

Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act⁵ and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ 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 remove impediments to, and perfect the mechanism of, a free and open market and a national market system, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.⁷

The Commission believes that the Exchange's proposal to append an Aberrant Report Indicator to certain trade reports is a reasonable means to alert investors and others that the Exchange believes that the trade price for a trade executed in its market does not accurately reflect the prevailing market for the security. In addition, the Commission notes that the Exchange will use objective numerical thresholds in determining whether a trade report is eligible to have an Aberrant Trade Indicator appended to it. The Commission further notes that the Exchange's appending the Aberrant Trade Indicator to a trade report has no effect on the validity of the underlying trade.

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NYSE-2008-91) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-29558 Filed 12-12-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59063; File No. SR-NYSEArca-2008-114]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change To Revise the Listing and Annual Fees Applicable to Paired Trust Shares

December 5, 2008.

I. Introduction

On October 22, 2008, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change amending its Schedule of Fees and Charges for Exchange Services ("Fee Schedule") to revise the listing and annual fees applicable to Paired Trust Shares listed on NYSE Arca, LLC ("NYSE Arca Marketplace"), the equities facility of NYSE Arca Equities, Inc. ("NYSE Arca Equities"). The proposed rule change was published for comment in the **Federal Register** on November 5, 2008.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

Under the current Fee Schedule, Paired Trust Shares (listed under NYSE Arca Equities Rule 8.400) are classified as "Derivative Securities Products." NYSE Arca proposes to reclassify Paired Trust Shares as "Structured Products" for purposes of the Fee Schedule. Specifically, the Exchange proposes to delete the term Paired Trust Shares from footnote 3 of the Fee Schedule (defining "Derivative Securities Products") and to add such term to footnote 4 of the Fee Schedule (defining "Structured Products").

As a result of the proposed rule change, the Listing and Annual Fees for Paired Trust Shares would change accordingly. Under the current Fee Schedule, the Listing Fee for Paired Trust Shares (classified as Derivative Securities Products) is \$5,000 per issue, and the Annual Fee for such securities, which is based on the number of shares outstanding per issue, ranges from \$2,000 to \$25,000 per issue. Under the proposal, the Listing Fee for Paired

Trust Shares (reclassified as Structured Products), which is based on the number of shares outstanding per issue, would range from \$5,000 to \$45,000 per issue, and the Annual Fee for such securities, which also is based on the number of shares outstanding per issue, would range from \$10,000 to \$55,000 per issue.

In addition, the Exchange proposes to make non-substantive changes to footnote 4 of the Fee Schedule, including updating the title of NYSE Arca Equities Rule 5.2(j)(6) to include Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked Securities.

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 of the Act⁴ and the rules and regulations thereunder applicable to a national securities exchange.⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁶ which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

The Commission believes that the proposal to reclassify Paired Trust Shares as Structured Products for purposes of the Fee Schedule reasonably reflects the similarity of this type of product to other Structured Products, the issuers of which do not hold underlying securities, commodities, futures, or other financial instruments (other than U.S. Treasuries and repurchase agreements on U.S. Treasuries to secure specified obligations), unlike issuers of Derivative Securities Products. The Commission notes that, except for the shares of the MacroShares \$100 Oil Up Trust and the MacroShares \$100 Oil Down Trust, for which annual and listing fees for 2008 have been waived,⁷ no issue of Paired

⁴ 15 U.S.C. 78f.

⁵ 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).

⁶ 15 U.S.C. 78f(b)(4).

⁷ See e-mail from Michael Cavalier, Associate General Counsel, NYSE Euronext, to Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated November 24, 2008 at 12:25 p.m. ("Nov. 24 E-Mail"); see also Securities Exchange Act Release No. 58598 (September 19, 2008), 73 FR 55888 (September 26, 2008) (SR-NYSEArca-2008-78) (approving the waiver of all Annual Fees for securities delisted from Amex and listed on the Exchange in connection with the

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 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).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 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. 58878 (October 29, 2008), 73 FR 65912.

Trust Shares is currently listed on the Exchange.⁸ As such, the proposed amendment to the Fee Schedule and the new fee rates for issues of Paired Trust Shares would equally apply to all future issues of Paired Trust Shares listed on the Exchange under NYSE Arca Equities Rule 8.400.⁹ The Commission believes that the proposal is designed to equitably allocate reasonable dues, fees, and other charges among issuers of Paired Trust Shares, consistent with the requirements of Section 6(b)(4) of the Act.¹⁰ The Commission also believes that the additional, non-substantive changes to the Fee Schedule further clarify the format and application of the fees related to Structured Products.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-NYSEArca-2008-114) be, and it hereby is, approved.

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

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-29557 Filed 12-12-08; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6453]

Culturally Significant Objects Imported for Exhibition Determinations: "Cezanne and Beyond"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as

closing of the purchase of Amex by NYSE Euronext).

⁸ See Nov. 24 E-Mail, *supra* note 7.

⁹ The Commission notes that, generally, under the Fee Schedule, issues of both Derivative Securities Products and Structured Products are subject to Annual Fees in the year of listing, pro-rated based on days listed that calendar year. The Annual Fees for such products are billed in January for the forthcoming year. See Footnote 8 of the Fee Schedule. The Exchange states that the 2009 Annual Fees for the MacroShares \$100 Oil Up Trust and the MacroShares \$100 Oil Down Trust will be billed in January 2009 based on the then current Fee Schedule. See Nov. 24 E-Mail, *supra* note 7.

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects in the exhibition: "Cezanne and Beyond," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Philadelphia Museum of Art, Philadelphia, PA, from on or about February 19, 2009, until on or about May 31, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202-453-8050). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: December 5, 2008.

C. Miller Crouch,

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

[FR Doc. E8-29634 Filed 12-12-08; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6454]

Culturally Significant Objects Imported for Exhibition Determinations: "The Munich Secession and America"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "The Munich Secession and America," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Frye Art

Museum, Seattle, WA, from on or about January 23, 2009, until on or about April 12, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453-8048). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: December 8, 2008.

C. Miller Crouch,

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

[FR Doc. E8-29605 Filed 12-12-08; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6452]

Culturally Significant Objects Imported for Exhibition Determinations: "Pride of Place: Dutch Cityscapes of the Golden Age"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Pride of Place: Dutch Cityscapes of the Golden Age," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about February 1, 2009, until on or about May 3, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of