

11890(b), which requires decisions to break or modify trades on Nasdaq's own motion to be made by senior officers only. Consistent with current practice, all adjudications under 11890(a) and (b) will continue to be made on a "no-names basis" (i.e., the adjudicator does not know the identities of the market participants that will be affected by the decision).

Finally, Nasdaq is amending the rule to add a consolidated paragraph of definitions of terms used in the rule and to delete obsolete references to transactions entered into by a member of a national securities exchange with unlisted trading privileges in Nasdaq securities. Although Nasdaq's former SuperMontage system allowed other exchanges to enter orders directly, the current Nasdaq Market Center does not retain this functionality. Rather, other exchanges and their members can access Nasdaq through broker-dealers that are members of Nasdaq, including broker-dealers owned by exchanges.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>15</sup> in general, and with Section 6(b)(5) of the Act,<sup>16</sup> in particular, in that the proposal 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 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.

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

Nasdaq does not believe that the proposed rule change will result in 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*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing of 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 Nasdaq consents, the Commission will:

(A) By order approve the 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2007-001 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-NASDAQ-2007-001. 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 a.m. and 3 p.m.

Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. 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-NASDAQ-2007-001 and should be submitted on or before July 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-12426 Filed 6-26-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55932; File No. SR-NYSEArca-2007-54]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Position and Exercise Limits for Options on the KBW Bank Index

June 20, 2007.

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 June 13, 2007, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") 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 the Exchange. The Exchange has designated the proposed rule change as "non-controversial" under Section 19(b)(3)(A)(iii)<sup>3</sup> of the Act 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 proposes to amend NYSE Arca Rule 5.16 in order to increase the position and exercise limits for options

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

<sup>15</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)(iii).

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

<sup>15</sup> 15 U.S.C. 78f.

<sup>16</sup> 15 U.S.C. 78f(b)(5).

on the KBW Bank Index. The text of the proposed rule change is available at NYSE Arca, at the Commission's Public Reference Room, and on the Exchange's Web site (<http://www.nyse.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, the Exchange 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

The Exchange recently listed for trading options on the KBW Bank Index ("BKX") pursuant to the generic listing standards of NYSE Arca Rule 5.13. Under NYSE Arca Rule 5.16(a), a narrow-based index option such as BKX cannot have position and exercise limits that exceed 31,500 contracts. The Exchange notes that the Philadelphia Stock Exchange, Inc. ("Phlx") and the International Securities Exchange, LLC ("ISE") currently list options on BKX and expanded their position and exercise limits for options on BKX to 44,000 contracts.<sup>5</sup> Accordingly, the Exchange proposes to amend NYSE Arca Rule 5.16 to increase the position and exercise limits for options on BKX to 44,000 contracts also. The Exchange believes it is important for a product traded at multiple exchanges to have uniform position and exercise limits in order to eliminate any confusion among investors and other market participants.

#### 2. Statutory Basis

The Exchange believes the basis under the Act for this proposed rule change is found in Section 6(b)(5),<sup>6</sup> in that the adoption of uniform position and exercise limits for BKX will serve 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 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.

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

The Exchange does not believe that the proposed rule change would 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

Written comments on the proposed rule change were neither solicited nor received.

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

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 for 30 days after the date of filing, 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<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup>

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>9</sup> However, Rule 19b-4(f)(6)(iii)<sup>10</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Commission believes that waiving the five-day prefiling requirement and the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to immediately implement this proposal and make NYSE Arca's position and exercise limits for options on BKX consistent with the Phlx's and ISE's position and exercise limits for such options.<sup>11</sup> Further, the Commission further notes that the increased position

and exercise limits for Phlx were previously noticed for comment and no comments were received. The Commission designates the proposal to become effective and operative upon filing.<sup>12</sup>

At any time within 60 days of the filing of the 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 the 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 Number SR-NYSEArca-2007-54 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-2007-54. 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,

<sup>5</sup> See Securities Exchange Act Release Nos. 49312 (February 24, 2004), 69 FR 9672 (March 1, 2004) (SR-Phlx-2004-13) and 55279 (February 12, 2007), 72 FR 7784 (February 20, 2007) (SR-ISE-2007-02).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</sup> *Id.*

<sup>11</sup> See *supra* note 5.

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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-2007-54 and should be submitted on or before July 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-12389 Filed 6-26-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55906; File No. SR-NYSEArca-2007-46]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Firm Facilitation, Royalty, and Booth Fees

June 13, 2007.

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 May 31, 2007, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. NYSE Arca has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) 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 proposes to amend its Schedule of Fees and Charges for Exchange Services ("Schedule") by making a technical change to the Firm Facilitation fee, eliminating one Royalty Fee, adding another, and capping the fees it charges to OTP Firms for booths on the options trading floor. The text of the proposed rule change is available at the Exchange, its Web Site (<http://www.nyse.com/regulation>), and the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange 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. The Exchange 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

The purpose of this filing is to amend the existing Schedule by: (1) Making a technical change to the Firm Facilitation Fee; (2) eliminating one Royalty Fee; (3) adding one new Royalty Fee; and (4) establishing a monthly cap on Booth Fees. A brief description of each proposed change is provided below.

**Firm Facilitation Fees.** The Firm Facilitation rate applies to transactions involving a proprietary trading account of an OTP Firm<sup>5</sup> that has a customer of that OTP Firm on the contra side of the transaction. This practice is generally referred to as "facilitating" an order. Facilitation Orders on NYSE Arca are manually traded via open outcry and are not presently eligible for electronic execution. Open outcry trades are not subject to the Post/Take pricing model that NYSE Arca utilizes for issues that trade as part of the Penny Pilot. Accordingly, the Schedule now reads "N/A" for Firm Facilitation fees under both "Post" and "Take" Liquidity. Once the Facilitation Orders are fully automated, the Exchange will file with

the Commission, a proposal for a new Post/Take rate for this order type.

**Royalty Fees.** The Exchange proposes to eliminate Royalty Fees for options traded on the NASDAQ Fidelity Composite Index ETF (ONEQ). The Exchange will no longer collect the \$0.12 per contract fee on any trades in ONEQ. By eliminating these fees, the Exchange hopes to attract additional order flow and encourage more trading by market participants.

The Exchange plans to commence trading of options on the KBW Bank Index (BKX). The Exchange has entered into a licensing agreement with Keefe, Bruyette & Woods Inc., the firm that created and maintains the fund. As a part of this agreement, NYSE Arca will pay a fee to Keefe, Bruyette & Woods on every contract traded on the Exchange. Effective with this filing, the Exchange will assess a \$0.10 Royalty Fee, on a per contract basis, for Firm, Broker/Dealer, and Market Maker transactions in options on the KBW Bank Index. For electronic executions in issues included in the Penny Pilot, Royalty Fees will be passed through to the trading participant on the "Take" side of the transaction.<sup>6</sup>

**Booth Fees.** OTP Firms apply for, and receive permission to use, booths on the options trading floor. The Exchange currently charges a \$350 per month fee for each booth that an OTP Firm uses, without any monthly cap. The Exchange now proposes capping this fee at \$3500 per month. Going forward, firms will pay a maximum monthly booth fee of \$3500 regardless of how many booths they are authorized to use.

###### 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and Section 6(b)(4),<sup>8</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

##### 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.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<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)(2).

<sup>5</sup> See NYSE Arca Options Rule 1.1(r) (defining "OTP Firm").

<sup>6</sup> See telephone conversation between Andrew Stevens, Assistant General Counsel, Amex, and Christopher Chow, Special Counsel, Commission, on June 13, 2007.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).