

orders received by the Exchange per day.

In addition, the wider availability and increased speed of NYSE Direct+® (“Direct+”), the Exchange’s electronic execution facility, which is being implemented in connection with the Hybrid Market, should prove a beneficial substitute to those Exchange customers seeking processing for individual investor orders similar to that obtained through IIEDS. The enhancements to Direct+ being introduced involve immediate execution at the best bid and best offer without restrictions on order size or frequency to the extent of the displayed volume associated with the bid and offer. The speed and continued operation of electronic executions through Direct+ will also eliminate the queues that developed during the slower, more manual execution process, further obviating the need for IIEDS.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5)<sup>6</sup> of the Act that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and 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 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

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

The Exchange has filed the proposed rule change 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> Because the Exchange has designated the foregoing proposed rule change as one that: (i) Does not significantly affect the protection of

investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder. 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 No. SR-NYSE-2007-16 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-NYSE-2007-16. 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 Commissions 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 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-NYSE-2007-16 and should be submitted on or before April 6, 2007.

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

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E7-4813 Filed 3-15-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55430; File No. SR-NYSEArca-2007-24]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Waive Certain Listing Fees

March 8, 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 28, 2007, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”), through its wholly owned subsidiary, NYSE Arca Equities, Inc., 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 Commission is publishing this notice to solicit comment 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 proposes to amend its listing fees to provide that there shall be no initial listing fee applicable to (i) Any company listing upon emergence from bankruptcy, or (ii) any company listing its primary class of common stock that is not listed on a national securities exchange but is registered under the Act.

The text of the proposed rule change is available on the Exchange’s Web site (<http://www.nysearca.com>), at the Exchange’s Office of the Secretary, and

<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 200.30-3(a)(12).

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

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

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. 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 Exchange proposes to amend its listing fee schedule to provide that there shall be no initial listing fee applicable to:

- Any company listing following emergence from bankruptcy;<sup>3</sup> or
- Any company listing its primary class of common stock that is not listed on a national securities exchange but is registered under the Act.

If approved by the Commission, the amendments contained in this proposal will be applied retroactively as of the date of this filing.

The proposed rule change will not affect the Exchange's commitment of resources to its regulatory oversight of the listing process or its regulatory programs. Specifically, companies that benefit from the waivers will be reviewed for compliance with Exchange listing standards in the same manner as any other company that applies to be listed on the Exchange. The Exchange will conduct a full and independent review of each issuer's compliance with the Exchange's listing standards.

In the case of companies listing upon emergence from bankruptcy, the Exchange believes that the initial listing fee waiver is justified by such companies' unique circumstances. Companies emerging from bankruptcy are typically not raising any new capital at the time of listing, so the payment of initial listing fees is more burdensome than for companies that are listing upon

an initial public offering. Also, because of the desire in bankruptcy proceedings to ensure that creditors are paid as much as possible, such companies are much more sensitive to the costs associated with listing. It is frequently difficult for such companies to assess what those costs are going to be until quite close to their emergence from bankruptcy, as the number of shares that will be issued (and therefore the related listing fees) are a significant variable in the negotiation of the bankruptcy settlement. As bankrupt companies face unique challenges in the listing process and the number of companies that will benefit from the fee waiver will be very limited, the Exchange does not believe that the treatment this proposal would afford to bankrupt companies constitutes an inequitable or unfairly discriminatory allocation of fees.

The Exchange anticipates that a significant percentage of potential listings of companies that have a registered class of common stock but that are not currently listed on a national securities exchange will be formerly listed companies that were delisted as a result of a failure to timely file annual reports with the Commission. These are companies that were otherwise in good standing with a national securities exchange, but fell behind on their reporting obligations under the Act because their auditors or the Commission required restatements of their financial statements. These companies will re-list on the Exchange as soon as their filings are up to date. The Exchange believes that waiving initial listing fees for these companies is appropriate and does not constitute an inequitable or unfairly discriminatory allocation of fees, as such companies had previously paid initial listing fees to the Exchange or to another national securities exchange, and to make them pay these fees again would further penalize them unnecessarily.

