

19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

NASD has requested that the Commission waive the 30-day operative delay in this case. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the benefits of this new pricing structure to apply immediately. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.<sup>8</sup>

At any time within 60 days of the filing of such 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-NASD-2007-017 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-NASD-2007-017. 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 the filing also will be available for inspection and copying at the principal office of NASD. 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-NASD-2007-017 and should be submitted on or before March 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55374; File No. SR-NYSEArca-2007-20]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Arca Marketplace Trading Sessions

February 28, 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 February 26, 2007, NYSE Arca, Inc. ("NYSE Arca" or "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 and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the

proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission.

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

The Exchange proposes, through NYSE Arca Equities, to update the list in NYSE Arca Equities Rule 7.34 of securities eligible to trade in one or more, but not all three, of the Exchange's trading sessions. The Exchange proposes to add to the list shares of certain Funds ("Shares") that are traded on NYSE Arca, L.L.C. ("NYSE Arca Marketplace"), the equities trading facility of NYSE Arca Equities, pursuant to unlisted trading privileges ("UTP"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.nysearca.com>), at the principal office of the Exchange, 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. 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

NYSE Arca Equities Rule 7.34 currently provides, in part, that the NYSE Arca Marketplace shall have three trading sessions each day: an Opening Session (1 a.m. Pacific Time ("PT") to 6:30 a.m. PT), a Core Trading Session (6:30 a.m. PT to 1 p.m. PT) and a Late Trading Session (1 p.m. PT to 5 p.m. PT), and that the Core Trading Session for securities described in NYSE Arca Equities Rules 5.1(b)(13), 5.1(b)(18), 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 (each, a "Derivative Security Product") shall conclude at 1:15 pm PT.<sup>5</sup>

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

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

<sup>5</sup> NYSE Arca Equities Rules 5.1(b)(13), 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400

Continued

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has decided to waive the five-day pre-filing requirement.

<sup>8</sup> For the 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).

<sup>9</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.

NYSE Arca Equities Rule 7.34 includes a list of those securities which are eligible to trade in one or more, but not all three, of the Exchange's trading sessions. The Exchange maintains on its Internet Web site (<http://www.nysearca.com>) a list that identifies all securities traded on the NYSE Arca Marketplace that do not trade for the duration of each of the three sessions specified in NYSE Arca Equities Rule 7.34.

The Exchange proposes to add the following securities to these lists: (1) Ultra Russell MidCap Growth ProShares; (2) Ultra Russell MidCap Value ProShares; (3) Ultra Russell1000 Growth ProShares; (4) Ultra Russell1000 Value ProShares; (5) Ultra Russell2000 Growth ProShares; (6) Ultra Russell2000 Value ProShares; (7) UltraShort Russell MidCap Growth ProShares; (8) UltraShort Russell MidCap Value ProShares; (9) UltraShort Russell1000 Growth ProShares; (10) UltraShort Russell1000 Value ProShares; (11) UltraShort Russell2000 Growth ProShares; and (12) UltraShort Russell2000 Value ProShares ("Funds").<sup>6</sup>

These securities are traded on the Exchange pursuant to UTP and are Investment Company Units, described in Exchange Rule 5.2(j)(3).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>8</sup> in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and 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 will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

relate to Unit Investment Trusts, Investment Company Units, Portfolio Depository Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Partnership Units, and Paired Trust Shares, respectively. See Securities Exchange Act Release No. 54997 (December 21, 2006), 71 FR 78501 (December 29, 2006) (SR-NYSEArca-2006-77) (amending NYSE Arca Equities Rule 7.34).

<sup>6</sup> The Commission has approved the trading of the Shares of the Funds on the NYSE Arca Marketplace pursuant to UTP. See Securities Exchange Act Release No. 55125 (January 18, 2007), 72 FR 3462 (January 25, 2007) (SR-NYSEArca-2006-87).

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing 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 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because the proposed rule change should provide transparency and more clarity with respect to the trading hours eligibility of certain derivative securities products and should promote consistency in the trading halts of derivative securities. The Commission notes that this filing does not change the trading hours of the Derivative Securities Products listed in NYSE Arca Equities Rule 7.34, but codifies trading hour sessions that have been established through other rule changes or through the use of the Exchange's generic listing standards pursuant to Rule 19b-4(e) under the Act. For these reasons, the Commission designates the proposed rule change as operative immediately.<sup>11</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,

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

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires an exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing notice requirement in this case.

