

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54673; File No. SR-NYSEArca-2006-78)

October 30, 2006

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Market Maker Transaction Fees and Credits

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 October 23, 2006, NYSE Arca, Inc. (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, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ 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

The Exchange proposes to amend the section of its Schedule of Fees and Charges for Exchange Services (the “Fee Schedule”) that applies to Market Maker⁵ fees and charges. The text of the proposed rule change is available on the Exchange’s Web site (www.nysearca.com), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ See NYSE Arca Equities Rule 1.1(u).

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

The Exchange proposes to amend the section of its Fee Schedule that applies to Market Maker fees and charges.

Market Maker Transaction Fees and Credits - Round Lots

The Fee Schedule currently provides that Market Makers are entitled to a \$0.001 per share credit for round-lot transactions in NYSE-listed securities. This credit is applicable to Q orders executed against other participants' orders. The Exchange proposes to amend the Fee Schedule to increase this credit to \$0.002 per share and to clarify that it will apply to orders that provide liquidity to the NYSE Arca Book (the "Book") in securities for which the Market Makers are registered as Market Makers. The Exchange proposes this change so that the credit given to Market Makers is consistent with the \$0.002 per share credit given to all ETP Holders⁶ executing round-lot transactions in NYSE-listed securities in the Book against inbound orders. The Exchange further proposes this change so that the credit given to Market Makers submitting

⁶ See NYSE Arca Equities Rule 1.1(n).

such orders in NYSE-listed securities is the same as the credit given to Market Makers submitting such orders in other listed securities and Nasdaq securities.

The Fee Schedule currently provides that the \$.002 per share credit that Market Makers are entitled to for round-lot transactions in listed securities (other than NYSE-listed securities) and Nasdaq securities applies to Q orders executed against other participants' orders. The Exchange proposes to amend this language to clarify that the credit applies to orders that provide liquidity to the Book in securities for which the Market Makers are registered as Market Makers. The Exchange proposes this language so that the application of this credit is consistent with the application of the credit for Market Makers and other ETP Holders executing round-lot transactions in NYSE-listed securities.

The Fee Schedule currently does not specifically set forth a fee for Market Maker round-lot transactions in NYSE-listed securities, other listed securities or Nasdaq securities that take liquidity from the Book. The Exchange proposes to amend the Fee Schedule to set forth a \$.003 per share fee for all such orders. The Exchange proposes this change so that it is clear that Market Makers are subject to the same \$.003 per share fee that is charged to all ETP Holders executing round-lot transactions in NYSE-listed securities, other listed securities, and Nasdaq securities that take liquidity from the Book.

Market Maker Transaction Fees and Credits - Odd Lots

The Fee Schedule currently provides that Market Makers are entitled to a \$0.02 per share credit for transactions in Nasdaq securities that execute against odd-lot orders in the Odd Lot Tracking Order Process, as defined in NYSE Arca Equities Rule 7.31(g). The Exchange proposes to eliminate this credit because the Exchange no longer wishes to provide the additional financial incentive to Market Makers for providing liquidity in Nasdaq odd-lot transactions.

Lead Market Maker Transaction Fees and Credits - Odd Lots

The Fee Schedule currently provides that Lead Market Makers⁷ executing odd-lot transactions in NYSE Arca Marketplace primary listed securities are entitled to a \$0.02 per share credit for such transactions. The Exchange proposes to amend the Fee Schedule to clarify that such credit applies to orders that provide liquidity to the Book in securities for which the Lead Market Maker is registered as the Lead Market Maker. The Exchange proposes this change in order to make the application of this credit consistent with the application of the transaction credits to Market Makers and ETP Holders generally.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act,⁹ in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

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

The Exchange believes that the proposed rule change does not 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.

⁷ See NYSE Arca Equities Rule 1.1(ccc).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁰ and subparagraph (f)(2) of Rule 19b-4¹¹ thereunder. 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. Please include File Number SR-NYSEArca-2006-78 on the subject line.

Paper comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2006-78. 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

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

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. 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-2006-78 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.¹²

Nancy M. Morris
Secretary

¹² 17 CFR 200.30-3(a)(12).