

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57186; File No. SR-NYSEArca-2007-121)

January 22, 2008

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Rule 6.37B and the Quoting Obligations of Lead Market Makers

On November 27, 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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to modify the continuous quoting obligation of Lead Market Makers (“LMMs”). The proposed rule change was published for comment in the Federal Register on December 12, 2007.<sup>3</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

NYSE Arca proposes to amend its Rule 6.37B to reduce the continuous quoting obligation of LMMs. Currently, an LMM must provide continuous two-sided quotations throughout the trading day in its appointed issues for 99% of the time the Exchange is open for trading in each issue.<sup>4</sup> NYSE Arca proposes to reduce the continuous quoting obligation of LMMs to 90% of the time the Exchange is open for trading in each appointed issue. The Exchange proposes that any period in which a technical failure or limitation of a system of the Exchange prevents an LMM from maintaining, or prevents an LMM from communicating to the Exchange, timely and accurate electronic quotes in a class shall not be considered in determining whether an LLM has satisfied the 90% quoting standard with

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 56908 (December 5, 2007), 72 FR 70639.

<sup>4</sup> See NYSE Arca Rule 6.37B(b).

respect to that option class. The Exchange also proposes that it may consider other exceptions to the continuous quoting obligation based on demonstrated legal or regulatory requirements or other mitigating circumstances. In addition, the Exchange proposes to amend the review period for this continuous quoting obligation from a quarterly basis to a monthly basis.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.<sup>5</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>6</sup> in that it is 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. The Commission believes that the Exchange's proposal to reduce the continuous quoting obligation of LMMs is appropriate given the benefits afforded to LMMs.<sup>7</sup>

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<sup>5</sup> In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> In addition, the Commission notes that all NYSE Arca Market Makers have a minimum continuous quoting obligation. NYSE Arca Rule 6.37B(c) states that a Market Maker must provide continuous two sided quotations throughout the trading day in its appointed issues for 60% of the time the Exchange is open for trading in each issue. In addition, the Commission notes that NYSE Arca Rule 6.37B(d), which states that in the interest of maintaining a fair and orderly market, a Market Maker may be called upon by a Trading Official to maintain continuous quotes in one or more series of an option issue, shall continue to apply.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NYSEArca-2007-121) be, and it hereby is, approved.

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

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).