

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551-5400.

Dated: July 14, 2009.

**Elizabeth M. Murphy,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold Closed Meetings on Monday, July 20, 2009 at 3 p.m. and on Tuesday, July 21, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(10) and 17 CFR 200.402(a)(10), permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meetings in a closed session.

The subject matter of the Closed Meetings scheduled for Monday, July 20, 2009 and Tuesday, July 21, 2009 will be: Post-argument discussions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: July 13, 2009.

**Elizabeth M. Murphy,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that

the Securities and Exchange Commission will hold Open Meetings on Monday, July 20, 2009 at 2 p.m. and Tuesday, July 21, 2009 at 10 a.m., in the Auditorium, Room L-002.

The subject matter of the July 20, 2009 Open Meeting will be:

The Commission will hear oral argument in an appeal by Joseph John VanCook from the decision of an administrative law judge. The law judge found that VanCook, a registered representative formerly associated with Pritchard Capital Partners, LLC, willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Exchange Act Rule 10b-5 by orchestrating a fraudulent scheme involving material misrepresentations to permit his clients to "late trade" shares of certain registered investment companies. The law judge also found that VanCook aided and abetted and willfully caused Pritchard Capital's clearing broker to violate Rule 22c-1 of the Investment Company Act of 1940. The law judge further found that VanCook aided and abetted and willfully caused Pritchard Capital to violate Exchange Act Section 17(a)(1) and Exchange Act Rule 17a-3(a)(6) for failing to make and keep current certain books and records. For these violations, the law judge barred VanCook from association with any broker or dealer or investment company, imposed a cease-and-desist order against him, ordered disgorgement of \$538,565.70, plus prejudgment interest, and assessed a \$100,000 third-tier civil money penalty.

Among the issues likely to be argued are whether VanCook's conduct was fraudulent, whether he aided and abetted and/or caused a violation of Rule 22c-1, whether he aided and abetted and/or caused his firm to fail to make and keep accurate books and records, and, if so, whether and to what extent sanctions should be imposed on him.

The subject matter of the July 21, 2009 Open Meeting will be:

The Commission will hear oral argument in an appeal by the Division of Enforcement from the decision of an administrative law judge in a proceeding brought pursuant to Commission Rule of Practice 102(e). The law judge found that the conduct of Kevin Hall, CPA and Rosemary Meyer, CPA, in connection with the fiscal year ("FY") 1999 audit of the financial statements of U.S. Foodservice, Inc. ("USF") and the interim review of USF's second quarter FY 2000 financial statements, was not improper under the Rule.

Among the issues likely to be argued are whether Hall and Meyer failed to

exercise due professional care in the planning and performance of the audit, failed to obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements under audit, and failed to act in accordance with professional standards in connection with the interim review. The parties may also address whether and to what extent Hall and Meyer should be sanctioned if they are found to have engaged in improper professional conduct.

The Commission also will hear oral argument in an appeal by Gregory O. Trautman from the decision of an administrative law judge. The law judge found that Trautman, co-founder, president, and chief executive officer of Trautman Wasserman & Company, willfully violated Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Exchange Act Rule 10b-5 by engaging in a scheme to defraud mutual funds and their shareholders through late trading and deceptive market timing. The law judge also found that Trautman willfully aided and abetted, and was a cause of, Trautman Wasserman & Company's violations of Exchange Act Section 15(c) and Exchange Act Rule 10b-3, and willfully aided and abetted, and was a cause of, Trautman Wasserman & Company's clearing firm's violations of Rule 22c-1 of the Investment Company Act of 1940. For these violations, the law judge barred Trautman from association with any broker or dealer, prohibited him from serving or acting in various capacities with respect to a registered investment company, imposed a cease-and-desist order, ordered disgorgement of \$1,373,799.75, plus prejudgment interest, and assessed a \$500,000 third-tier civil money penalty.

