

The Exchange proposes to apply these provisions retroactively to the date on which proposals set forth in Release No. 34-58324 were approved by the Commission.⁷

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁸ and, in particular, the requirements of Section 6 of the Act⁹ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁰ in particular, in that it is 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, 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 because it clarifies the provisions of the former BSE Constitution that will continue to apply to Participants.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-BX-2009-048) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-25202 Filed 10-20-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60822; File No. SR-NYSEArca-2009-77]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Amending NYSE Arca Options Rule 5.3(j)

October 14, 2009.

On August 19, 2009, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a

proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder to amend the definition of Futures Reference Asset in NYSE Arca Rule 5.3(j)(1)(E) to permit options on Futures-Linked Securities to be based on products linked to CBOE Volatility Index Futures ("VIX Futures"). The proposed rule change was published for comment in the **Federal Register** on September 11, 2009 for a 21-day comment period.³ The Commission received no comment letters regarding the proposal. This order approves the proposed rule change.

NYSE Arca Rule 5.3(j) designates the listing and trading of options on Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked securities, collectively known as Index-Linked Securities (as defined in NYSE Arca Equities Rule 5.2(j)(6)) that are principally traded on a national securities exchange and an "NMS Stock" (as defined in Rule 600 of Regulation NMS under the Act). Futures-Linked Securities pay at maturity an amount of cash based on the performance of a "Futures Reference Asset," currently defined as an index of futures on Treasury Securities, GSE Securities, supranational debt and debt of a foreign country or a subdivision thereof, or interest rate futures, or options or derivatives on any of the foregoing. The Exchange proposes to include VIX Futures in this definition.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of Section 6 of the Act.⁵ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁶ 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 mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Currently, the Exchange will consider listing and trading options on Index-Linked Securities, including options on Futures-Linked Securities, provided the Index-Linked Securities meet the criteria for underlying securities set forth in NYSE Arca Rule 5.3(a)-(b). Underlying Index-Linked Securities must meet the criteria and guidelines for underlying securities set forth in Rule 5.3(a); or the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset.⁷ After the addition of VIX Futures to the definition of a Futures Reference Asset in NYSE Arca Rule 5.3(j)(1)(E), options on Index-Linked Securities, including options on Futures-Linked Securities, would continue to be subject to all Exchange rules governing the trading of equity options⁸ and the current continuing or maintenance listing standards applicable to the trading of options on Index-Linked Securities on NYSE Arca. The Commission also notes that it has previously approved an amendment to NYSE Arca Equities Rule 5.2(j)(6)(v) to add the VIX Futures to the definition of "Futures Reference Asset" for the listing and trading of Futures-Linked Securities.⁹

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-NYSEArca-2009-77) is hereby approved.

⁷ For purposes of NYSE Arca Rule 5.3(j), Reference Assets collectively refers to Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets, Futures Reference Assets, and Multifactor Reference Assets.

⁸ Despite the fact that Index-Linked Securities are linked to an underlying index, each trade as a single, exchange-listed security. Accordingly, rules pertaining to the listing and trading of standard equity options apply to options on Index-Linked Securities.

⁹ See Securities Exchange Act Release No. 58968 (November 17, 2008), 73 FR 71082 (November 24, 2008) (SR-NYSEArca-2008-111); see also Securities Exchange Act Release No. 60535 (August 19, 2009), 74 FR 46826 (August 26, 2009) (NYSEAmex-2009-55).

¹⁰ 15 U.S.C. 78s(b)(2).

⁷ See *supra* note 5.

⁸ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60621 (September 3, 2009), 74 FR 46818.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-25203 Filed 10-20-09; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6710]

Notice of Meeting of the Cultural Property Advisory Committee

There will be a meeting of the Cultural Property Advisory Committee on Thursday, November 12, 2009, from approximately 9 a.m. to 5 p.m., and on Friday, November 13, from approximately 9 a.m. to 5 p.m. at the Department of State, Annex 5, 2200 C Street, NW., Washington, DC. During its meeting on November 12 the Committee will review a proposal to extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of El Salvador Concerning the Imposition of Import Restrictions on Certain Categories of Archaeological Material from the Pre-Hispanic Cultures of the Republic of El Salvador ("MOU"). The Government of the Republic of El Salvador has notified the Government of the United States of America of its interest in extending the MOU.

