

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-2007-083 and should be submitted on or before November 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56616; File No. SR-NYSEArca-2007-99]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Exchange's Fees for Orders Submitted for Certain NYSE and Nasdaq-Listed Securities

October 4, 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 September 28, 2007, NYSE Arca, Inc. (the "Exchange"), through its wholly owned subsidiary NYSE Arca Equities,

Inc. ("NYSE Arca Equities"), 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. The Exchange 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 proposed rule change 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

The Exchange, through its wholly owned subsidiary NYSE Arca Equities, proposes to amend its Schedule of Fees and Charges for Exchange Services (the "Fee Schedule") to revise transaction fees for orders submitted by ETP Holders<sup>5</sup> (including Market Makers<sup>6</sup>) for securities listed on either the New York Stock Exchange LLC ("NYSE") or The NASDAQ Stock Market LLC ("Nasdaq"). The Exchange also proposes to revise its routing fees for Nasdaq-listed securities. While changes to the Fee Schedule pursuant to this proposal were effective upon filing, the Exchange designated the changes operative on October 1, 2007. The text of the proposed rule change is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's Office of the Secretary, and at the Commission.

#### 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. 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

As part of its continuing efforts to enhance participation on the Exchange, NYSE Arca Equities proposes to amend relevant sections of its Fee Schedule that apply to orders submitted for NYSE and Nasdaq-listed securities, excluding Exchange Traded Funds ("ETFs") listed on the NYSE. These changes will narrow the margins of fees received and credits paid by either: (1) For Nasdaq-listed securities, reducing the fees assessed for orders that remove liquidity from the NYSE Arca Equities book, or (2) for NYSE-listed securities (other than ETFs), increasing the credits provided for orders that provide liquidity to the book.

Currently, the fees and credits for round lot orders in NYSE-listed securities are \$0.003 per share and \$0.002 per share, respectively. Pursuant to this proposal, for NYSE-listed securities (excluding ETFs), the Exchange will increase the \$0.002 per share credit to \$0.0025 per share.

Similarly, the fees and credits for round lot orders in Nasdaq-listed securities are \$0.003 per share and \$0.002 per share, respectively. Pursuant to this proposal, for Nasdaq-listed securities, the Exchange will reduce the \$0.003 per share fee to \$0.0025 per share.

Additionally, the Exchange proposes to reduce the fee for round lot and odd-lot orders of Nasdaq-listed securities submitted by ETP Holders routed away from the Exchange, and executed by another market center or participant, from \$0.004 per share to \$0.0035 per share.

By this filing, the Exchange has also made clarifying amendments to the Fee Schedule to reflect: (1) The approval of Nasdaq as a national securities exchange thereby classifying Nasdaq securities as "listed securities," and (2) the dissolution of the Intermarket Trading System.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of section 6 of the Act<sup>7</sup> in general and furthers the objectives of section 6(b)(4) of the Act<sup>8</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its

<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 Equities Rule 1.1(n).

<sup>6</sup> See NYSE Arca Equities Rule 1.1(u).

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

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

<sup>10</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.

members and other persons using its facilities.

#### *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*

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**

The foregoing proposed rule change has become effective upon filing pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(2)<sup>10</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange.

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 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-2007-99 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-2007-99. 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 the NYSE. 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-2007-99 and should be submitted on or before November 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Nancy M. Morris,**  
*Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-56625; File No. SR-NYSEArca-2007-73]**

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change Relating To Extended Hours Trading of Investment Company Units and Portfolio Depository Receipts**

October 5, 2007.

On July 26, 2007, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule

change to amend NYSE Arca Equities Rules 5.2(j)(3) (Investment Company Units) and 8.100 (Portfolio Depository Receipts). The proposed rule change was published for comment in the **Federal Register** on September 4, 2007.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The Exchange proposes to amend the above-cited rules to permit Investment Company Units and Portfolio Depository Receipts listed or traded on the NYSE Arca Marketplace pursuant to Rule 19b-4(e) under the Act<sup>4</sup> to be traded in the Opening Session (4 a.m. to 9:30 a.m. Eastern Time ("ET")) without the requirement that an updated intraday indicative value ("IIV") or index value be disseminated.<sup>5</sup> The Exchange, however, must continue to disseminate an updated IIV and index value during the Core Trading Session (9 a.m. to 4:15 p.m.). The Exchange intends to distribute to its ETP Holders and make available on its Web site at <http://www.nyse.com> a Regulatory Information Bulletin titled "Exchange-Traded Funds—Extended Trading Hours" that discloses the risks involved in trading in the Opening and Late Trading Session, including the lack of dissemination of the index value and IIV, lower liquidity, higher volatility and wider spreads. NYSE Arca's Regulatory Information Bulletin will also highlight that investors may be at disadvantage to market professionals during the Opening and Late Sessions in that they may not have access to the updated index value or IIV that would otherwise be available during the Core Trading Session. In addition, in a separate filing with the Commission, the Exchange recently amended NYSE Arca Equities Rule 7.34(e) to require ETP Holders to disclose to customers additional risks associated with extended hours trading in new derivative securities products.<sup>6</sup>

After careful review, 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. In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act.<sup>7</sup> The Commission

<sup>3</sup> See Securities Exchange Act Release No. 56328 (August 28, 2007), 72 FR 50705.

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

<sup>5</sup> In a related filing, the Commission is approving NYSE Arca's proposal to expand the trading hours of certain ETFs to include all three trading sessions. See Securities Exchange Act Release No. 56329 (August 28, 2007) (SR-NYSEArca-2007-75).

<sup>6</sup> See Securities Exchange Act Release No. 56270 (August 15, 2007), 72 FR 47109 (August 22, 2007) (SR-NYSEArca-2007-74).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 19b-4(f)(2).

<sup>11</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.