

cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

#### *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**

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 NYSE Arca 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-2007-121 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-2007-121. 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 the filing also will be available for inspection and copying at the principal office of NYSE Arca. 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-2007-121 and should be submitted on or before January 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-23972 Filed 12-11-07; 8:45 am]

**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56907; File No. SR-NYSEArca-2007-122]

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Certain Modifications to the Initial Listing Standards for Index-Linked Securities**

December 5, 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 November 28, 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 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 proposes to amend NYSE Arca Equities Rule 5.2(j)(6), the Exchange's listing standards for Equity Index-Linked Securities, Commodity-Linked Securities, and Currency-Linked Securities (collectively, "Index-Linked Securities").<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 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 one of the requirements of NYSE Arca Equities Rule 5.2(j)(6)(A), which sets

<sup>3</sup> NYSE Arca Equities Rule 5.2(j)(6) defines Equity Index-Linked Securities to be securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities (an "Equity Reference Asset"). Commodity-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more physical commodities or commodity futures, options or other commodity derivatives or Commodity-Based Trust Shares (as defined in NYSE Arca Equities Rule 8.201), or a basket or index of any of the foregoing (a "Commodity Reference Asset"). Currency-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more currencies, or options or currency futures or other currency derivatives or Currency Trust Shares (as defined in NYSE Arca Equities Rule 8.202), or a basket or index of any of the foregoing (a "Currency Reference Asset," and together with Equity Reference Asset and Commodity Reference Asset, collectively, a "Reference Asset").

<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.

forth the listing requirements applicable to all types of Index-Linked Securities to be listed and traded on the Exchange, to provide for greater flexibility in the listing criteria for such securities.

Currently, NYSE Arca Equities Rule 5.2(j)(6)(A)(d) provides that the payment at maturity of a cash amount for Index-Linked Securities may or may not provide for a multiple of the positive performance of an underlying Reference Asset, and in no event will payment at maturity be based on a multiple of the negative performance of an underlying Reference Asset.

The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6)(A)(d) to: (a) Allow the Exchange to consider for listing and trading Index-Linked Securities that provide for payment at maturity based on a multiple of the direct or inverse performance of an underlying Reference Asset; and (b) provide that in no event will a loss or negative payment at maturity be accelerated by a multiple that exceeds twice the performance of an underlying Reference Asset. The Exchange proposes these changes in order to permit the listing and trading of Index-Linked Securities that employ investment strategies similar or analogous to certain exchange-traded funds like the Short Funds and UltraShort Funds of the ProShares Trust and the Inverse Funds and Leveraged Inverse Funds of the Rydex ETF Trust, each of which trade on the Exchange pursuant to unlisted trading privileges ("UTP") under NYSE Arca Equities Rule 5.2(j)(3).<sup>4</sup> The Short Funds and Inverse Funds seek daily investment results, before fees and expenses, that correspond to the inverse or opposite of the daily performance (-100%) of the respective underlying indexes, and the Ultra Short Funds and Leveraged Inverse Funds seek daily investment results, before fees and expenses, that correspond to twice the inverse or opposite of the daily performance (-200%) of the respective underlying indexes.

The Exchange believes that these changes will allow greater flexibility in the listing and trading of Index-Linked

Securities and offer investors additional investment options. The Exchange believes that investors will continue to be protected because the payment at maturity cannot be based on a multiple that exceeds twice the inverse performance of an underlying Reference Asset.<sup>5</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no 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 states that no written comments were solicited or received with respect to the proposed rule change.

## 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 NYSE Arca 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-2007-122 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-2007-122. 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 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-2007-122 and should be submitted on or before January 2, 2008.

<sup>4</sup> See Securities Exchange Act Release Nos. 56763 (November 7, 2007), 72 FR 64103 (November 14, 2007) (SR-NYSEArca-2007-81) (approving the trading of shares of funds of the Rydex ETF Trust pursuant to UTP); 56601 (October 2, 2007), 72 FR 57625 (October 10, 2007) (SR-NYSEArca-2007-79) (approving the trading shares of eight funds of the ProShares Trust based on international equity indexes pursuant to UTP); 55125 (January 18, 2007), 72 FR 3462 (January 25, 2007) (SR-NYSEArca-2006-87) (approving the trading of shares of 81 funds of the ProShares Trust pursuant to UTP); and 54026 (June 21, 2006), 71 FR 36850 (June 28, 2006) (SR-PCX-2005-115) (approving the trading of shares of certain other funds of the ProShares Trust pursuant to UTP).

<sup>5</sup> See *id.*

<sup>6</sup> 15 U.S.C. 78f(b).

