data elements into two components, requiring only data elements essential to completing the transaction to be inputted at the time of sale and the remaining elements within 24 hours. The MSRB notes that a SIFMA/DTCC task force identified the data elements about a new issue as necessary for automated trade processing of when-issued trades. This information is designated in NIIDS as information necessary for ''Trade Eligibility.'' While the MSRB recognizes that the proposed rule change would represent a significant change for underwriters, one of the objectives is to ensure that all dealers have access to information necessary to process and report trades in new issues in real-time.

Short-Term Instruments with Less than Nine Months in Effective Maturity

The MSRB also requested comment on whether certain types of new issues of municipal securities have special characteristics or use different ''bookrunning'' services that would present difficulties for underwriters to comply with the draft amendments to Rule G–34. SIFMA stated that short-term instruments with less than nine months in effective maturity, such as variable rate instruments, auction rate products and commercial paper, ''each have operational issues that present problems distinct from long-term fixed-rate securities'' that would make complying with the NIIDS data dissemination requirement difficult. SIFMA noted that ''intermediaries may not be available to process the fields for Trade Eligibility with the result that underwriters may themselves be required to populate the fields and have systems in place to enter the data in the two hour period allowed by the proposed rule.''

The MSRB notes that trades in short-term instruments with less than nine months in effective maturity qualify for an end-of-day exception from real-time transaction reporting. Therefore, one of the primary purposes of the March 2007 draft amendments, to improve timely real-time transaction reporting of new issues, does not necessarily apply. While underwriters would be able to manually input information about a new issue to NIIDS through a web interface, the MSRB believes that the burden of complying with the requirement in the March 2007 draft amendments to transmit to NIIDS all new issue information designated as necessary for ''Trade Eligibility'' no later than two hours of the Time of Formal Award for short term instruments with less than nine months in effective maturity would not be warranted given the marginal benefit to price transparency that would be achieved. The MSRB decided that the NIIDS data dissemination requirement for new issues that have an effective maturity of nine months or less should be phased in at a later time once intermediaries or dealer systems are able to submit information about such securities to NIIDS electronically.[16]

## 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*. Please include File Number SR–MSRB–2007–08 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–MSRB–2007–08. 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 such filing also will be available for inspection and copying at the principal office of the MSRB. 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–MSRB–2007–08 and should be submitted on or before February 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Florence E. Harmon,**

*Deputy Secretary.*

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[16] The MSRB notes that Trade Eligibility information on short term instruments with less than nine months in effective maturity would still be required to be submitted to DTCC in connection with an underwriter's requirement to apply for depository eligibility under Rule G–34(a)(ii)(A), but would not be subject to the requirement to communicate such information not later than two hours after the Time of Formal Award.

[17] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–57132; File No. SR–NYSEArca–2007–125]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change Relating to the Continued Listing Standards for Equity Index-Linked Securities

January 11, 2008.

## I. Introduction

On December 5, 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''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a), which sets forth

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the Exchange's continued listing criteria for Equity Index-Linked Securities.[3] The proposed rule change was published for comment in the **Federal Register** on December 12, 2007.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

The Exchange proposes to remove from NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a) the continued listing requirement for Equity Index-Linked Securities that prohibits the number of components comprising the underlying index from increasing or decreasing by 33⅓% from the original number of index components at the time of initial listing of such securities (the ''33⅓% Requirement'').[5] The Exchange states that its listing standards for exchange-traded funds under NYSE Arca Equities Rule 5.2(j)(3) and those of other national securities exchanges do not impose this same limitation regarding the change in the number of components comprising the underlying index. The Exchange believes that, in the case of Equity Index-Linked Securities, investors purchase such securities because they believe that the underlying index methodology is accurately described in the offering documentation, and that the index sponsor will maintain the index methodology appropriately, so that the index will continue to represent the sector, geographic region, or other investment characteristics the index is designed to track. As such, rather than buying Equity Index-Linked Securities on the basis of the current contents of the index, the Exchange states that investors rely on the index sponsor to define and manage the index selection rules so that the index over time is sustainable in response to changing market conditions.

