

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58399; File No. SR-NYSEArca-2008-88)

August 20, 2008

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Rule Change by NYSE Arca, Inc. to Eliminate the Requirement that Orders Sent via the InterMarket Linkage System and Broker Dealer Orders Receive the Same Billing Treatment

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on August 13, 2008, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 revise certain requirements pertaining to Broker Dealer Transaction Fees.

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 those 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 parts of such statements.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Presently, executions on NYSE Arca resulting from Linkage Orders are subject to the same billing treatment as other Broker Dealer orders. Assessing the same fees for both Broker Dealer orders sent directly to the Exchange and Linkage Orders stems from prior approval orders that established the pilot program for Linkage Fees.⁴ The Exchange proposes to eliminate this requirement that Linkage Orders and Broker Dealer orders receive the same billing treatment. In doing so, the Exchange will have greater flexibility in designing and implementing fees within its Post/Take pricing model. By this filing, the Exchange is not otherwise amending or revising its schedule of fees. Any future amendment to the Exchange's schedule of fees will be, of course, subject to a filing with the Commission.⁵

2. Statutory Basis

⁴ See Securities Exchange Act Release No. 47560 (March 21, 2003), 68 FR 15257 (March 28, 2003) (notice of filing of SR-PCX-2003-08). As approved by the Commission, the Exchange's proposal to establish a pilot program for Linkage Fees noted that executions resulting from linkage orders will be subject to the same billing treatment as other broker-dealer executions. See Securities Exchange Act Release Nos. 47786 (May 2, 2003), 68 FR 24779 (May 8, 2003) (order approving proposal in SR-PCX-2003-08 to establish pilot program for Linkage Fees); 56133 (July 25, 2008 [sic]), 72 FR 42210 (August 1, 2007) (SR-NYSEArca-2007-66) (order approving extension of Linkage Fee pilot program through July 31, 2008); 58056 (June 30, 2008), 73 FR 38482 (July 7, 2008) (SR-NYSEArca-2008-67) (order approving extension of Linkage Fee pilot program through July 31, 2009).

⁵ While changes to the Exchange's schedule of fees that apply to Exchange members may be submitted pursuant to Section 19(b)(3)(A) of the Act and subparagraph (f)(2) of Rule 19b-4 thereunder, proposed changes that involve the pilot program for Linkage Fees must be submitted pursuant to Section 19(b)(2) of the Act.

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and Section 6(b)(4) of the Act,⁷ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)⁸ of the Act and subparagraph (f)(2) of Rule 19b-4⁹ thereunder, because it pertains to a due, fee, or other charge imposed by NYSE Arca.

At any time within 60 days of the filing of the 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

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(2).

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-2008-88 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2008-88. 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 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-2008-88 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon
Acting Secretary

¹⁰ 17 CFR 200.30-3(a)(12).