

the Exchange Act because it deems the Shares to be equity securities, thus rendering the Shares subject to the Exchange's rules governing the trading of equity securities.

#### *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**

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 the proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

### **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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2008-123 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-2008-123. 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 a.m. and 3 p.m. Copies of the 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-2008-123 and should be submitted on or before December 3, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-27251 Filed 11-17-08; 8:45 am]

**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-58925; File No. SR-NYSEArca-2008-104]**

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change Relating to Continued Listing Criteria Applicable to Equity Linked Notes and "Other Securities"**

November 10, 2008.

#### **I. Introduction**

On September 30, 2008, NYSE Arca, Inc. ("NYSE Arca" or "Exchange"),

through its wholly owned subsidiary, NYSE Arca Equities, Inc. ("NYSE Arca Equities"), 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 to adopt NYSE Arca Equities Rules 5.5(i) and 5.5(j) to specify continued listing criteria applicable to securities listed on the Exchange pursuant to NYSE Arca Equities Rules 5.2(j)(1) and 5.2(j)(2), respectively. The proposed rule change was published in the **Federal Register** on October 10, 2008.<sup>3</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

#### **II. Description**

The Exchange proposes to adopt NYSE Arca Equities Rules 5.5(i) and 5.5(j) to specify continued listing criteria applicable to securities listed on the Exchange pursuant to NYSE Arca Equities Rules 5.2(j)(1) ("Other Securities") and 5.2(j)(2) ("Equity Linked Notes" or "ELNs"), respectively.

NYSE Arca Equities Rule 5.2(j)(1) provides that the Exchange will consider listing any security not otherwise covered by the requirements of NYSE Arca Equities Rule 5.2 subject to specified initial listing requirements, including minimum number of publicly held trading units and minimum principal amount/market value, the required minimum number of public beneficial holders, and required issuer's total assets and net worth. NYSE Arca Equities Rule 5.2(j)(2) sets forth initial listing requirements applicable to ELNs, including numerical listing standards applicable to the ELN's issuer, the issue itself, and the underlying security for the ELN.

Securities listed under NYSE Arca Equities Rules 5.2(j)(1) and 5.2(j)(2) are subject to trading suspension or delisting pursuant to standards set forth in NYSE Arca Equities Rule 5.5(l) ("Other Reasons for Suspending or Delisting"). Proposed NYSE Arca Equities Rules 5.5(i) and 5.5(j) would provide that NYSE Arca Equities will commence delisting or removal proceedings (unless the Commission has approved the continued trading of an issue of securities listed pursuant to Rule 5.2(j)(1) or Rule 5.2(j)(2), respectively), if the aggregate market value or the principal amount of the securities publicly held is less than

<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. 58720 (October 2, 2008), 73 FR 60385.

<sup>30</sup> 17 CFR 200.30-3(a)(12).

\$400,000, or if such other event shall occur or condition exists which in the opinion of the NYSE Arca Equities makes further dealings on NYSE Arca Equities inadvisable.

### III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6(b)<sup>4</sup> of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5)<sup>6</sup> of the Act, which requires, among other things, that the Exchange's rules 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, and, in general, to protect investors and the public interest.

The Commission believes that the proposed \$400,000 dollar threshold should help to ensure a minimum level of liquidity for products listed under NYSE Arca Equities Rules 5.2(j)(1) and 5.2(j)(2), respectively. The Commission also believes that the proposed rule change should provide the Exchange the flexibility to commence delisting proceedings for these securities should other events or conditions exist that call for such action. The Exchange has represented that securities listed under NYSE Arca Equities Rules 5.2(j)(1) and 5.2(j)(2) are subject to trading suspension or delisting pursuant to standards set forth in Rule 5.5(l). Taken together, the Commission believes that such criteria should help ensure the maintenance of fair and orderly markets for such securities. Additionally, the Commission notes that the proposed criteria are similar to those continued listing standards currently applicable to certain classes of securities listed pursuant to NYSE Arca Equities Rule 5.2(j).<sup>7</sup>

### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the

proposed rule change (SR–NYSEArca–2008–104) 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,**  
*Acting Secretary.*

[FR Doc. E8–27281 Filed 11–17–08; 8:45 am]

**BILLING CODE 8011–01–P**

### SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11449 and #11450]

#### Indiana Disaster Number IN–00026

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 5.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Indiana (FEMA–1795–DR), dated 09/23/2008.

*Incident:* Severe Storms and Flooding.  
*Incident Period:* 09/12/2008 through 10/06/2008.

**DATES:** *Effective Date:* 11/05/2008.

*Physical Loan Application Deadline Date:* 11/24/2008.

*EIDL Loan Application Deadline Date:* 06/23/2009.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of INDIANA, dated 09/23/2008 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties: (Physical Damage and Economic Injury Loans):*

Franklin, Gibson, Jasper, Ohio, Orange, Posey, Ripley, St. Joseph, Vanderburgh, Warrick.

*Contiguous Counties: (Economic Injury Loans Only):*

Indiana: Benton, Elkhart, Fayette, Marshall, Pulaski, Rush, Union, White.

Illinois: Gallatin, White.

Kentucky: Henderson, Union.

Michigan: Cass.

All other information in the original declaration remains unchanged.

<sup>9</sup> 17 CFR 200.30–3(a)(12).

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. E8–27269 Filed 11–17–08; 8:45 am]

**BILLING CODE 8025–01–P**

### SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11432 and #11433]

#### Louisiana Disaster Number LA–00021

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 2.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1792–DR), dated 09/13/2008.

*Incident:* Hurricane Ike.  
*Incident Period:* 09/11/2008 and continuing.

**EFFECTIVE DATE:** 11/04/2008.

*Physical Loan Application Deadline Date:* 12/11/2008.

*EIDL Loan Application Deadline Date:* 06/15/2009.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Louisiana, dated 09/13/2008 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 12/11/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. E8–27268 Filed 11–17–08; 8:45 am]

**BILLING CODE 8025–01–P**

### SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11464 and #11465]

#### Puerto Rico Disaster Number PR–00003

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 3.

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> In approving this proposed rule change, the Commission 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> See, e.g., NYSE Arca Equities Rule 5.2(j)(4).

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