

the Commission previously found that the listing and trading of these Securities on the NYSE is consistent with the Act.<sup>39</sup> The Commission presently is not aware of any issue that would cause it to revisit that earlier finding or preclude the trading of these funds on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposed rule change should benefit investors by creating, without undue delay, additional competition in the market for these Securities.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (NYSEArca-2006-18), is hereby approved, as amended, on an accelerated basis.<sup>40</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>41</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54230; File No. SR-NYSEArca-2006-41]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Extend the Linkage Fee Pilot Program

July 27, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 7, 2006, the NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis for a pilot period through July 31, 2007.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE Arca is proposing to amend the NYSE Arca Options, Trade-Related Charges section of the Schedule of Fees and Charges ("Schedule") in order to extend until July 31, 2007, the current pilot program regarding transaction fees charged for trades executed through the intermarket options linkage plan ("Linkage"). The text of the proposed rule change is available on the NYSE Arca's Web site at (<http://www.archipelago.com>), at the Exchange's Office of the Secretary, and at 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 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 III 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 proposed rule change is to extend for one year the pilot program establishing NYSE Arca fees for Principal ("P") Orders and Principal Acting as Agent ("P/A") Orders executed through Linkage. The fees currently are effective for a pilot program set to expire on July 31, 2006, and this filing would extend the fees through July 31, 2007. Executions on NYSE Arca resulting from Linkage orders are subject to the same billing treatment as other broker-dealer ("BD") executions. The present execution fee is \$0.26, which is comprised of a \$0.21 transaction fee and a \$0.05 per contract comparison fee. These are the same fees that all NYSE Arca Option Trading Permit Holders pay for non-customer transactions executed on the Exchange. The Exchange does not charge for the execution of Satisfaction Orders sent through Linkage and is not proposing to charge for such orders.

BD orders that are entered and executed electronically on NYSE Arca are presently subject to a \$0.25 BD

surcharge. Linkage orders that are electronically executed on the Exchange are subject to the same billing treatment as other BD transactions. The Exchange recently filed NYSEArca-2006-20,<sup>3</sup> which proposes a change to the Schedule to reflect that the \$0.25 BD surcharge will also be applied to Linkage orders submitted and executed electronically on the Exchange. The extension of the existing Linkage fee pilot program proposed with this filing does not reflect the changes proposed to the Schedule pursuant to NYSEArca-2006-20.

##### 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and Section 6(b)(4) of the Act,<sup>5</sup> in particular, in that the proposed rule change provides 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 believes that the proposed rule change does not 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

The Exchange has neither solicited nor received comments on the proposed rule change.

### III. 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-2006-41 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission,

<sup>3</sup> See Securities Exchange Act Release No. 54130 (July 11, 2006) 71 FR 41305 (July 20, 2006).

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

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

<sup>39</sup> See NYSE Order, *supra* note 5.

<sup>40</sup> 15 U.S.C. 78s(b)(2).

<sup>41</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.

Station Place, 100 F Street, NE.,  
Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2006-41. 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. 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-NYSEArca-2006-41 and should be submitted on or before August 28, 2006.

#### IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

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 exchange,<sup>6</sup> and, in particular, the requirements of Section 6(b) of the Act<sup>7</sup> and the rules and regulations thereunder. The Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>8</sup> which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Commission believes that the extension of the Linkage fee pilot until July 31, 2007 will give the Exchange and the Commission further

opportunity to evaluate whether such fees are appropriate.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission believes that granting accelerated approval of the proposed rule change will preserve the Exchange's existing pilot program for Linkage fees without interruption as the Exchange and the Commission further consider the appropriateness of Linkage fees.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-NYSEArca-2006-41) is hereby approved on an accelerated basis for a pilot period to expire on July 31, 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. 34-54238; File No. SR-NYSEArca-2006-13]

#### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change and Amendments No. 1 and 2 and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 Thereto Relating to the Establishment of the OX Trading Platform

July 28, 2006.

#### I. Introduction

On May 2, 2006, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> to establish the OX trading platform. The Exchange filed Amendments No. 1 and 2 to the proposed rule change on June 9, 2006 and June 15, 2006, respectively. The proposed rule change was published for comment in the **Federal Register** on

June 23, 2006.<sup>3</sup> The Commission received one comment on the proposal.<sup>4</sup> On July 27, 2006, the Exchange filed Amendment No. 3 to the proposal.<sup>5</sup> This order approves the proposed rule change, as amended by Amendment Nos. 1 and 2, grants accelerated approval to Amendment No. 3, and solicits comments from interested persons on Amendment No. 3.

#### II. Description of the Proposal

NYSE Arca proposes to establish rules for OX, a fully automated trading system for standardized equity options intended to replace NYSE Arca's current options trading platform, PCX Plus.<sup>6</sup> OX would provide an electronic order delivery, execution and reporting system for designated options listed and traded on NYSE Arca through which orders and quotes of Users<sup>7</sup> are consolidated for execution and display. Market Makers would be able to stream quotes to OX either from on the trading floor or remotely.

OX would be available for the entry and execution of quotes and orders to OTP Holders,<sup>8</sup> OTP Firms<sup>9</sup> and, through Sponsoring OTP Firms,<sup>10</sup> certain non-OTP Firms and Holders, known as Sponsored Participants<sup>11</sup> (collectively, "Users"). In general, Users would be able to enter market orders, marketable limit orders and limit orders. Only Market Makers would be permitted to enter quotes on OX. As Users enter bids and offers (*i.e.*, orders and quotes) into the system, any non-marketable limit orders and quotes

<sup>3</sup> See Securities Exchange Act Release No. 53995 (June 15, 2006), 71 FR 36145 ("OX Notice").

<sup>4</sup> See letter dated July 20, 2006 from Bryan Rule ("Rule Letter").

<sup>5</sup> In Amendment No. 3, the Exchange: (i) Made certain representations about entering into an agreement with the NASD pursuant to Rule 17d-2 under the Act following approval of this proposed rule change; (ii) offered further analysis of why the proposal is not inconsistent with Section 11(a) of the Act; (iii) clarified that Satisfaction Orders would be handled in the same manner as they are handled on PCX Plus; (iv) submitted a rule that would require a three second exposure period before certain orders could be crossed; (v) represented that NYSE Arca Rule 11.3 would require an OX Market Maker to maintain information barriers that are reasonably designed to prevent the misuse of material, non-public barriers between "side-by-side" market makers; (vi) removed a reference to an "Opening Only" order type; (vii) clarified the price at which certain orders would be executed in the Working Order Process and made other technical corrections to the proposal. The complete text of Amendment No. 3 is available on the Commission's Web site (<http://www.sec.gov/rules/sro.shtml>), at the Commission's Public Reference Room, and at the Exchange.

<sup>6</sup> See NYSE Arca Rule 6.90.

<sup>7</sup> See proposed NYSE Arca Rule 6.1A(a)(19).

<sup>8</sup> See NYSE Arca Rule 1.1(g).

<sup>9</sup> See NYSE Arca Rule 1.1(f).

<sup>10</sup> See proposed NYSE Arca Rule 6.1A(a)(17).

<sup>11</sup> See proposed NYSE Arca Rule 6.1A(a)(16).

<sup>6</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> *Id.*

<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.