

- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR-NYSE-2008-70 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-NYSE-2008-70. 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, 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-NYSE-2008-70 and should be submitted on or before September 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-18374 Filed 8-8-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 58266; File No. SR-NYSEArca-2008-80]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Eliminating Certain Obsolete Rules

July 30, 2008.

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 July 24, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its rules in order to remove obsolete and unnecessary rule text related to information that is now obsolete. These changes are being made for administrative purposes only. By abolishing these out-dated references, the Exchange is not changing or altering any obligations, rights, policies or practices enumerated within its rules. The text of the proposed rule change is available at the Exchange, and the Commission's Public Reference Room.

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.

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

1. Purpose

The purpose of this filing by NYSE Arca is to remove obsolete and unnecessary rule text in several of its rules. By abolishing these out-dated references, the Exchange is not changing or altering any obligations, rights, policies or practices enumerated within its rules.

In September 2006, the Exchange revised its rules to conform to Regulation NMS.⁴ At that time, there was a transitional period where the pre-NMS version of certain rules were in effect until a specified date (February 5, 2007), after which the new NMS version of the rule would take effect. As a result, there are several Exchange rules that contain both pre-NMS provisions as well as current applicable provisions. In fact, many of the Exchange's rules are identified either as operative through February 5, 2007 or operative after February 5, 2007. Retaining these outdated pre-NMS provisions fosters unnecessary confusion. The Exchange proposes to amend its rules to remove this text that is both unnecessary and, by its very terms, obsolete.

The specific proposed changes are discussed in further detail below.

- **Rule 1.1:** This rule sets forth certain definitions and references that are in effect at NYSE Arca. By this proposal, the Exchange is eliminating obsolete terms that were identified as being in effect until February 5, 2007 while maintaining (without revision) the currently operative terms that were identified as having taken effect as of February 5, 2007, as shown below.

- **Rule 1.1(aa):** The Exchange is deleting the out-dated definition of the term "Nasdaq Security" while retaining the currently operative definition of the same term.

- **Rule 1.1(dd):** The Exchange is deleting the out-dated definition of the term "NBBO" while retaining the currently operative definition of the same term.

- **Rule 1.1(rr):** The Exchange is deleting the out-dated definition of the term "Security" while retaining the currently operative definition of the same term.

- **Rule 1.1(ddd):** The Exchange is deleting the unnecessary reference to the operative date of the definition of the term "NMS Stock" while retaining

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 54549 (September 29, 2006), 71 FR 59179 (October 6, 2006) (SR-NYSEArca-2006-59).

¹⁵ 17 CFR 200.30-3(a)(12).

the currently operative definition of the same term.

■ Rule 1.1(eee): The Exchange is deleting the unnecessary reference to the operative date of the term "Protected Bid, Protected Offer, Protected Quotation" while retaining the currently operative definition of the same term.

■ Rule 1.1(fff): The Exchange is deleting the unnecessary reference to the operative date of the term "Trade-Through" while retaining the currently operative definition of the same term.

■ Rule 1.1(ggg): The Exchange is deleting the unnecessary reference to the operative date of the term "Trading Center" while retaining the currently operative definition of the same term.

■ Rule 1.1(hhh): The Exchange is deleting the unnecessary reference to the operative date of the term "Effective National Market System Plan, Regular Trading Hours" while retaining the currently operative definition of the same term.

• Rule 7.1, Hours of Business: The Exchange is hereby eliminating the obsolete rule text that was identified as being in effect until February 5, 2007 while maintaining (without revision) the currently operative rule text that was identified as having taken effect as of February 5, 2007.

• Rule 7.18, Trading in Nasdaq Securities: The Exchange is hereby eliminating the obsolete rule text that was identified as being in effect until February 5, 2007 while maintaining the currently operative rule text that was identified as having taken effect as of February 5, 2007.

■ Rule 7.18(c), Applicability. According to this sub-section, "the following Rules of the Corporation will not be applicable to transactions on the Corporation in Nasdaq Securities: Rules 7.55–7.57." This section is obsolete and unnecessary. Rule 7.55 concerns the retired Intermarket Trading System Plan ("ITS Plan") and Rules 7.56–7.57 are marked as inoperative as of February 5, 2007. Accordingly, the Exchange is deleting this rule text as obsolete. As outlined below, the Exchange is also proposing to delete all references to the retired ITS Plan.

• Rule 7.28, NMS Market Access: The Exchange is deleting the unnecessary reference to the operative date of the rule (February 5, 2007) while retaining the currently operative rule text.

• Rule 7.31, Orders and Modifiers: This Rule defines certain orders available on the Exchange and explains their operability. By this proposal, the Exchange is eliminating the obsolete rule text that was identified as being in effect until February 5, 2007, while maintaining (without revision) the

currently operative rule text that was identified as having taken effect as of February 5, 2007.

• Rule 7.35, Auctions: This Rule defines certain available auctions on the Exchange and their operability. The Exchange is hereby deleting Rule 7.35(f)(3)(D), pertaining to ITS, which had been marked as inoperative after February 5, 2007.

