

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57135; File No. SR-NYSEArca-2006-83)

January 11, 2008

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Changes Relating to Amendments to NYSE Arca Rules 2.17 and 4.5 Relating to Certain OTP Holder and OTP Firm Administrative Procedures

*I. Introduction*

On November 7, 2006, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission” or “SEC”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposal to amend its Rules 2.17 and 4.5 relating to certain OTP Holder and OTP Firm administrative procedures. The proposed rule change was published for comment in the *Federal Register* on July 18, 2007.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule changes.

*II. Description of the Proposal*

NYSE Arca Rule 2.17 currently provides that all Options Trading Permit (“OTP”) Firms<sup>4</sup> must file their formation documents with the Exchange. The Exchange proposes to amend NYSE Arca Rule 2.17 in order to provide that only those OTP Firms for which the Exchange is the Designated Examining Authority must submit such formation documents to the Exchange.

NYSE Arca Rule 4.5(c) currently requires OTP Holders<sup>5</sup> and OTP Firms that carry or clear accounts for customers to file two manually signed copies of Part II of SEC Form X-17A-5

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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. 56058 (Jul. 12, 2007), 72 FR 39476.

<sup>4</sup> See NYSE Arca Rule 1.1(r).

<sup>5</sup> See NYSE Arca Rule 1.1(q).

with the Exchange on a quarterly basis. The Exchange proposes to amend NYSE Arca Rule 4.5(c) to provide that such reports shall be filed electronically with the Exchange, rather than manually, and that the OTP Holder or OTP Firm, as applicable, shall maintain original copies of such reports with manual signatures in accordance with NYSE Arca Rule 11.16(a).<sup>6</sup>

NYSE Arca Rule 4.5(d) currently requires OTP Holders and OTP Firms that do not carry or clear accounts for customers to file two manually signed copies of Part IIA of SEC Form X-17A-5 with the Exchange on a quarterly basis. The Exchange proposes to amend NYSE Arca Rule 4.5(d) to provide that such reports shall be filed electronically with the Exchange, rather than manually, and that the OTP Holder or OTP Firm, as applicable, shall maintain original copies of such reports with manual signatures in accordance with NYSE Arca Rule 11.16(a).<sup>7</sup>

The Exchange proposes amending NYSE Arca Rule 4.5(c) and (d) to codify procedural changes that have been implemented by the Exchange and to be consistent with guidance that has been provided previously to OTP Holders and OTP Firms.

### *III. Discussion*

After careful review and based on the Exchange's representations, the Commission finds that the proposed rule changes are consistent with the Act and the rules and regulations applicable to a national securities exchange.<sup>8</sup> In particular, the Commission finds that the

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<sup>6</sup> NYSE Arca Rule 11.16(a) provides that each OTP Holder and OTP Firm must make, keep current and preserve such books and records as the Exchange may prescribe and as may be prescribed by the Securities Exchange Act of 1934 (the "Exchange Act") and the rules and regulations thereunder (including any interpretation relating thereto) as though such OTP Holder or OTP Firm were a broker or dealer registered with the SEC pursuant to Section 15 of the Exchange Act.

<sup>7</sup> *Id.*

<sup>8</sup> In approving this proposed rule change, 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).

proposed rule changes are consistent with Section 6(b)(5)<sup>9</sup> which requires, among other things, that the rules of a national securities exchange be 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.

The Commission believes it is reasonable and consistent with the Act for the Exchange to amend NYSE Arca Rules 2.17 and 4.5(c) and (d) in order to simplify the administrative procedures that OTP Holders and OTP Firms must follow, given the fact that the Exchange believes that such amendments will not compromise the Exchange's ability to regulate its OTP Holders and OTP Firms.

*IV. Conclusion*

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-NYSEArca-2006-83), as amended, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).