

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*

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing proposed rule change has become effective upon filing pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(2)<sup>10</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange.

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 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-2007-99 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2007-99. 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 Commissions 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 the principal office of the NYSE. 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-2007-99 and should be submitted on or before November 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

Nancy M. Morris,  
Secretary.

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56625; File No. SR-NYSEArca-2007-73]

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change Relating To Extended Hours Trading of Investment Company Units and Portfolio Depository Receipts**

October 5, 2007.

On July 26, 2007, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") 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 amend NYSE Arca Equities Rules 5.2(j)(3) (Investment Company Units) and 8.100 (Portfolio Depository Receipts). The proposed rule change was published for comment in the **Federal Register** on September 4, 2007.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The Exchange proposes to amend the above-cited rules to permit Investment Company Units and Portfolio Depository Receipts listed or traded on the NYSE Arca Marketplace pursuant to Rule 19b-4(e) under the Act<sup>4</sup> to be traded in the Opening Session (4 a.m. to 9:30 a.m. Eastern Time ("ET")) without the requirement that an updated intraday indicative value ("IIV") or index value be disseminated.<sup>5</sup> The Exchange, however, must continue to disseminate an updated IIV and index value during the Core Trading Session (9 a.m. to 4:15 p.m.). The Exchange intends to distribute to its ETP Holders and make available on its Web site at <http://www.nyse.com> a Regulatory Information Bulletin titled "Exchange-Traded Funds—Extended Trading Hours" that discloses the risks involved in trading in the Opening and Late Trading Session, including the lack of dissemination of the index value and IIV, lower liquidity, higher volatility and wider spreads. NYSE Arca's Regulatory Information Bulletin will also highlight that investors may be at disadvantage to market professionals during the Opening and Late Sessions in that they may not have access to the updated index value or IIV that would otherwise be available during the Core Trading Session. In addition, in a separate filing with the Commission, the Exchange recently amended NYSE Arca Equities Rule 7.34(e) to require ETP Holders to disclose to customers additional risks associated with extended hours trading in new derivative securities products.<sup>6</sup>

After careful review, 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 exchange. In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act.<sup>7</sup> The Commission

<sup>3</sup> See Securities Exchange Act Release No. 56328 (August 28, 2007), 72 FR 50705.

<sup>4</sup> 17 CFR 240.19b-4(e).

<sup>5</sup> In a related filing, the Commission is approving NYSE Arca's proposal to expand the trading hours of certain ETFs to include all three trading sessions. See Securities Exchange Act Release No. 56329 (August 28, 2007) (SR-NYSEArca-2007-75).

<sup>6</sup> See Securities Exchange Act Release No. 56270 (August 15, 2007), 72 FR 47109 (August 22, 2007) (SR-NYSEArca-2007-74).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 19b-4(f)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

believes that the proposal reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in section 6(b)(5). Trading during extended hours carries more risks than during regular business hours. With ETFs in particular, customers who trade when an IIV is not calculated and publicly disseminated may be at a disadvantage to professional traders who have their own means of calculating a reliable estimate of the net asset value. The Exchange has represented that it will distribute to its ETP Holders an information bulletin that discusses this particular risk and other risks of trading ETFs outside of normal business hours. In view of these additional disclosures, the Commission believes it is reasonable and consistent with the Act for the Exchange to extend the trading hours of certain ETFs in the manner described in this proposal.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NYSEArca-2007-73) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56627; File No. SR-NYSEArca-2007-75]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Expand the Trading Hours of Certain Exchange-Traded Funds

#### I. Introduction

**DATED:** October 5, 2007.

On July 30, 2007, 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 proposal to expand the trading hours of certain exchange-traded funds ("ETFs"). On

August 22, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 31, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

#### II. Description of the Proposal

NYSE Arca proposes to expand the trading hours of certain ETFs to include all three Exchange trading sessions.<sup>4</sup> NYSE Arca Equities Rule 7.34 provides for three trading sessions on the NYSE Arca Marketplace each day that NYSE Arca Equities is open for business: (1) An Opening Session (4 a.m. to 9:30 a.m. eastern time or "ET"); (2) a Core Trading Session (9:30 a.m. to 4 p.m. ET);<sup>5</sup> and (3) a Late Trading Session (4 p.m. to 8 p.m. ET). The Commission previously approved Exchange proposals to list and trade, or trade pursuant to UTP, the Covered ETFs in one or two, but not all three trading sessions.

