

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56232; File No. SR-NYSEArca-2007-69)

August 9, 2007

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Adoption of Revised Initial and Continued Listing Standards for the Pilot Program Expiring on November 30, 2007

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 July 23, 2007, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) 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 the Exchange. The Commission is publishing this notice to solicit comment 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 Commission approved the current NYSE Arca initial and continued listings standards for the listing of common stock of operating companies as a six-month pilot program (“Pilot Program”).³ The Pilot Program was subsequently extended for an additional six months, until November 30, 2007.⁴ NYSE Arca is now proposing to amend the Pilot Program. The proposed amended initial listing standard will exclude from qualification some companies that currently qualify to list but whose size or financial performance is not consistent with that of the kind of issuer NYSE Arca intends to list on the NYSE Arca Marketplace. The amendments to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 54796 (November 20, 2006), 71 FR 69166 (November 29, 2006) (SR-NYSEArca-2006-85).

⁴ See Securities Exchange Act Release No. 55838 (May 31, 2007), 72 FR 31642 (June 7, 2007) (SR-NYSEArca-2007-51).

the continued listing standards will increase certain of the numerical requirements of common stock Continued Listing Standard One to set the continued listing requirements at a level that is more consistent with the proposed higher initial listing requirements. The text of the proposed rule change is available on the Exchange's Web site at www.nysearca.com, at the Exchange's Office of the Secretary, and at the Commission.

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 self-regulatory organization 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 self-regulatory organization 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 Commission approved the current NYSE Arca initial and continued listings standards for the listing of common stock of operating companies as a six-month Pilot Program. NYSE Arca subsequently extended the Pilot Program for an additional six months until November 30, 2007 and now proposes to amend the Pilot Program. Based on its experience in the initial six-month period, NYSE Arca has concluded that the listing standards adopted under the Pilot Program would qualify many companies for listing that are much smaller than the minimum size it wishes to include in its target market. The proposed amended initial listing standard will exclude from qualification some companies that currently qualify to list but whose size or financial performance is not consistent with that of the kind of issuer NYSE Arca intends

to list on the NYSE Arca Marketplace. The amendments to the continued listing standards will increase certain of the numerical requirements of common stock Continued Listing Standard One to set the continued listing requirements at a level that is more consistent with the proposed higher initial listing requirements.

The current NYSE Arca listings standards require for initial listing that, at the time of initial listing, the listed class of common stock shall have:⁵

- At least 1.1 million publicly held shares.
- A closing price per share of \$5 or more.
- A minimum of 400 round lot shareholders.

In addition, the requirements of one of Standards One, Two or Three below must be met:

Standard One

- The issuer of the security had annual income from continuing operations before income taxes of at least \$1 million in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.
- The market value of publicly held shares is at least \$8 million.
- The issuer of the security has stockholders' equity of at least \$15 million.

Standard Two

- The issuer of the security has stockholders' equity of at least \$30 million.
- The market value of publicly held shares is at least \$18 million.
- The issuer has a two-year operating history.

Standard Three

- The market value of publicly held shares is at least \$20 million.
- The issuer has:
 - a market value of listed securities of at least \$75 million (currently traded issuers must meet this requirement and the \$5 closing price requirement for 90 consecutive trading days prior to applying for listing); or

⁵ See NYSE Arca Equities Rule 5.2(c).

- total assets and total revenue of at least \$75 million each for the most recently completed fiscal year or in each of two of the last three most recently completed fiscal years.

NYSE Arca proposes to eliminate Standards One and Two and require all issuers to qualify under an amended version of existing Standard Three. The market value of publicly held shares requirement of Standard Three will be raised from \$20 million to \$45 million. All issuers will be required to meet the market value of listed shares alternative of Standard Three, which will be raised from \$75 million to \$150 million. In addition, the issuer of the security will be required to meet two of the following four conditions:

- Total assets of at least \$75 million.
- Total revenues of at least \$50 million for the most recently completed fiscal year.
- Stockholders' equity of at least \$50 million.
- Positive pre-tax earnings in the most recently completed fiscal year.

The other existing requirements of Standard Three will continue to be applied in their current form.

NYSE Arca also proposes to amend Rule 5.5(b) to increase the numerical requirements of common stock Continued Listing Standard One as follows:

- The publicly held shares requirement is raised from 750,000 to 1.1 million shares.
- The market value of publicly held shares requirement is raised from \$5 million to \$15 million.

In addition, the stockholders' equity continued listing requirement will be raised from \$10 million to \$15 million.

2. Statutory Basis

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

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 self-regulatory organization 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.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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-2007-69 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-2007-69. 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 am and 3:00 pm. Copies of such 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-2007-69 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).