<sup>11</sup> For purposes only of waiving the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2007-20 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-2007-20. 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 will also 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-2007-20 and should be submitted by or before March 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-3883 Filed 3-5-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**Release No. 34-55371; File No. SR-Phlx-2007-06]**

### **Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Port Fees as Modified by Amendment No. 1**

February 28, 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 January 26, 2007, the Philadelphia Stock Exchange, Inc. ("Phlx" 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 Phlx. On February 28, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change. 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),<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, as amended, from interested persons.

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

The Phlx proposes to implement a fee for connecting into the Exchange's system to enter quotes ("SQF<sup>5</sup> port fee"). The SQF port fee would operate as follows: for the first 5 active SQF ports,<sup>6</sup> a member organization would be

charged \$250 per port per month and, for each additional active SQF port (over the first 5 active SQF ports), the member organization would be charged \$1,000 per port per month. Additionally, the same member organization would be credited \$0.02 per side for every option contract executed on the Phlx in that same month (excluding executions resulting from dividend, merger and short stock interest strategies)<sup>7</sup> up to the amount of the SQF port fees when the member organization or one of its employees is designated as a specialist, streaming quote trader ("SQT") or remote streaming quote trader ("RSQT") and the transaction is billed according to the specialist or Registered Option Trader ("ROT") transaction and/or comparison rates.<sup>8</sup> The SQF port fee and corresponding credit would be applied per member organization.

The SQF port fee (assessed monthly) became effective February 1, 2007 and the corresponding \$0.02 credit (assessed per side per executed contract) became effective for trades settling on or after February 1, 2007.

The text of the proposed rule change is available at <http://www.Phlx.com>, at the Phlx, 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 Phlx 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 Phlx 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 SQF port fee and corresponding credit is to encourage more efficient quoting, which should, in turn, promote a more efficient use of SQF ports. The Exchange believes that using fewer ports should assist in addressing the current and growing

quoting and efficiency issues. The number of ports correlates to quoting efficiency, in that more efficient quoting uses fewer ports and fewer ports means the Exchange's systems are being used to process the same number of quotes more quickly. The credit should also encourage member organizations to send more business to the Exchange. More efficient quoting should, in turn, result in more executions on the Phlx, for which the member organization will receive a credit up to the amount of any SQF port fees that are incurred.

###### **2. Statutory Basis**

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange 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 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*

A written comment was received requesting that the Exchange grant an extension regarding the implementation date for the port fee.<sup>11</sup>

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

The foregoing rule change has become effective pursuant to Section

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

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> In an email dated January 17, 2007, a member requested that the date of implementation for the port fee be delayed. In August 2006, the Exchange distributed a memorandum, which notified members/member organizations of the Exchange's intention to adopt an SQF port fee in order to provide such members/member organizations with the opportunity to change their port arrangements before the SQF port fee took effect. Originally, the Exchange anticipated that the port fee would become effective on November 1, 2006. The Exchange, however, delayed the implementation date until February 1, 2007 to allow members/member organizations additional time to change their port arrangements. The Exchange believes that sufficient notice was given to members/member organizations regarding the proposed port fee, which includes the August 2006 memorandum and a delay in the implementation date from November 1, 2006 until February 1, 2007. Therefore, the Exchange believes that a further delay in the implementation date as requested was not warranted.

<sup>12</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).

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

<sup>5</sup> SQF stands for specialized quote feed and is a proprietary quoting system that allows specialists, streaming quote traders and remote streaming quote traders to connect and send quotes into Phlx XL, by-passing the Exchange's Auto-Quote System. See Exchange Rule 1080, commentary .01(b).

<sup>6</sup> Active ports refer to ports that receive inbound quotes at any time within that month.

<sup>7</sup> See e.g., Securities Exchange Act Release No. 54424 (September 11, 2006), 71 FR 54699 (September 18, 2006) (SR-Phlx-2006-55).

<sup>8</sup> SQTs and RSQTs are assessed fees pursuant to the ROT rates as SQTs and RSQTs are deemed to be ROTs. See Exchange Rule 1014(b)(ii)(A) and (B).