The Committee's responsibilities are carried out in accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601, *et seq.*). The text of the Act and subject MOU, as well as related information, may be found at <http://exchanges.state.gov/culprop>. Portions of the meeting on November 12 will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h), the latter of which stipulates that "The provisions of the Federal Advisory Committee Act shall apply to the Cultural Property Advisory Committee except that the requirements of subsections (a) and (b) of section 10 and 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiation objectives or bargaining positions on the negotiations

of any agreement authorized by this title." On November 12, the Committee will have an open session from approximately 10:30 a.m. to 12 noon, to receive oral public comment on the proposal to extend the MOU with El Salvador.

On November 13, the Committee will continue its interim review of the MOU with Italy and will have an open session from approximately 9:30 a.m. to 12 noon to receive oral public comment. An open session is not a statutory requirement, nor is the invitation for public oral or written comment. These steps are taken at the initiative of the Department of State. Persons wishing to attend either of these open sessions should notify the Cultural Heritage Center of the Department of State at (202) 632-6301 no later than November 4, 2009, 5 p.m. (EST) to arrange for admission. Seating is extremely limited. Requests for reasonable accommodation should also be made at that time; last minute requests will be difficult to fulfill.

Anyone wishing to make an oral presentation at either public session must request to be scheduled and must submit a written text of the oral comments by November 2, 2009, to allow time for distribution to Committee members prior to the meeting. Oral comments will be limited to allow time for questions from members of the Committee, and with respect to the proposed extension of the El Salvador MOU must specifically relate to the determinations under Section 303(a)(1) of the Convention on Cultural Property Implementation Act, 19 U.S.C. 2602, pursuant to which the Committee must make findings. This statute can be found at the Web site noted above.

With respect to comments on the interim review of the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Italy Concerning the Imposition of Import Restrictions on Archaeological Material Representing the Pre-Classical, Classical and Imperial Roman Periods of Italy, concluded on January 19, 2001, and extended in 2006, oral comments must be limited to Article II of this MOU.

The Committee also invites written comments and asks that they be submitted no later than November 2, 2009, to allow time for distribution to Committee members prior to the meeting.

All written materials, including the written texts of oral statements, may be faxed to (202) 632-6300. If more than three (3) pages, 20 duplicates of written materials must be sent by express mail

to: Cultural Heritage Center, SA-5, Fifth Floor, Department of State, Washington, DC 20522-0505.

Dated: October 8, 2009.

Maura M. Pally,

Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending October 3, 2009

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT-OST-2009-0232.

Date Filed: September 28, 2009.

Parties: Members of the International Air Transport Association.

Subject:

TC31 North & Central Pacific TC3 (except Japan)—North America, Caribbean (except between Korea (Rep. of), Malaysia and USA). Expedited Resolution 002bi (Memo 0496).

Intended Effective Date: November 1, 2009.

Docket Number: DOT-OST-2009-0233.

Date Filed: September 28, 2009.

Parties: Members of the International Air Transport Association.

Subject:

Meeting date/time: CSC Mail Vote (S065) dated 21 August 2009. Agreement/Minutes: CSC Mil Vote (S065). Resolution 601.

Intended Effective Date: December 1, 2009.

Docket Number: DOT-OST-2009-0234.

Date Filed: September 29, 2009.

Parties: Members of the International Air Transport Association.

Subject:

TC123 South Atlantic. Expedited Resolution 002bh (Memo 0454).

Intended Effective Date: November 1, 2009.

Docket Number: DOT-OST-2009-0235.

¹¹ 17 CFR 200.30-3(a)(12).