

publication in the **Federal Register**. The Commission believes this is a reasonable approach in light of the extension of Regulation NMS compliance dates and should help to ensure that the appropriate Nasdaq rules are in place at the time that Regulation NMS compliance is required.

In Amendment No. 2, Nasdaq also is making several technical corrections to the proposed rule change, for example, eliminating typographical and underlining errors. These changes are non-substantive and technical in nature and are necessary to clarify the proposal. The Commission finds good cause to accelerate approval of these changes prior to the thirtieth day after publication in the **Federal Register** because they better clarify Nasdaq's rules, which should assist members' ability to comply with their requirements, and assist investors in understanding their application and scope.

In Amendment No. 3, in response to the comments filed by the U.S. Chamber of Commerce, Bloomberg, and others, Nasdaq proposes to commence a phased-in implementation of the Integrated System on August 28, 2006.<sup>173</sup> In addition, Amendment No. 3 describes Nasdaq's plan to test securities on the System during July and early August 2006 and phase-in the operation of the Integrated System with an initial three-week transition period for Nasdaq-listed stocks, followed by non-Nasdaq-listed stocks.

The Commission finds good cause to accelerate approval of this change prior to the thirtieth day after publication in the **Federal Register**. The Commission finds that the change in the proposed implementation of the Integrated System to a later date than that originally proposed and published for comment and later than that proposed by Amendment No. 2, as well as the allowance of a testing period and phased-in period, would provide a longer transition period for Nasdaq market participants and other participants in the national market system. The delay until August 28, 2006 and the phase-in period should help to ensure that there is an orderly transition to the Integrated System and provide Nasdaq's market participants, including many of the commenters, opportunity to decide whether to continue participating in Nasdaq, or to elect to move their business elsewhere. The Commission notes that August 28, 2006 represents a period of nearly seven

months from the original filing date of this proposed rule change. The Commission also notes that, notwithstanding Nasdaq's proposed August 28, 2006 implementation date, the proposed rules change, as amended, cannot be operational until Nasdaq has satisfied all the conditions set forth by the Commission in the Exchange Application Order.<sup>174</sup> The Commission believes that August 28, 2006 should provide market participants with adequate time to prepare for the Implemented System, and would also permit Nasdaq to meet its commitment to fully integrate its three trading facilities on or before September 30, 2006.

## VII. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>175</sup> that the proposed rule change (File No. SR-NASDAQ-2006-001), as amended by Amendment Nos. 1, 2, and 3, be, and hereby is, approved.

By the Commission.

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

[FR Doc. 06-6366 Filed 7-19-06; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54130; File No. SR-NYSEArca-2006-20]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change Relating to Schedule of Fees and Charges

July 11, 2006.

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 17, 2006, 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 prepared by the Exchange. On May 26, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. On June 30, 2006, the Exchange filed Amendment No. 2 to the proposed rule change. On July 7, 2006, the Exchange

<sup>174</sup> Exchange Application Order at 3566. The Commission recently modified the requirements for Nasdaq's operation as an exchange. See Securities Exchange Act Release No. 54085 (June 30, 2006), 71 FR 38910 (July 10, 2006).

<sup>175</sup> 15 U.S.C. 78s(b)(2).

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

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

filed Amendment No. 3 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Trade Related Charges section of the Schedule of Fees and Charges ("Schedule"). The text of the proposed fee schedule is available on the NYSE Arca's Web site <http://www.archipelago.com>, at the NYSE Arca's Office of the Secretary, and at 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, as amended. The text of these statements may be examined at the places specified in Item IV below. The 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 purpose of the proposed rule change, as amended, is to amend the Trade Related Charges section of the Schedule. NYSE Arca proposes to combine two existing fees associated with Linkage Orders.<sup>4</sup> The Exchange also proposes to add additional language to footnotes 4 and 5 of the Trade Related Charges section of the Schedule in order to explain that the existing Broker Dealer Surcharge also applies to Linkage Orders.

