

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57273; File No. SR-NYSEArca-2008-06)

February 5, 2008

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change
Relating to the Dissemination of the Index Value for Equity Index-Linked Securities

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 11, 2008, 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”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially 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 NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(c)(ii) to provide that the Exchange will commence delisting or removal proceedings if the value of an index or composite value of the indexes underlying an issuance of Equity Index-Linked Securities³ is no longer calculated or widely disseminated on at least a 15-second basis with respect to an index or indexes containing only securities listed on a national securities exchange, or on at least a 60-second basis with respect to an index or indexes containing foreign country

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Equity Index-Linked Securities are 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. See NYSE Arca Equities Rule 5.2(j)(6).

securities. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and 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

NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(c)(ii) currently provides that the Exchange will commence delisting or removal proceedings of an issue of Equity Index-Linked Securities (unless the Commission has approved continued trading of such Securities) if, among other circumstances, the value of the index or composite value of the indexes underlying such issue is no longer calculated or widely disseminated on at least a 15-second basis. The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(c)(ii) to distinguish between indexes consisting solely of U.S. equity securities and those consisting of foreign securities or a combination of U.S. and foreign equity securities. The proposed amendment provides that the Exchange will commence delisting or removal proceedings if the underlying index value or composite index value is no longer calculated or widely disseminated: (1) on at least a 15-second basis with respect to an index or indexes containing only securities listed on a national

securities exchange;⁴ or (2) on at least a 60-second basis with respect to an index or indexes containing foreign country securities. If the official index value does not change during some or all of the period when trading is occurring on the NYSE Arca Marketplace⁵ (for example, for indexes of foreign country securities, because of time zone differences or holidays in the countries where such indexes' component stocks trade), then the last calculated official index value must remain available throughout NYSE Arca Marketplace trading hours.

The Exchange seeks to conform the index dissemination requirements for Equity Index-Linked Securities to those for Investment Company Units, which include exchange-traded funds or "ETFs," under NYSE Arca Equities Rule 5.2(j)(3). Specifically, Commentary .01(b)(2) to NYSE Arca Equities Rule 5.2(j)(3) requires that the value of an international or global index underlying an ETF must be widely disseminated by one or more major market data vendors at least every 60 seconds during the Core Trading Session (9:30 a.m. to 4:00 p.m. Eastern Time).⁶ This 60-second standard reflects limitations, in some instances, on the frequency of intra-day trading information with respect to foreign country securities and that in many cases, trading hours for overseas markets overlap only in part, or not at all, with NYSE Arca Marketplace trading hours. In addition, Commentary .01(b)(2) to NYSE Arca Equities Rule 5.2(j)(3) provides that, if the index value does not change during some or all of the period when trading is

⁴ The Exchange states that American Depositary Shares and common shares of foreign issuers listed on U.S. national securities exchanges included in an index or indexes would be subject to the 15-second dissemination requirement. E-mail from Timothy J. Malinowski, Director, NYSE Euronext, to Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated January 30, 2008.

⁵ See NYSE Arca Equities Rule 1.1(e) (defining NYSE Arca Marketplace).

⁶ See NYSE Arca Equities Rule 7.34 (describing the hours of the three trading sessions on the Exchange).

occurring on the NYSE Arca Marketplace, the last official calculated index value must remain available throughout NYSE Arca Marketplace trading hours.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe 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 states that written comments on the proposed rule change were neither solicited nor received.

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 Exchange consents, the Commission will:

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

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-2008-06 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-NYSEArca-2008-06. 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 10:00 a.m. and 3:00 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-2008-06 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).