

Makers, RMMs, e-DPMs, or DPMs (collectively "market-makers") to compete better for order flow in these option classes.

Second, CBOE proposes to amend the fee such that the marketing fee would not apply to transactions in Penny Pilot classes resulting from orders executed through the Hybrid Agency Liaison under CBOE Rule 6.14 in which market-makers "step up" through the HAL system and trade with orders that are marketable against the NBBO when CBOE is not the NBBO. CBOE believes that this change would encourage market-makers to execute orders at CBOE at the NBBO.

CBOE proposes to implement these changes to the marketing fee program beginning on January 2, 2008. CBOE is not amending its marketing fee program in any other respects.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

### *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 foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2007-154 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-CBOE-2007-154. 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 such filing also will be available for inspection and copying at the principal office of CBOE. 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-CBOE-2007-154 and should be submitted on or before January 30, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-157 Filed 1-8-08; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57093; File No. SR-NYSE-2007-127]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate Certain Regulatory Fees

January 3, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 31, 2007, the New York Stock Exchange LLC ("NYSE" 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 substantially prepared by the NYSE. The NYSE has designated the proposed rule change as one concerned solely with the administration of the Exchange pursuant to section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposed rule change 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 NYSE proposes to eliminate, effective January 1, 2008, certain regulatory fees that NYSE Regulation, Inc. ("NYSE Regulation") currently remits to the Financial Industry Regulatory Authority, Inc. ("FINRA") and which FINRA has determined should be eliminated effective January 1, 2008. The text of the proposed rule change is available on NYSE's Web site at <http://www.nyse.com>, at NYSE's principal office, and at the Commission's Public Reference Room.

<sup>9</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)(3).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

## 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 NYSE included statements concerning 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 NYSE 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 eliminate, effective January 1, 2008, certain regulatory fees that are charged to member organizations, including registered persons fees, branch office registration fees, credit extension fees, and certain other regulatory and testing fees.

On July 30, 2007, NYSE Regulation and the National Association of Securities Dealers, Inc. ("NASD") consolidated their member regulation operations into a combined organization, FINRA. In connection with that transaction, NYSE Regulation agreed to remit to FINRA certain registration and regulatory fees that NYSE charges its member organizations. Because the regulatory activities associated with those fees are now performed by FINRA, those fees compensate FINRA for the regulatory services it assumed as a result of the regulatory consolidation.

The NYSE registration and regulatory fees currently remitted to FINRA include:

- Branch Office Fees, which are charged, per branch, \$350.00 for the first 1,000 branches, \$150.00 for the next 2,000 branches, and \$125.00 for over 3,000 branches;<sup>5</sup>
- Registered Persons Fees, which are \$65.00 for a new applicant, \$43 for a transfer applicant, and \$52.00 for annual maintenance, per person;<sup>6</sup>
- Regulation T Credit Extensions, which are \$4.00 per extension;<sup>7</sup>

<sup>5</sup> See NYSE Rule 342.11; see also FINRA By-Laws, Section 4(a) of Schedule A.

<sup>6</sup> See NYSE Rule 345.14; see also FINRA By-Laws, Section 4(b) of Schedule A.

<sup>7</sup> See NYSE Rule 434; see also FINRA By-Laws, Section 8 of Schedule A.

- Statutory Disqualification Filing Fee, which is \$1,500;<sup>8</sup>
- Statutory Disqualification Review Fee, which is \$1,000;<sup>9</sup>
- FOCUS Feedback, which is \$250.00 each or \$900 for four quarters;<sup>10</sup>
- Regulatory Element Fee, which is \$75.00;<sup>11</sup> and
- Series 7 Qualification Exam, which is \$100.<sup>12</sup>

The foregoing fees are charged under the authority of NYSE rules that have been designated as "Common Rules" under the 17d-2 Allocation Plan that NYSE entered into with FINRA.<sup>13</sup> FINRA has informed NYSE Regulation that it has reviewed the above-listed registration and regulatory fees and has determined to cease charging those fees effective January 1, 2008. FINRA will make a parallel filing with the Commission to reflect this determination. Accordingly, as contemplated by the 17d-2 Agreement, the NYSE is filing to amend its Price List to eliminate the above-listed fees, effective January 1, 2008.

#### 2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under section 6(b)(5)<sup>14</sup> that an Exchange have rules that are designed to promote just and equitable principles of trade, 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 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.

