

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-NYSE-2008-98 and should be submitted on or before October 31, 2008.

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

**Florence E. Harmon,**

*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58720; File No. SR-NYSEArca-2008-104]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Continued Listing Criteria Applicable to Equity Linked Notes and "Other Securities"

October 2, 2008.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on September 30, 2008, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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

NYSE Arca, through its wholly owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities" or the "Corporation"), proposes to adopt NYSE Arca Equities Rules 5.5(i) and 5.5(j) to specify continued listing criteria applicable to securities listed on the Exchange pursuant to NYSE Arca Equities Rules 5.2(j)(1) ("Other Securities") and 5.2(j)(2) ("Equity Linked Notes"), respectively. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the Exchange's principal office 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 self-regulatory organization 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 those 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 parts 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 adopt NYSE Arca Equities Rules 5.5(i) and 5.5(j) to specify continued listing criteria applicable to securities listed on the Exchange pursuant to NYSE Arca Equities Rules 5.2(j)(1) ("Other Securities") and 5.2(j)(2) ("Equity Linked Notes" or "ELNs"), respectively.

NYSE Arca Equities Rule 5.2(j)(1) provides that the Exchange will consider listing any security not otherwise covered by the requirements of NYSE Arca Equities Rule 5.2 subject to specified initial listing requirements, including minimum number of publicly held trading units and minimum principal amount/market value, the required minimum number of public beneficial holders, and required issuer's total assets and net worth. NYSE Arca Equities Rule 5.2(j)(2) sets forth initial listing requirements applicable to ELNs, including numerical listing standards

applicable to the ELN's issuer, the issue itself, and the underlying security for the ELN.

Securities listed under NYSE Arca Equities Rules 5.2(j)(1) and 5.2(j)(2) are subject to trading suspension or delisting pursuant to standards set forth in Rule 5.5(l) ("Other Reasons for Suspending or Delisting"). Proposed NYSE Arca Equities Rule 5.5(i) and 5.5(j) would provide that the Corporation will commence delisting or removal proceedings (unless the Commission has approved the continued trading of an issue of securities listed pursuant to Rule 5.2(j)(1) or Rule 5.2(j)(2), respectively), if the aggregate market value or the principal amount of the securities publicly held is less than \$400,000, or if such other event shall occur or condition exists which in the opinion of the Corporation makes further dealings on the Corporation inadvisable.

The proposed minimum standard of \$400,000 is the same as the minimum maintenance criterion for principal amount of securities publicly held previously approved by the Commission for securities listed on the Exchange under Rule 5.2(j)(6) (Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities).<sup>4</sup> The Exchange believes that the proposed criteria provide an adequate minimum threshold for the dollar principal amount of derivatively-priced securities such as those listed under Rules 5.2(j)(1) and 5.2(j)(2) to permit sufficient market liquidity, and provides flexibility to the Exchange to commence delisting proceedings based on other events or conditions that may occur.

###### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>5</sup> of the Securities Exchange Act of 1934 ("Act"), in general, and furthers the objectives of Section 6(b)(5)<sup>6</sup> of the Act, 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The

<sup>4</sup> See, e.g., Securities Exchange Act Release No. 57701 (April 23, 2008), 73 FR 23281 (April 29, 2008) (SR-NYSEArca-2008-20).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

Exchange believes that the proposed rule change will provide more specific continued listing criteria for securities listed under NYSE Arca Equities Rules 5.2(j)(1) and 5.2(j)(2), and provides an adequate minimum threshold for the dollar principal amount of derivatively-priced securities such as those listed under Rules 5.2(j)(1) and 5.2(j)(2) to permit sufficient market liquidity.

#### *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*

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 the self-regulatory organization 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, 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-2008-104 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2008-104. 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-2008-104 and should be submitted on or before October 31, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-58717; File No. SR-NYSEArca-2008-106]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 6.87—Obvious Errors and Catastrophic Errors**

October 2, 2008.

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 October

2, 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 prepared by the self-regulatory organization. NYSE Arca filed the proposed rule change as a "non-controversial" 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 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 Rule 6.87—Obvious Errors and Catastrophic Errors. The text of the proposed rule change is available at the principal office of the Exchange, the Commission's Public Reference Room, and at [www.nyse.com](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 self-regulatory organization 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 those 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 parts 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 this filing is to amend Exchange rules governing obvious and catastrophic errors, by adding provisions which will allow for the nullification of trades that are a result of either an erroneous quote, or print, in the underlying security. Specifically, NYSE Arca is proposing new Rule 6.87(a)(4) Erroneous Print in the Underlying, and new Rule 6.87(a)(5) Erroneous Quote in the Underlying.

Market participants on NYSE Arca base the value of their quotes and orders off of the price of underlying security. These two proposed provisions cover

<sup>7</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)(6).