Presently orders received via the Linkage, other than Satisfaction Orders, are assessed a \$0.21 transaction fee and

<sup>3</sup> See Form 19b-4 dated July 7, 2006 ("Amendment No. 3"). Amendment No. 3 replaced the original filing and Amendment Nos. 1 and 2 in their entirety.

<sup>4</sup> Linkage Orders are orders that are routed through the Intermarket Linkage System ("Linkage") as permitted under the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

<sup>173</sup> The Commission notes that Amendment No. 3 replaces the August 14, 2006 implementation date that Nasdaq had proposed in Amendment No. 2.

a \$0.05 comparison fee.<sup>5</sup> Since all applicable Linkage Orders are charged both fees in all instances, to simplify the Schedule, the Exchange is proposing combining the fees into one transaction fee of \$0.26. While the published rate schedule will appear different than it presently does, this proposed change does not affect the total fee the Exchange assesses for Linkage transactions. Changes made pursuant to the combining of the transaction fee and the comparison fee makes no substantive change to the Linkage Fee Pilot Program. This proposed change serves only to simplify of the Schedule.

NYSE Arca presently assesses a \$0.25 per contract fee on Broker Dealer (“BD”) transactions occurring when BD orders are entered and executed electronically. Under the Linkage Fee Pilot Program, executions on NYSE Arca resulting from Linkage Orders are subject to the same billing treatment as other BD executions.<sup>6</sup> Subsequently, Linkage Orders that are entered and executed electronically are assessed the \$0.25 BD Surcharge per contract on those executions.<sup>7</sup> NYSE Arca proposes to add a reference to the BD Surcharge in the existing footnote associated with Linkage Fees. The Exchange also proposes to add similar language to the footnote associated with the BD Surcharge in order to clarify that the surcharge will apply to Linkage Orders. The additional language in the footnotes associated with the BD Surcharge and Linkage Fees will serve to explain all costs that are associated with sending and executing Linkage Orders on NYSE Arca.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>9</sup> in particular, in that it provides for the equitable allocation of dues, fees and other charges among its members and other persons using its facilities for the purpose of executing Linkage Orders that are routed to the Exchange from other market centers.

<sup>5</sup> These fees are applicable through an Exchange Pilot Program due to expire on July 31, 2006. The Exchange intends to file for a one-year extension of the Pilot Program.

<sup>6</sup> See Securities Exchange Act Release No. 47786 (May 2, 2003), 68 FR 24779 (May 8, 2003) (order approving Linkage Fee Pilot Program).

<sup>7</sup> NYSE Arca acknowledges that it is in discussions with the Commission staff concerning the historical treatment of the BD Surcharge on Linkage Orders.

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

<sup>9</sup> 15 U.S.C. 78f(b)(4).

### *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**

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 the self-regulatory organization consents, the Commission will:

(A) By order approve such 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-NYSEArca-2006-20 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEArca-2006-20. 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. Copies of such filing also will be available for inspection and copying at the principal offices 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-2006-20 and should be submitted on or before August 10, 2006.

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

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E6-11493 Filed 7-19-06; 8:45 am]

**BILLING CODE 8010-01-P**

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## **DEPARTMENT OF STATE**

### **[Delegation of Authority 294]**

#### **Delegation by the Secretary of State to the Under Secretary for Political Affairs of Authorities Normally Vested in the Deputy Secretary**

By virtue of the authority vested in me as Secretary of State, including Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby delegate to the Under Secretary for Political Affairs, to the extent authorized by law, all authorities and functions vested in the Deputy Secretary of State, including all authorities and functions vested in the Secretary of State or the head of agency that have been or may be delegated or re-delegated to the Deputy Secretary.

Any authority or function covered by this delegation of authority may also be exercised by the Secretary of State.

Any act, executive order, regulation, or procedure subject to, or affected by, this delegation of authority shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

<sup>10</sup> 17 CFR 200.30-3(a)(12).