Among the issues likely to be argued are whether Trautman's conduct was fraudulent, whether he aided and abetted and/or caused a violation of Investment Company Act Rule 22c-1, whether he aided and abetted and/or caused his firm's violations, and, if so, whether and to what extent sanctions should be imposed on him.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: July 13, 2009.  
**Elizabeth M. Murphy,**  
*Secretary.*  
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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60272; File No. SR-NYSEArca-2009-64]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. That Extends the Suspension of NYSE Arca's Stock Price Continued Listing Standard to July 31, 2009

July 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 2, 2009, NYSE Arca, Inc. ("NYSE Arca" or the "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 prepared by the Exchange. 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, Inc. ("NYSE Arca Equities"), proposes to amend its rules governing NYSE Arca, LLC (also referred to as the "NYSE Arca Marketplace") by extending through July 31, 2009, the suspension of the application of its price criteria for capital and common stock set forth in NYSE Arca Equities Rule 5.5(b)(2).<sup>3</sup> The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <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 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 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

From mid-2008 through the first quarter of 2009, the U.S. and global equities markets experienced extreme volatility and a precipitous decline in trading prices of many securities. In response to these conditions, the Exchange suspended through June 30, 2009, application of the \$1.00 price requirement for capital and common stock set forth in NYSE Arca Equities Rule 5.5(b)(2).<sup>4</sup> A listed company falls below compliance with NYSE Arca Equities Rule 5.5(b)(2) if the average closing price of its stock falls below \$1.00 over a consecutive 30 trading-day period (the Exchange's "dollar price continued listing standard"). This suspension provided temporary relief to companies in response to the extreme volatility and a precipitous decline in trading prices of many securities experienced in the U.S. and global equities markets, which the Commission had acknowledged constituted a threat to the fair and orderly functioning of the securities markets and could lead to a crisis of confidence among investors regarding the viability of companies whose stock prices have declined significantly.<sup>5</sup> The Exchange now proposes to extend its suspension of the dollar stock price continued listing standard through July 31, 2009.<sup>6</sup>

<sup>4</sup> See Securities Exchange Act Release No. 59854 (May 1, 2009), 74 FR 21730 (May 8, 2009) (NYSEArca-2009-29).

<sup>5</sup> See, e.g., Securities Exchange Act Release No. 58588 (September 18, 2008), 73 FR 55174 (September 24, 2008) ("The Commission is aware of the continued potential of sudden and excessive fluctuations of securities prices and disruption in the functioning of the securities markets that could threaten fair and orderly markets. Given the importance of confidence in our financial markets as a whole, we have also become concerned about sudden and unexplained declines in the prices of securities. Such price declines can give rise to questions about the underlying financial condition of an issuer, which in turn can create a crisis of confidence without a fundamental underlying basis. This crisis of confidence can impair the liquidity and ultimate viability of an issuer, with potentially broad market consequences.").

<sup>6</sup> The NYSE has filed an immediately effective rule filing extending its suspension of its dollar stock price continued listing standard through July 31, 2009 (the "NYSE Amendment"). See SR-NYSE-2009-64 (filed July 2, 2009).

Under the proposed extended suspension of the Exchange's dollar stock price continued listing standard, companies will not be notified of new events of noncompliance with that standard during the suspension period.<sup>7</sup> Following the temporary rule suspension, any new events of noncompliance with the Exchange's dollar price continued listing standard will be determined based on a consecutive 30 trading-day period commencing on August 1, 2009.

The proposed extended suspension of the Exchange's dollar price continued listing standard will enable companies to remain listed in the current difficult market conditions with the prospect of a future recovery in their stock prices, potentially enabling them to comply with the applicable listing requirements upon the standard's reinstatement.<sup>8</sup> During the period between now and July 31, 2009, the Exchange will consider whether it is appropriate to propose further revisions to these requirements.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>9</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> in particular in that it is designed 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. The proposed rule change is designed to remove uncertainty regarding the ability of certain companies to remain listed on NYSE Arca during the current highly unusual market conditions, thereby protecting investors, facilitating transactions in securities, and removing an impediment to a free and open market.

#### 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

<sup>7</sup> One NYSE Arca listed company was below compliance with the dollar stock price continued listing standard at the time of commencement of the suspension. This company has since regained compliance.

<sup>8</sup> A company would continue to be subject to delisting for failure to comply with other listing requirements.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Commission notes that the suspension period under this filing commenced at the time that the proposed rule change was filed on July 2, 2009 and will continue through July 31, 2009.