SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56001; File No. SR-NYSEArca-2007-34)

July 2, 2007

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to Trading a Class of Options Without Designating a Lead Market Maker

On April 3, 2007, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] the proposed rule change to allow an options issue to trade without designating a Lead Market Maker ("LMM"). On May 2, 2007, NYSE Arca filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on May 29, 2007.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change as modified by Amendment No. 1.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which requires that the rules of the an exchange be 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.

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1 15 U.S.C 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 55789 (May 21, 2007), 72 FR 29568.

4 In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

5 15 U.S.C. 78f(b)(5).

The Exchange proposes to trade options classes without designating an LMM, yet still meet the requirements of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan").[6] Because the Exchange believes that certain highly liquid, highly active options classes have sufficient participation by OTP Holders[7] and do not need an LMM to foster liquidity, the Exchange proposes to remove from NYSE Arca Rule 6.35 the requirement that an LMM be assigned to every option class.[8]

The Exchange also proposes other rule changes to accommodate the requirements of the Linkage Plan. Pursuant to the Linkage Plan, a Principal Acting as Agent ("P/A") Order may be routed to another exchange only through the principal account of a market maker that is authorized to represent customer orders, "reflecting the terms of a related unexecuted Customer order for which the Market Maker is acting as agent."[9] On NYSE Arca, the LMM currently is the responsible Market Maker for outbound P/A Orders sent through the Intermarket Options Linkage ("Linkage"). The Exchange now proposes to allow for the designation of a Market

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6 On July 28, 2000, the Commission approved the Options Intermarket Linkage ("Linkage") proposed by American Stock Exchange LLC, Chicago Board Options Exchange, Incorporated, and International Securities Exchange, LLC. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Philadelphia Stock Exchange, Inc., Pacific Exchange, Inc. (n/k/a NYSE Arca), and Boston Stock Exchange, Inc. joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

7 See NYSE Arca Rule 1.1(q) for the definition of "OTP Holder."

8 In not designating an LMM in certain option issues, orders would be processed in price/time priority, meaning any market participant, regardless of status, may gain priority by improving the market.

9 See Section 2(16)(a) of the Linkage Plan.

Maker, assigned on a rotating basis, as the responsible Intermarket Linkage Market Maker ("IMM")[10] for outbound P/A Orders.

Currently, Market Makers on the Exchange other than LMMs are not permitted under the Exchange's current rules to act as an agent on behalf of an order submitted to the Exchange.[11] Therefore, the Exchange proposes to amend NYSE Arca Rule 6.38(a) to provide an exception for a Market Maker acting as an IMM for the purpose of settling P/A Orders sent to another exchange pursuant to NYSE Arca Rules 6.92 and 6.93. To enable the IMM to carry out its agency responsibilities with regard to P/A Orders submitted through the Linkage, the IMM would be required to submit prior written instructions to the Exchange for the routing of any P/A Orders through the Linkage. Although the Exchange intends to rely solely on the use of its outbound routing broker to access the quotes of other exchanges when the Exchange is not disseminating the national best bid or offer, there may be instances when the Exchange's routing broker is not available because of system malfunctions. Therefore, the Exchange proposes that designated IMMs be responsible for outbound P/A Orders sent through the Linkage.

The Exchange also proposes to amend NYSE Arca Rule 6.93 to clarify that the Exchange will be responsible for the receipt, processing, and execution of inbound Linkage orders received from other exchanges. Linkage orders sent to NYSE Arca are routed directly to the trading system for immediate automatic execution. Any remaining unexecuted order or portion of an order would be immediately returned by the Exchange to the originating away market.

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10 The IMM would be selected from the pool of all Market Makers who have been appointed in the particular class. Market Makers requesting appointment to an options class would need to agree to participate in the rotation of IMM assignment.

11 See NYSE Arca Rule 6.38(b)(1), which provides that Market Makers other than LMMs are restricted from acting as a principal and an agent in the same issue on the same business day. See also NYSE Arca Rule 6.38(b)(5), which provides Market Makers are restricted from acting as a floor broker in options covering the same underlying security to which its primary appointment extends.

The Commission believes that the proposed rule change is reasonably designed in that it permits the Exchange to not utilize an LMM in option classes where the Exchange does not believe an LMM is required and promotes the principle of price/time priority on the Exchange. Further, the Commission believes that designating IMMs for the purpose of sending P/A Orders to away markets is not inconsistent with the Linkage Plan, because, among other things, the proposal will facilitate the sending of P/A Orders to other exchanges through Linkage in accordance with the requirements of the Linkage Plan's definition of P/A Orders. In addition, the Commission also believes the proposal clarifies the Exchange's role in the processing of orders it receives through Linkage.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR-NYSEArca-2007-34), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon
Deputy Secretary

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12 15 U.S.C. 78s(b)(2).

13 17 CFR 200.30-3(a)(12).