In addition, because Equity Index-Linked Securities may have terms that endure for as long as 30 years, the Exchange states it is likely that the underlying index for such securities will ultimately change in ways that will render them non-compliant with NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(ii), and as a result, the Exchange believes that the 33⅓% Requirement penalizes Equity Index-Linked Securities with such long-term maturities. Specifically, Equity Index-Linked Securities based on total industry/country composite indexes are at risk of being delisted prior to the stated maturity date. In addition, new issues of Equity Index-Linked Securities may not be launched because of issuer concerns regarding the negative impact of the possible delisting of such securities due to index component changes that reflect expanding or retracting industry sectors or changes in the geographical business environment. The Exchange does not believe that it is protective of investors to require the delisting of those Equity Index-Linked Securities in such event.

Under the proposal, the Exchange seeks to maintain the 10-component minimum requirement in NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(ii) as a continued listing standard by moving reference to this requirement to Rule 5.2(j)(6)(B)(I)(2)(a), which would make reference to Rule 5.2(j)(6)(B)(I)(1)(a), as proposed. NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(a) requires that each underlying index have at least 10 component securities of different issuers.

## III. Commission's Findings and Order Granting Approval of the Proposed Rule Change

After careful review and based on the Exchange's representations, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act[7] 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 Commission notes that, pursuant to NYSE Arca Equities Rule 5.2(j)(6)(A)(b), certain issues of Equity Index-Linked Securities may have terms that endure for as long as 30 years and, depending on the degree of focus and investment objectives of the Equity Reference Asset, the number of components comprising the underlying equity index may change during this time period and could put an issue of Equity Index-Linked Securities at risk of being non-compliant with the 33⅓% Requirement. Therefore, Equity Index-Linked Securities could be subject to delisting prior to their stated maturity date. The Commission believes that eliminating the 33⅓% Requirement reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in section 6(b)(5) of the Act.[8] The Commission notes that each issue of Equity Index-Linked Securities must continue to maintain all of the initial listing standards for Equity Index-Linked Securities, including the continued requirement that each underlying index have a minimum of 10 component securities of different issuers under NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(a), and satisfy the continued listing requirements under NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a), including the enhanced minimum concentration limits under NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(i). Given the variety of certain equity indexes that focus on specific industry sectors and geographic markets, for example, and the extended duration of maturities for certain Equity Index-Linked Securities, the Commission believes that the number of components in an index may increase or decrease by more than 33⅓% from the number of components in the index at the time of initial listing without adversely impacting the interests of investors. At the same time, the Commission believes that the proposal should benefit investors by creating additional alternatives to investing in such products and competition in the market for Equity Index-Linked Securities, while maintaining transparency of the underlying components comprising an index. As such, the Commission believes it is reasonable and consistent with the Act for the Exchange to modify the listing standards for Equity Index-Linked Securities in the manner described in the proposal.

## IV. Conclusion

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NYSEArca–2007–125), be, and it hereby is, approved.

[3] NYSE Arca Equities Rule 5.2(j)(6) defines Equity Index-Linked Securities as 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, also referred to as the ''Equity Reference Asset.'' *See* NYSE Arca Equities Rule 5.2(j)(6).

[4] *See* Securities Exchange Act Release No. 56918 (December 6, 2007), 72 FR 70635 (''Notice'').

[5] *See* NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(ii).

[6] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8–707 Filed 1–16–08; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–57130; File No. SR–NYSEArca–2008–04]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand, and Make Permanent, the $1 Strike Program

January 10, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 8, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''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 substantially prepared by the Exchange. NYSE Arca filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] 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 its rules governing the $1 Strike Program (''Program'') to expand, and make permanent, the Program. 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 purpose of the proposed rule change is to expand the Program and request permanent approval of the Program. The Program currently allows NYSE Arca to select a total of 5 individual stocks[5] on which option series may be listed at $1 strike price intervals. In order to be eligible for selection into the Program, the underlying stock must close below $20 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at $1 intervals from $3 to $20, but no $1 strike price may be listed that is greater than $5 from the underlying stock's closing price in its primary market on the previous day. The Exchange also may list $1 strikes on any other option class designated by other securities exchanges that employ a similar $1 strikes program under their respective rules. The Exchange may not list long-term option series (''LEAPS'') at $1 strike price intervals for any class selected for the Program. The Exchange also is restricted from listing any series that would result in strike prices being $0.50 apart.

