

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2007-88 and should be submitted on or before October 30, 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. 34-56591; File No. SR-NYSE-2007-89]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Institute a Revised System of Payments to Specialist Firms

October 1, 2007.

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> notice is hereby given that on September 27, 2007, the New York Stock Exchange LLC ("Exchange" or "NYSE") 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 substantially prepared by the Exchange. 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 proposes to amend its system of variable payments to specialist firms for liquidity provision ("Liquidity Provision Payments" or "LPPs"). For each of the three months in the three-month period commencing October 1, 2007, 20% of Exchange transaction fee revenues will be allocated to the Liquidity Provision Payment pool. In January 2008, and each month thereafter, the percentage allocated will be 17%. The text of the proposed rule change is available at NYSE, 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. 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

On September 1, 2007, the Exchange instituted a program to provide variable Liquidity Provision Payments to specialist firms.<sup>3</sup>

Liquidity Provision Payments are based on two revenue sources in NYSE-listed securities (excluding exchange traded funds): (1) The Exchange's share of market data revenue derived from quoting share; and (2) the Exchange's transaction fee revenue.

Under the transaction fee revenue portion of the LPPs, the Exchange distributes among the specialists each month a payment pool consisting of the Exchange's NYSE-listed stock transaction revenue on matched volume (excluding crossing services) in both electronic and manually executed transactions. The pool size was initially set at 25% of the above-noted Exchange transaction revenue and the Exchange noted in the Initial LPP Filing that this percentage may change if the Exchange adjusts its pricing and/or based on other conditions such as specialist performance. The Exchange proposes to reset at 20% the percentage of Exchange transaction fee revenue allocated to the LPP payment pool for each of the three months in the three-month period commencing October 1, 2007. In January 2008, and each month thereafter, the percentage allocated will be 17%.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act<sup>4</sup> in general and furthers the objectives of Section 6(b)(4) of the Act<sup>5</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues,

fees, and other charges among its 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 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>6</sup> and Rule 19b-4(f)(2)<sup>7</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-NYSE-2007-89 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-NYSE-2007-89. This file number should be included on the

<sup>3</sup> See Securities Exchange Act Release No. 56337 (August 29, 2007), 72 FR 51287 (September 6, 2007) (SR-NYSE-2007-78) (the "Initial LPP Filing").

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

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</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.

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-NYSE-2007-89 and should be submitted on or before October 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E7-19751 Filed 10-5-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56595; File No. SR-NYSEArca-2007-93]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change as Modified by Amendment No. 2 Thereto Relating to Exchange Fees and Charges

DATE: October 1, 2007.

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> notice is hereby given that on September 18, 2007, 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 substantially prepared by the Exchange. On September 28, 2007, the NYSE Arca submitted Amendment No. 1 to the proposed rule change. On September 28, 2007, NYSE Arca withdrew Amendment No. 1 and filed Amendment No. 2. NYSE Arca has designated this proposal as one establishing or changing a due, fee, or other charge imposed by NYSE Arca under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, 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 ("Rate Schedule"). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nysearca.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. NYSE Arca has substantially 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

NYSE Arca states that the purpose of this filing is to amend the existing NYSE Arca Rate Schedule by establishing a pilot program under which the Exchange will cap, on a monthly basis, the Firm Facilitation Fee ("Pilot Program"). The Exchange also proposes to apply the Firm Facilitation Fee when non-OTP Firm<sup>5</sup> accounts, as well as

OTP Firm accounts, are used to facilitate customer orders. The Exchange also proposes adding language to the Rate Schedule, to clarify that the Firm Facilitation Fee is applicable to manually executed orders only. Although effective upon filing, the Exchange intends this fee change to become operative on October 1, 2007.

NYSE Arca presently charges OTP Holders a Firm Facilitation Fee of \$0.15 per contract. The Firm Facilitation Fee is applicable when a proprietary trading account of an OTP Firm is used to facilitate an order for a customer of the OTP Firm. As part of this filing, the Exchange is now proposing to apply the Firm Facilitation Fee to any transaction in which a firm proprietary account, of either an OTP Firm or non-OTP Firm, is used to facilitate an order for a customer of that same firm.<sup>6</sup> Presently, OTP Firms are charged the Broker Dealer & Firm Manual rate of \$0.26 for facilitation trades they execute on behalf of non-OTP firms. According to the proposal, the Exchange will now apply the Firm Facilitation rate of \$0.15 to such trades.

The Exchange proposes to establish a pilot program, under which OTP Firms will be eligible for a monthly cap of \$50,000 on Firm Facilitation Fees. The \$50,000 cap will be applicable to each firm account that is used for facilitating orders of customers of that same firm. Examples of how the Firm Facilitation Fee cap will be applied are shown below.

##### Example 1

OTP Firm A carries accounts for customers of the firm, for which the firm may, on occasion, facilitate certain option orders. During a given calendar month, the firm facilitates a number of orders for their customers, for which the firm incurs Firm Facilitation Fees totaling \$60,000. Under the Pilot Program, the fee cap would have been met, and the Firm would be billed only \$50,000.

##### Example 2

OTP Firm B carries accounts of public customers, as well as accounts of non-OTP Firms, who themselves may wish to facilitate orders for their own customers. During a given calendar month, OTP Firm B represents facilitation orders for a non-OTP Firm for which it incurs Firm Facilitation Fees totaling \$60,000. During the same month, OTP Firm B also represents facilitation orders for another non-OTP Firm for which they incur Facilitation Fees totaling \$60,000. While OTP Firm B itself has

F) with the Options Clearing Corporation ("OCC") and is not an NYSE Arca OTP holder.

<sup>6</sup>In both instances the Firm Facilitation Fee will be applied to trades that have an OCC clearance account "F" on the trade side and an OCC clearance account "C" on the contra side of the transaction. Both sides of the trade will clear under the same clearing firm symbol.

<sup>8</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.

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

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

<sup>5</sup> A non-OTP Firm is a broker dealer whose proprietary trades clear as Firm (clearance symbol