

temporarily extend the pilot program is consistent with the Act for the reasons noted in the Order.<sup>18</sup> The Commission believes that approving NYSE Arca's proposal to temporarily extend the pilot program that imposes a fee for NYSE Arca Realtime Reference Prices for an additional three months will be beneficial to investors and in the public interest, in that it is intended to allow continued broad public dissemination of increased real-time pricing information. In addition, extending the pilot program for an additional three months will allow NYSE Arca, consistent with its representation,<sup>19</sup> to file, the public to comment on, and the Commission to analyze consistent with the Order and in light of Section 19(b) of the Act, a proposal to permanently approve the fee for NYSE Arca Realtime Reference Prices.

The Commission finds good cause for approving the proposed rule change before the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Accelerating approval of this proposal is expected to benefit investors by continuing to facilitate their access to widespread, free, real-time pricing information contained in NYSE Arca Realtime Reference Prices. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>20</sup> to approve the proposed rule change on an accelerated basis to extend the operation of the pilot until March 31, 2009.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSEArca-2008-143) is hereby approved on an accelerated basis until March 31, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E9-8 Filed 1-6-09; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59191; File No. SR-NYSEArca-2008-139]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Arca, Inc. Amending the Minor Rule Plan To Increase Certain Sanctions

December 31, 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 December 17, 2008, NYSE Arca, Inc. ("NYSE Arca" or the "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 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 10.12 Minor Rule Plan by increasing certain sanctions contained in the fine schedule. The Exchange also proposes to make minor technical changes at this time. A copy of this 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 Minor Rule Plan ("MRP") fosters compliance with applicable rules and also helps to reduce the number and

extent of rule violations committed by Options Trading Permit ("OTP") Holders, OTP Firms and associated persons. The prompt imposition of a financial penalty helps to quickly educate and improve the conduct of OTP Holders, OTP Firms and associated persons that have engaged in inadvertent or otherwise minor violations of the Exchange's rules, particularly those who may not pay attention to mere warnings that they are violating Exchange rules. By promptly imposing a meaningful financial penalty for such violations, the MRP focuses on correcting conduct before it gives rise to more serious enforcement action.

Market Makers on NYSE Arca receive certain rights and privileges in return for meeting certain obligations. These obligations include adhering to certain rules regarding quoting, in-person trading requirements, and fulfilling the terms of a Market Maker Appointment.<sup>3</sup> Failure to comply with rules these governing Market Maker obligations may result in a fine pursuant to the MRP. At this time the Exchange feels the current monetary fine levels contained in the MRP, for violations of certain rules pertaining to Market Makers, are too low, given the serious nature of these rules. In order to act as an effective deterrent against future violations, while also serving as a just penalty for those who commit these violations, the Exchange proposes to raise the fine levels for violations related to certain rules governing Market Maker obligations. A brief description of each proposed change is shown below.

###### Rule 10.12(k)(i)25.

At least 75% of the trading activity of a Market Maker (measured in terms of contract volume per quarter) must be in classes within the Market Maker's Appointment. A failure to comply with the 75% contract volume requirement may result in a fine of \$500.00 for a first offense, \$1,000.00 for a second offense and \$2,500.00 for a third offense. The Exchange proposes to raise these suggested fines to \$1,000.00 for a first offense, \$2,500.00 for a second offense and \$3,500.00 for a third offense.

###### Rule 10.12(k)(i)26.

At least 60% of a Market Maker's transactions must be executed by the Market Maker in person or through an approved facility of the Exchange. A failure to comply with this 60% in-person trading requirement may result in a fine of \$500.00 for a first offense, \$1,000.00 for a second offense and \$2,500.00 for a third offense. The Exchange proposes to raise these

<sup>18</sup> See *supra* notes 3 and 7.

<sup>19</sup> The Exchange represents that it intends to file a proposal seeking permanent approval of NYSE Arca Realtime Reference Prices. Telephone conversation between Ronald Jordan, Executive Vice President, Market Data Services, NYSE Euronext, and John Roeser, Assistant Director, Division of Trading and Markets, Commission, on December 30, 2008.

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</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> See NYSE Arca Rule 6.35—Appointment of Market Makers.

suggested fines to \$1,000.00 for a first offense, \$2,500.00 for a second offense and \$3,500.00 for a third offense.

Rule 10.12(k)(i)37.