The Exchange makes the following representations with respect to the trading of Covered ETFs during all three Exchange trading sessions:

1. The Exchange has appropriate rules to facilitate transactions in the shares of ETFs during all trading sessions. The Exchange deems such shares to be equity securities, thus rendering trading in such shares subject to the Exchange's existing rules governing the trading of equity securities.

2. The Exchange's surveillance procedures are adequate to properly monitor the trading of shares of the ETFs in all trading sessions.<sup>6</sup>

<sup>3</sup> See Securities Exchange Act Release No. 56329 (August 28, 2007), 72 FR 50431 ("Notice").

<sup>4</sup> The Notice provides a detailed list of the specific ETFs subject to the proposed rule change ("Covered ETFs") and citations to the corresponding approval orders for listing and trading, or trading pursuant to unlisted trading privileges ("UTP"), of the Covered ETFs. See *id.*, 72 FR at 50431-50433.

<sup>5</sup> The Core Trading Session for securities described in NYSE Arca Equities Rules 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 currently concludes at 4:15 p.m. ET. NYSE Arca Equities Rules 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 relate to Investment Company Units, Portfolio Depositary Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Partnership Units, and Paired Trust Shares, respectively. See Securities Exchange Act Release No. 54997 (December 21, 2006), 71 FR 78501 (December 29, 2006) (SR-NYSEArca-2006-77) (establishing hours of trading for securities of certain ETFs).

<sup>6</sup> The Exchange states that it may obtain information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliate members of ISG. In addition, as referenced in the applicable approval orders, the Exchange has in place information sharing agreements with the relevant exchange(s).

3. The Exchange has distributed an Information Bulletin to Equity Trading Permit ("ETP") Holders prior to the commencement of trading of the shares of the ETFs that explains the terms, characteristics, and risks of trading such shares. In addition, the Exchange states that it will distribute an Information Bulletin that explains the terms, characteristics, and risks of trading the shares of the ETFs that have not yet been launched to ETP Holders prior to the commencement of trading of such shares.

4. The Exchange will require ETP Holders with a customer who purchases newly issued shares of the ETFs in any trading session on the NYSE Arca Marketplace to provide that customer with a product description, if available, or a prospectus, and has noted this delivery requirement in the Information Bulletin.

5. When the Exchange is the UTP trading market, the Exchange will cease trading in the shares of the ETFs during all trading sessions if (a) the listing market stops trading the shares, or (b) the listing market delists the shares. Additionally, the Exchange may cease trading the shares if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. UTP trading in the shares of the ETFs is also governed by the trading halt provisions of NYSE Arca Equities Rule 7.34 relating to temporary interruptions in the calculation or wide dissemination of the intraday indicative value ("IIV")<sup>7</sup> or the value of the underlying index or other applicable underlying benchmark. Shares of the ETFs will be traded following a trading halt in accordance with NYSE Arca Equities Rule 7.35(f).

6. When the Exchange is the listing market, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the shares of an ETF. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the shares inadvisable. Factors for consideration may include (a) the extent to which trading is not occurring in the securities or other instruments underlying an ETF, or (b) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the shares of listed ETFs are subject

<sup>7</sup> The IIV is also sometimes referred to as the Indicative Optimized Portfolio Value ("IOPV"), the Indicative Fund Value ("IFV"), the Indicative Trust Value ("ITV"), and the Indicative Partnership Value ("IPV"), depending upon the type of ETF being traded.

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

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.