<sup>8</sup> See NYSE Rule 346(f); see also FINRA By-Laws, Section 12 of Schedule A.

<sup>9</sup> See NYSE Rule 346(f); see also FINRA By-Laws, Section 12 of Schedule A.

<sup>10</sup> See NYSE Rule 416.10.

<sup>11</sup> See NYSE Rule 345A; see also FINRA By-Laws, Section 4(f) of Schedule A.

<sup>12</sup> See NYSE Rule 345; see also FINRA By-Laws, Section 4(c) of Schedule A.

<sup>13</sup> Pursuant to Rule 17d-2 under Act, NYSE, NYSE Regulation, Inc., and NASD entered into an agreement to reduce regulatory duplication for firms that are members of FINRA and also members of NYSE on or after July 30, 2007, by allocating to FINRA certain regulatory responsibilities for selected NYSE rules (the "17d-2 Agreement"). The Agreement includes a list of those rules ("Common Rules") for which FINRA has assumed regulatory responsibilities. See Securities Exchange Act Release No. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (Notice of Filing and Order Approving and Declaring Effective a Plan for the Allocation of Regulatory Responsibilities).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

### 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

The foregoing rule change is concerned solely with the administration of the Exchange and has, therefore, become effective pursuant to section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and Rule 19b-4(f)(3) thereunder.<sup>16</sup> At any time within 60 days of the filing of such 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2007-127 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-NYSE-2007-127. 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

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

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 NYSE. 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-2007-127 and should be submitted on or before January 30, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-156 Filed 1-8-08; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57087; File No. SR-NYSEArca-2008-01]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Closing Time for Options on Exchange-Traded Funds

January 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 January 2, 2008, NYSE Arca, Inc. ("NYSE Arca" or the "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 and II below, which Items have been substantially prepared by NYSE Arca. The Exchange filed the proposal as "non-controversial" pursuant to section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which

renders it 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

NYSE Arca proposes to amend NYSE Arca Rule 7.1 in order to change the time at which certain options on exchange-traded funds ("ETFs") cease trading on the Exchange from 1:15 p.m. Pacific Time ("PT") to the time trading ceases in the core trading session of the primary listing exchange for the underlying security. The text of the proposed rule change is available at the Exchange's principal office, the Commission's Public Reference Room, and <http://www.nysearca.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, NYSE Arca 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend NYSE Arca Rule 7.1 ("Rule"), Trading Sessions, to change the time at which certain options on ETFs cease trading on the Exchange. The rule currently specifies the trading hours for options on ETFs as commencing at 6:30 a.m. PT and ending at 1:15 p.m. PT. This extended trading time mirrored the operative closing time of the underlying ETF, which for most underlying ETFs was 1:15 p.m. PT—as set by the primary listing exchange.

Recently, the Exchange submitted a proposed rule change that was effective upon filing that governs the trading hours of ETFs listed on NYSE Arca Equities.<sup>5</sup> As a result of that proposed rule change, the closing time for ETFs listed on NYSE Arca Equities changed

from 1:15 p.m. PT to 1 p.m. PT. In order to synchronize the closing time of options on ETFs with the closing of the underlying ETF on the primary listing exchange, NYSE Arca hereby proposes to cease trading of the overlying options at the same time as the primary listing exchange closes its core trading session in the underlying ETF.<sup>6</sup> In the case of options on ETFs listed on NYSE Arca Equities, starting January 2, 2008, this time will be 1 p.m. PT.

The Exchange intends this system change to be effective on filing and operative on January 2, 2008. By amending this rule, the Exchange will simply synchronize the closing time for options on ETFs with the time at which the core trading session of the underlying ETF closes on the primary listing exchange.

###### 2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of section 6(b)(5)<sup>8</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 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

Because the foregoing proposed rule change does not: (1) Significantly affect

<sup>6</sup> As amended, this rule will mirror that of the Chicago Board Options Exchange ("CBOE"). CBOE Rule 6.1 Interpretations and Policies .01 states, in part, that "hours during which transactions in options on individual stocks may be made on the Exchange shall correspond to the normal hours for business set forth in the rules of the primary exchange listing the stocks underlying CBOE options."

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>17</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)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> See Securities Exchange Act Release No. 56888 (December 3, 2007), 72 FR 70366 (December 11, 2007) (SR-NYSEArca-2007-124).