Market Makers on NYSE Arca must apply for an appointment in one or more classes of option contracts. A Market Maker who fails to apply for an Appointment may be subject to a fine of \$500.00 for a first offense, \$1,000.00 for a second offense and \$1,500.00 for a third offense. The Exchange proposes to raise these suggested fines to \$1,000.00 for a first offense, \$2,500.00 for a second offense and \$3,500.00 for a third offense.

Rule 10.12(k)(i)39.

Market Makers, including Lead Market Makers, have certain obligations pertaining to quotes and quoting, which are governed by Rule 6.37B. Market Makers or Lead Market Makers who fail to comply with the Quotation Requirements of Rule 6.37B may be subject to a fine of \$500.00 for a first offense, \$1,000.00 for a second offense and \$2,500.00 for a third offense. The Exchange proposes to raise these suggested fines to \$1,000.00 for a first offense, \$2,500.00 for a second offense and \$3,500.00 for a third offense.

Rule 10.12(k)(i)41.

Market Makers are required to provide accurate quotes, and quote markets within the maximum quote spread differentials prescribed in Rule 6.37. Market Makers who fail to provide accurate quotes within the maximum quote spread differentials may be subject to a fine of \$500.00 for a first offense, \$1,000.00 for a second offense and \$2,000.00 for a third offense. The Exchange proposes to raise these suggested fines to \$1000.00 for a first offense, \$2,500.00 for a second offense and \$3,500.00 for a third offense.

Other Minor Changes

Rule 10.12(h)(25) deals with a failure to meet a 75% Primary Appointment requirement for Market Makers and cites Rules 6.35 Commentary .03 and 6.37(h)(5). The 75 percent Appointment requirement is actually governed by Rule 6.35(i). The Exchange proposes to make a change so that the correct rule number is properly referenced. A similar change is proposed for the corresponding fine schedule in Rule 10.12(k)(i)25.

Rule 10.12(h)(41) deals with Market Makers who fail to quote markets within the maximum quote spread differentials or who fail to disseminate quotes accurately and cites only Rules 6.37(b)(1) and 6.82(c)(1). However, Rule 6.37A(b) also deals with maximum quote spread differentials, and was inadvertently left out of the MRP. It has

always been the intent of the Exchange to have violations of Market Maker quoting obligations eligible for disposition under the MRP. This rule change simply serves to add the previously omitted rule citation at this time. A similar change is proposed for the corresponding fine schedule in Rule 10.12(k)(i)41.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>4</sup> of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)<sup>5</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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The proposal is also consistent with Section 6(b)(6)<sup>6</sup> and 6(b)(7),<sup>7</sup> which requires that members and persons associated with members are appropriately disciplined for violations of Exchange rules and are provided a fair procedure for disciplinary procedures.

*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 Amex 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-2008-139 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-2008-139. 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, 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-2008-139 and should be submitted on or before January 28, 2009.

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

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

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

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

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

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E9-16 Filed 1-6-09; 8:45 am]

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## DEPARTMENT OF STATE

[Public Notice 6474]

### Culturally Significant Objects Imported for Exhibition Determinations: “Becoming Edvard Munch: Influence, Anxiety, and Myth”

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects in the exhibition: “Becoming Edvard Munch: Influence, Anxiety, and Myth,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Art Institute of Chicago, Chicago, IL, from on or about February 14, 2009, until on or about April 26, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202-453-8050)). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: December 30, 2008.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E9-54 Filed 1-6-09; 8:45 am]

BILLING CODE 4710-05-P

## DEPARTMENT OF STATE

[Public Notice 6475]

### Culturally Significant Objects Imported for Exhibition Determinations: “Cast in Bronze: French Sculpture From Renaissance to Revolution”

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects in the exhibition: “Cast in Bronze: French Sculpture from Renaissance to Revolution,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, NY, from on or about February 24, 2009, until on or about May 24, 2009; The J. Paul Getty Museum, Los Angeles, CA, from on or about June 30, 2009, until on or about September 27, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202-453-8050)). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: December 30, 2008.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E9-55 Filed 1-6-09; 8:45 am]

BILLING CODE 4710-05-P

## DEPARTMENT OF STATE

[Public Notice 6473]

### Culturally Significant Objects Imported for Exhibition Determinations: “Endless Forms”: Charles Darwin, Natural Science and the Visual Arts

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects in the exhibition: “Endless Forms”: Charles Darwin, Natural Science and the Visual Arts, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Yale Center for British Art, New Haven, CT, from on or about February 12, 2009, until on or about May 3, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202-453-8050)). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

December 30, 2008.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E9-56 Filed 1-6-09; 8:45 am]

BILLING CODE 4710-05-P

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