

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58875; File No. SR-NYSEArca-2008-117]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Schedule of Fees and Charges for Exchange Services

October 29, 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 October 28, 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, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) 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 Schedule of Fees and Charges for Exchange Services. The text of the proposed rule change is attached as Exhibit 5 to the proposed rule change filing, is available on the Exchange’s Web site at <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 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 this filing is to amend the Royalty Fees section of the NYSE Arca Schedule of Rates and Charges (“Schedule”) by adding a new fee for transactions in Foreign Currency Options (“FCO”).

The Exchange recently filed with the U.S. Securities and Exchange Commission (“Commission”) a proposal that will allow the Exchange to list and trade FCOs.⁵ The Exchange intends to license the contract terms governing FCOs from the International Securities Exchange (“ISE”) and in turn list and trade specific ISE proprietary FCO products, commonly known as FX ISE Foreign Currency Options.

As a part of this license agreement with the ISE, NYSE Arca will pay a fee to the ISE, on every FCO contract traded on the Exchange. Effective with this filing, the Exchange will assess a \$0.10 Royalty Fee on a per contract basis for Firm, Broker/Dealer, and Market Maker transactions in the following FCOs.

British Pound (BPX), Japanese Yen (YUK), Canadian Dollar (CDD), Australian Dollar (AUX), Euro (EUI), Swiss Franc (SFC).

The Exchange also proposes to amend the existing Schedule in order to expand the group of issues eligible for Post / Take pricing. Currently, NYSE Arca offers market participants a Post / Take pricing model for electronically executed transactions in issues that are included in the Penny Pilot. In addition to the issues included in the Penny Pilot, FCO’s will also be traded in one cent increments. The Exchange proposes to modify the Schedule to make FCO’s eligible for Post / Take pricing.⁶ The Exchange intends to apply this fee structure in conjunction with the launch of trading in FCOs on the Exchange.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act, in general, and section 6(b)(4), in particular, in that it provides for the equitable allocation of dues, fees and other charges among its members and other market participants that use

⁵ See Securities and Exchange Commission Release No. 34-58800, October 16, 2008 (notice of immediate effectiveness of SR-NYSEArca-2008-109).

⁶ The Exchange has not yet implemented its Tier 1 Post/Take pricing. As a result, the basic Post/Take pricing structure applicable to electronic executions in Penny Pilot Issues shall apply.

the trading facilities of NYSE Arca. The Exchange is proposing to (i) charge its Users the same royalty fee it pays to the ISE pursuant to its license to list and trade FCOs on the Exchange and (ii) modify the Schedule to make FCO’s eligible for Post/Take pricing.

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

The proposed rule change is effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act and SEC Rule 19b-4(f)(2) thereunder in that it establishes or changes a due, fee, or other charge imposed on members by the self-regulatory organization.

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. Please include File Number SR-NYSEArca-2008-117 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-2008-117. This

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)(2).

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, on official business days between the hours of 10 a.m. and 3 p.m. 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 No. SR-NYSEArca-2008-117 and should be submitted on or before November 26, 2008.

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

Florence E. Harmon,
Acting Secretary.

[FR Doc. E8-26345 Filed 11-4-08; 8:45 am]
BILLING CODE 8011-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Kenosha Regional Airport, Kenosha, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to authorize the release of 1.38 acres of the airport property at the Kenosha Regional Airport, Kenosha, WI. The Wisconsin Department of Transportation (WisDOT) is seeking airport property to improve the intersection of Interstate 94 and State

Trunk Highway 158. The WisDOT issued an environmental Finding of No Significant Impact on September 11, 1996.

The acreage being released is not needed for aeronautical use as currently identified on the Airport Layout Plan. The acreage comprising this parcel 24 and 24A were originally acquired under Grant Nos. AIP-01-1984 and AIP-02-1985. The City of Kenosha (Wisconsin), as airport owner, has concluded that the subject airport land is not needed for expansion of airport facilities. There are no impacts to the airport by allowing the airport to dispose of the property. The airport will receive the appraised fair market value of \$89,700 for the land. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before December 5, 2008.

ADDRESSES: Ms. Sandra E. DePottey, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450-2706. Telephone Number (612) 713-4350/ FAX Number (612) 713-4364. Documents reflecting this FAA action may be reviewed at this same location or at the Wisconsin Department of Transportation, 4802 Sheboygan Ave., Room 701, Madison, WI 53707.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra E. DePottey, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450-2706. Telephone Number (612) 713-4350/FAX Number (612) 713-4364. Documents reflecting this FAA action may be reviewed at this same location or at the Wisconsin Department of Transportation, 4802 Sheboygan Ave., Room 701, Madison, WI 53707.

SUPPLEMENTARY INFORMATION: Following is a legal description of the subject airport property to be released at Kenosha Regional Airport in Kenosha, Wisconsin and described as follows:

A parcel of land located in Southwest ¼ of the Northwest ¼ of Section 31, T02N, R22E, Town of Somers, Kenosha County, WI.

Said parcel subject to all easements, restrictions, and reservations of record.

Issued in Minneapolis, MN, on August 5, 2008.

Robert A. Huber,

Manager, Minneapolis Airports District Office, FAA, Great Lakes Region.

[FR Doc. E8-26407 Filed 11-4-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Tier II Environmental Impact Statement: San Diego County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA, on behalf of the California Department of Transportation (Caltrans) and the General Services Administration (GSA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for Tier II of a proposed highway project, international port of entry (POE), and possible Commercial Vehicle Enforcement Facility (CVEF) in the East Otay Mesa area of San Diego County, California.

FOR FURTHER INFORMATION CONTACT: Cesar Perez, Senior Transportation Engineer, Federal Highway Administration, 650 Capitol Mall, Suite 4-100, Sacramento, CA 95814, Telephone: (916) 498-5065, or Susanne Glasgow, Deputy District Director, Environmental Division, California Department of Transportation, District 11, 4050 Taylor Street, MS-242, San Diego, CA 92110, Telephone: (619) 688-0100.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), has previously completed a Phase I EIS (Record of Decision dated October 3, 2008) that resulted in the selection of a preferred corridor for State Route 11 (SR-11) and a preferred location for the Otay Mesa POE. Issuance by the U.S. Department of State (DOS) of a conditional Presidential Permit is also an anticipated outcome of this prior environmental process.

At this time, the FHWA, the GSA, and Caltrans will prepare a Tier II EIS that will evaluate design and operational alternatives for future SR-11, the POE, and a potential CVEF, in the previously selected locations in the Otay Mesa area

⁷ 17 CFR 200.30-3(a)(12).