• Rule 7.37, Order Execution: This Rule sets forth the priority of execution of the Exchange's available order types. The Exchange is eliminating the obsolete rule text that was identified as being in effect until February 5, 2007, while maintaining the currently operative rule text that was identified as having taken effect as of February 5, 2007. With one exception, the Exchange is not altering or revising the currently operative text of Rule 7.37. Specifically, with respect to the introductory paragraph to Rule 7.37, the Exchange is proposing to delete the references to the ITS Plan and certain order interaction therewith.

• Rule 7.40, Trade Execution and Reporting: By this proposal, the Exchange is eliminating the obsolete rule text that was identified as being in effect until February 5, 2007, while maintaining (without revision) the currently operative rule text that was identified as having taken effect as of February 5, 2007.

• Rule 7.55, Definitions: This Rule concerns the ITS Plan and was marked as operative through February 5, 2007. The ITS Plan has been retired and the Rule is not operative by its very terms. The Exchange is hereby deleting this Rule in its entirety.

• Rule 7.56, ITS "Trade-Throughs" and "Locked Markets": This Rule concerns the ITS Plan and was marked as operative through February 5, 2007. The ITS Plan has been retired and the Rule is not operative by its very terms. The Exchange is hereby deleting this Rule in its entirety.

• Rule 7.57, Block Trade Policy: By this proposal, the Exchange is eliminating this obsolete Rule that was identified as being in effect until February 5, 2007.

• Rule 7.58, Compliance with Two-Sided Quote Requirement in ITS Plan: This Rule concerns the ITS Plan and was marked as operative through February 5, 2007. The ITS Plan has been retired and the Rule is not operative by its very terms. The Exchange is hereby deleting this Rule in its entirety.

• Rule 7.65(J). The Exchange is hereby eliminating the out-dated and unnecessary reference to the ITS Plan. The Exchange is not making any other

changes to Rule 7.65, Portfolio Crossing Service.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,⁵ in that it is designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade, 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. The Exchange believes that the proposed rule change will eliminate unnecessary confusion in its rule structure by removing outdated and obsolete rule references.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and Rule 19b-4(f)(6) thereunder.⁷ Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)(iii) thereunder.⁹

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

⁵ 15 U.S.C. 78(f)(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

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-2008-80 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-2008-80. 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 such filing also will be available for inspection and copying at NYSE Arca's principal office and on its Internet Web site at <http://www.nyse.com>. 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-2008-80, and should be submitted on or before September 2, 2008.

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

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-18382 Filed 8-8-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58295; File No. SR-NYSEArca-2008-75]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Schedule of Fees and Charges for Exchange Services In Order To Revise Certain Transaction Fees

August 4, 2008.

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 July 14, 2008, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") 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 filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal 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

NYSE Arca proposes to amend its Schedule of Fees and Charges for Exchange Services ("Schedule") in order to revise certain Transaction Fees. The text of the proposed rule change is available at NYSE Arca, the Commission's Public Reference Room, and <http://www.nyse.com>.

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 purpose of this filing is to amend the existing Schedule in order to (i) make changes to Transaction Fees assessed on certain executions in issues that trade as part of the Penny Pilot,⁵ and (ii) eliminate the Market Maker Post Liquidity Incentive Credit. A description of the proposed change follows.

Post/Take Pricing

NYSE Arca offers market participants a Post/Take pricing model for electronically executed transactions in issues that are included in the Penny Pilot. Under the present rate schedule, all electronic orders that "take" liquidity from the Consolidated Book (incoming electronic quotes and orders that are executed upon receipt) are charged a fee of \$0.45 per contract. NYSE Arca now proposes to revise the Post/Take pricing it applies to transactions in selected Penny Pilot issues that the Exchange has designated as "Tier 1" issues. Specifically the Exchange will: (a) Raise the Take Liquidity fee, in certain highly active issues, from \$0.45 to \$0.55 per contract for all market participants; (b) raise the Post Liquidity credit, in certain highly active issues, from \$0.30 to \$0.40 for Lead Market Makers and NYSE Arca Market Makers; and (c) raise the Post Liquidity credit, in certain highly active issues, from \$0.25 to \$0.35 for both electronic broker-dealer and electronic customer transactions.

The new fee will initially apply to transactions in the following ten (10) option issues that the Exchange has designated as Tier 1 Penny Pilot issues.

AAPL Apple Inc
CSCO Cisco Systems, Inc.
DIA Diamonds Trust
MSFT Microsoft Corporation
IWM iShares Russell 2000 Index
QQQQ PowerShares QQQ Trust
RIMM Research in Motion

⁵ The Exchange may trade option contracts in one cent increments in certain approved issues as part of the Penny Pilot, through March 27, 2009. See Securities Exchange Act Release No. 56568 (September 27, 2007), 72 FR 56422 (October 3, 2007) (Order approving SR-NYSEArca-2007-88).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C.78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).