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

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-23971 Filed 12-11-07; 8:45 am]

BILLING CODE 8011-01-P

## DEPARTMENT OF STATE

[Public Notice 6023]

### Bureau of Political-Military Affairs; Statutory Debarment Under the Arms Export Control Act and the International Traffic in Arms Regulations

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Department of State has imposed statutory debarment pursuant to § 127.7(c) of the International Traffic in Arms Regulations (“ITAR”) (22 CFR Parts 120 to 130) on persons convicted of violating or conspiring to violate Section 38 of the Arms Export Control Act, as amended, (“AECA”) (22 U.S.C. 2778).

**DATES:** *Effective Date:* Date of conviction as specified for each person.

**FOR FURTHER INFORMATION CONTACT:** David Trimble, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 663-2980.

**SUPPLEMENTARY INFORMATION:** Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), prohibits the Department of State from issuing licenses or other approvals for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating certain statutes, including the AECA. In implementing this provision, section 127.7 of the ITAR provides for “statutory debarment” of any person who has been convicted of violating or conspiring to violate the AECA. Persons subject to statutory debarment are prohibited from participating directly or indirectly in the export of defense articles, including technical data, or in the furnishing of defense services for which a license or other approval is required.

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States Court, and as such the administrative debarment procedures outlined in Part 128 of the ITAR are not applicable.

The period for debarment will be determined by the Assistant Secretary for Political-Military Affairs based on the underlying nature of the violations, but will generally be for three years from the date of conviction. At the end of the debarment period, export privileges may be reinstated only at the request of the debarred person followed by the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by section 38(g)(4) of the AECA. Unless export privileges are reinstated, however, the person remains debarred.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement beginning one year after the date of the debarment. Any decision to grant reinstatement can be made only after the statutory requirements under section 38(g)(4) of the AECA have been satisfied.

Exceptions, also known as transaction exceptions, may be made to this debarment determination on a case-by-case basis at the discretion of the Assistant Secretary of State for Political-Military Affairs, after consulting with the appropriate U.S. agencies. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: Whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement.

Pursuant to section 38(g)(4) of the AECA and Section 127.7(c) of the ITAR, the following persons are statutorily debarred as of the date of their AECA conviction:

- (1) L&M Manufacturing Corporation, May 22, 2007, U.S. District Court, District of Connecticut, Case #3:04CR125;
- (2) Nesco NY, Inc., May 22, 2007, U.S. District Court, District of Connecticut, Case #3:04CV125;

- (3) Alejandro Felix-Canez, January 13, 2006, U.S. District Court, District of Arizona, Case #CR05-00965-002-PHX-ROS;
- (4) Yssouf Diabate, May 9, 2007, U.S. District Court, Southern District California, Case #06CR2161-LAB;
- (5) Ronald W. Wiseman, November 1, 2006, U.S. District Court, District of Columbia, Case #05-0152-01(JR);
- (6) Gustavo Gonzalez, Jr., November 3, 2006, U.S. District Court, Southern District of Texas, Case #1:06CR00529-001;
- (7) Carlos Ivan Deblas, February 6, 2007, U.S. District Court, Southern District of Texas, Case #1:06CR00663-001;
- (8) Francisco Jimenez Briceno, February 6, 2007, District Court, Southern District of Texas, Case #1:06CR00663-002;
- (9) Balbina Morales-Oscoy, February 21, 2007, District Court, Southern District of Texas, Case #7:06CR00776-001;
- (10) Pedro Martinez-Carrillo, June 21, 2007, District Court, Southern District of Texas, Case #1:07CR00039-001;
- (11) Lorenzo Sanchez-Castruita, January 19, 2007, District Court, Western District of Texas, Case #P-06-CR-213 (01) RAJ;
- (12) Ovet Chavira, March 5, 2007, District Court, Western District of Texas, Case #4:06-CR-00220-001 RAJ;
- (13) Miguel Loya, May 29, 2007, District Court, Western District of Texas, Case #4:06-CR-00279-001; and
- (14) Jeffrey Roll, June 8, 2007, District Court, Southern District of Indiana, Case #1:07CR00014-001.

As noted above, at the end of the three-year period following the date of conviction, the above named persons remain debarred unless export privileges are reinstated.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (see e.g., sections 120.1(c) and (d), and 127.11(a)). Also, under section 127.1(c) of the ITAR, any person who has knowledge that another person is subject to debarment or is otherwise ineligible may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any export in which such ineligible person may benefit therefrom, or have a direct or indirect interest therein.

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in

<sup>8</sup> 17 CFR 200.30-3(a)(12).