The Exchange does not expect the financial impact of this proposed rule change to be material, either in terms of increased levels of annual fees from transferring issuers or in terms of diminished initial listing fee revenues. A very limited number of companies are qualified and seek to list on the Exchange that are either emerging from bankruptcy or have a registered class of common stock but are not currently listed on another market. Accordingly, the proposed rule change will not impact the Exchange's resource commitment to its regulatory oversight of the listing process or its regulatory programs.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(4)<sup>4</sup> of the Act that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities and the requirement under Section 6(b)(5)<sup>5</sup> of Act that an exchange have rules that are designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and that are not designed to permit unfair discrimination between issuers. In light of the unique circumstances of companies emerging from bankruptcy and the likelihood that many companies listing that have a registered class of common stock but are not listed on another market will be previously listed companies delisted as late filers, the Exchange believes that the proposed fee waiver does not render the allocation of its listing fees inequitable or unfairly discriminatory.

### 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 Exchange 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,

<sup>3</sup> The Exchange interprets "listing following emergence from bankruptcy" to mean that the company lists at the same time it emerges from bankruptcy. Telephone conversation between John Carey, Assistant General Counsel, NYSE, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, March 6, 2007.

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

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

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-2007-24 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-2007-24. 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 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-2007-24 and should be submitted on or before April 6, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-55435; File No. SR-NYSEArca-2007-23]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Fees for Round-Lot Transactions in NYSE-Listed Securities (Other Than ETFs) Routed Outside the Book**

March 9, 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, II, and III below, which Items have been substantially prepared by NYSE Arca. NYSE Arca has filed the proposal pursuant to Section 19(b)(3)(A) 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**

The Exchange proposes to amend the section of its Schedule of Fees and Charges for Exchange Services ("Fee Schedule") that applies to round-lot transactions by ETP Holders<sup>5</sup> in securities (other than exchange-traded funds, or "ETFs") listed on the New York Stock Exchange LLC ("NYSE"). While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on March 1, 2007. The text of the proposed rule change is available at NYSE Arca, the Commission's Public Reference Room, and <http://www.nysearca.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, NYSE Arca 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 proposes to amend the section of its Fee Schedule that applies to round-lot transactions by ETP Holders in NYSE-listed securities (other than ETFs). While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on March 1, 2007.

The Fee Schedule currently provides that ETP Holders are charged \$0.001 per share for round-lot transactions in NYSE-listed securities that are routed outside the NYSE Arca Book. The Exchange proposes to amend its Fee Schedule to increase this fee to \$0.003 per share for such routed orders executed at any away market center other than the NYSE. ETP Holders will continue to be charged \$0.001 per share for round-lot transactions in NYSE-listed securities that are routed to, and executed on, the NYSE. The Exchange proposes to increase this fee in direct response to the recent fee announced by The NASDAQ Stock Market LLC ("Nasdaq") of \$0.003 per share for orders that remove liquidity from the Nasdaq Market Center for NYSE-, Amex- and regional-listed securities (excluding ETFs), effective January 1, 2007.<sup>6</sup> Specifically, the Exchange proposes this increase so that it may pass through to its ETP Holders the increased fee that Nasdaq is charging the Exchange for such ETP Holders' transactions.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the provisions of Section 6(b) of the Act,<sup>7</sup> in general, and with Section 6(b)(4) of the Act,<sup>8</sup> in particular, in that the proposal

<sup>6</sup> See Securities Exchange Act Release No. 54742 (November 13, 2006), 71 FR 67179 (November 20, 2006) (SR-NASD-2006-122). See also Securities Exchange Act Release Nos. 54932 (December 13, 2006), 71 FR 76406 (December 20, 2006) (SR-NASD-2006-132); 55137 (January 19, 2007), 72 FR 3452 (January 25, 2007) (SR-NASDAQ-2006-068); and 55284 (February 13, 2007), 72 FR 8231 (February 23, 2007) (SR-NASDAQ-2007-003).

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

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

<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> See NYSE Arca Equities Rule 1.1(n).

<sup>6</sup> 17 CFR 200.30-3(a)(12).