The Exchange proposes to amend Commentary .04 to NYSE Arca Rule 6.4 to expand the Program to allow it to select a total of 10 individual stocks on which option series may be listed at $1 strike price intervals. Additionally, the Exchange proposes to expand the price range on which it may list $1 strikes, presently from $3 to $20, to now include stocks priced from $3 to $50. The existing restrictions on listing $1 strikes will continue, *e.g.*, no $1 strike price may be listed that is greater than $5 from the underlying stock's closing price in its primary market on the previous day, and the Exchange is restricted from listing any series that would result in strike prices being $0.50 apart. In addition, because it believes that the Program has been very successful by allowing investors to establish equity options positions that are better tailored to meet their investment objectives, the Exchange requests that the Program be approved on a permanent basis.

As stated in the Commission order approving NYSE Arca's Program and in the subsequent extensions of the Program,[6] the Exchange believes that $1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower priced stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. The Exchange states that its member firms representing customers have requested that NYSE Arca seek to expand the Program, both in terms of the number of classes which can be selected and the range in which $1 strikes may be listed.

With regard to the impact on systems capacities, the Exchange's analysis of the Program shows that the impact on NYSE Arca's, OPRA's, and market data vendors' respective automated systems has been minimal. In a previously filed proposed rule change,[7] the Exchange included an analysis of quoting activity for all classes selected for the Program as a percentage of all quoting activity for all classes being quoted during a specific number of months. The Exchange concluded that, for the two-month period prior to the implementation of the Program in May 2003, the number of quotes sent to OPRA in the four classes selected for the Program represented approximately 0.29% of all quotes sent by the Exchange. For the two-month period ending March 31, 2007, the quote share in the four classes selected for the Program was 0.26%, slightly below the May 2003 levels. The Exchange notes that these quoting statistics may actually overstate the contribution of $1 strike prices because these figures also include quotes for series listed in intervals higher than $1 (*e.g.*, $2.50 strikes) in the same option classes. Even with the non-$1 strike series quotes included in these

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange listed five issues for inclusion in the original Program. In February 2004, according to the Exchange, Celanese Corp. (CE) was acquired by another company and was removed from the Program, bringing the number of issues to four.

[6] The Commission approved the Program on June 17, 2003. *See* Securities Exchange Act Release No. 48045 (June 17, 2003), 68 FR 37594 (June 24, 2003) (SR–PCX–2003–28). The Program has subsequently been extended and is presently due to expire on June 5, 2008. *See* Securities Exchange Act Release Nos. 49818 (June 4, 2004), 69 FR 33440 (June 15, 2004) (SR–PCX–2004–39) (extending the Program until August 4, 2004); 50152 (August 5, 2004), 69 FR 49931 (August 12, 2004) (SR–PCX–2004–61) (extending the Program until June 5, 2005); 51767 (May 31, 2005), 70 FR 33244 (June 7, 2005) (SR–PCX–2005–69) (extending the Program until June 5, 2006); 53807 (May 15, 2006), 71 FR 29373 (May 22, 2006) (SR–NYSEArca–2006–14) (extending the Program until June 5, 2007); and 55718 (May 7, 2007), 72 FR 27346 (May 15, 2007) (SR–NYSEArca–2007–42) (extending the Program until June 5, 2008).

[7] *See* Securities Exchange Act Release No. 55718 (May 7, 2007), 72 FR 27346 (May 15, 2007) (SR–NYSEArca–2007–42).