq Market Makers,” the Exchange proposes to eliminate Rule 7.18(a) and change the title of NYSE Arca Equities Rule 7.18 from “Trading in Nasdaq Securities” to “UTP Regulatory Halts.” Such change in title is appropriate because the only remaining rule text under Rule 7.18, which is currently contained in Rule 7.18(b), will provide that the Exchange will halt trading in a Nasdaq security when the UTP Listing Market for such security determines that a UTP Regulatory Halt is appropriate. Finally, because the title of Nasdaq’s Unlisted Trading Privileges Plan no longer includes the term “OTC,” the Exchange proposes to remove “OTC” from the following NYSE Arca Equities Rule 1.1(hh)-(kk) and Rule 7.18.

Stop Orders and Stop Limit Orders are no longer a valid order types on the NYSE Arca Marketplace. Accordingly, the Exchange proposes to eliminate all outdated references to Stop Orders and Stop Limit Orders. The following NYSE Arca Equities rules will reflect this change: Rule 1.1, Rule 7.31, Rule 7.34, Rule 7.35, Rule 7.37, Rule 7.39, and Rule 7.63.

Because Discretion Limit Orders may be entered in any security, the Exchange proposes to eliminate the language “A Discretionary Order may be designated as a Discretion Limit Order for Nasdaq securities only” from NYSE Arca Equities Rule 7.31(h)(2)(B).

The Exchange proposes to amend NYSE Arca Equities Rule 7.7 to correct a spelling error.

NYSE Arca Equities Rules 2.24 and 9.17 both require ETP Holders to maintain books and records pursuant to SEC Rules 17a-3 and 17a-4. Because Rule 9.17 also requires that ETP Holders maintain books and records as prescribed by the rules and regulations of other Self Regulatory Organizations and other governmental bodies, and because the Exchange only requires one such rule, the Exchange proposes to replace the text of Rule 2.24 with the text of Rule 9.17 and eliminate Rule 9.17.

NYSE Arca Equities Rule 7.17(b) requires that all bids and offers made shall be in accordance with the provisions of Rule 11Ac1-1 of the Securities Exchange Act of 1934. When Regulation NMS became effective in August, 2005, Rule 11Ac1-1 was re-designated as Rule 602 of Regulation NMS. Accordingly, the Exchange proposes to replace the reference to Rule 11Ac1-1 within Rule 7.17(b) with Rule 602.

2. Statutory Basis

The proposed rule changes are consistent with Section 6(b)⁴ of the Securities Exchange Act of 1934 (the “Act”), in general, and further the objectives of Section 6(b)(5),⁵ in particular. By amending various NYSE Arca Equities rules in order to harmonize them with FINRA rules and federal rules and to eliminate confusing or duplicative language and unnecessary references to terms or systems that are now obsolete, the proposed rule changes are designed to prevent

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

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

No written comments were solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and Rule 19b-4(f)(6) thereunder.⁷ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)⁸ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁹

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because such waiver will allow the Exchange to promptly harmonize its rules with FINRA rules and to correct non-substantive changes, thereby avoiding further potential confusion and ensuring that the rule text of the Exchange is accurate.¹⁰ Therefore, the Commission designates the proposed rule change to be operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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

¹⁰ 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).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2010-88 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NYSEArca-2010-88. 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 website (<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 website viewing and printing 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-2010-88 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.¹¹

Florence E. Harmon
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).