

facilities and regulation of the Nasdaq marketplace, which have been enhanced since the last fee increase. In addition, Nasdaq notes that the services being provided are designed to supplement those a company already uses in achieving its investor relations, disclosure and other corporate objectives.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NASD consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### 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 No. SR-NASDAQ-2006-040 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NASDAQ-2006-040. 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 such filing also will be available for inspection and copying at the principal office of Nasdaq. 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-NASDAQ-2006-040 and should be submitted on or before December 12, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54750; File No. SR-NYSEArca-2006-88]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Fees and Charges

November 14, 2006.

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 November 13, 2006, 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. NYSE Arca has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to Section 19(b)(3)(A) 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 from interested persons.

<sup>19</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).

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

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

The Exchange proposes to amend its Schedule of Fees and Charges in order to modify the fee that applies to Option Strategy Executions.<sup>5</sup>

The text of the proposed rule change is available on the Exchange's Internet Web site (<http://www.nysearca.com>), at the Exchange's principal office, 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 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 Exchange represents that the purpose of this proposed rule change is to modify the fee that applies to "Option Strategy Executions." These transactions include reversals and conversions,<sup>6</sup> dividend spreads,<sup>7</sup> box spreads,<sup>8</sup> and merger spreads.<sup>9</sup> Because the referenced Options Strategy Executions are generally executed by

<sup>5</sup> Fees on Options Strategy Executions are applicable through a Pilot Program until March 1, 2007.

<sup>6</sup> Reversals and conversions are transactions that employ calls, puts, and the underlying stock to lock in a nearly risk free profit. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.

<sup>7</sup> Dividend spreads are trades involving deep-in-the-money options that exploit pricing differences arising around the time a stock goes ex-dividend.

<sup>8</sup> Box Spreads is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively.

<sup>9</sup> A merger spread is a transaction executed pursuant to a strategy involving the simultaneous purchase and sale of options of the same class and expiration date, but with different strike prices followed by the exercise of the resulting long option position.

professionals, whose profit margins are generally narrow, the Exchange caps the transaction fees associated with such executions at \$1,000 per strategy execution that is executed on the same trading day in the same option class. In addition, the Exchange has a monthly fee cap of \$25,000 per initiating firm for all strategy executions. At this time, the Exchange is proposing to lower the daily transaction fee cap in order to stay competitive with other national options exchanges. The Exchange proposes lowering the daily fee cap to \$750 per execution. The monthly cap of \$25,000 will remain unchanged. NYSE Arca believes that, by keeping fees on strategy executions low, the Exchange will be able to attract additional liquidity by accommodating these transactions.

The Exchange notes that OTP Holders and OTP Firms who wish to benefit from the fee cap would be required to submit to the Exchange forms with supporting documentation (e.g., clearing firm transaction data) to qualify for the cap.

## 2. Statutory Basis

The Exchange believes that proposal is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and Section 6(b)(4)<sup>11</sup> in particular, in that it provides for the equitable allocation of dues, fees, and other charges among its members.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will 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

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 pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>12</sup> and Rule 19b-4(f)(2)<sup>13</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 No. SR-NYSEArca-2006-88 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-NYSEArca-2006-88. 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 NYSE Arca. 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-2006-88 and should be submitted on or before December 12, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-19621 Filed 11-20-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54748; File No. SR-OCC-2006-01]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Amended Filing of Proposed Rule Change To Revise Option Adjustment Methodology

November 14, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 12, 2006, The Options Clearing Corporation ("OCC") 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 OCC. On March 9, 2006, the Commission published notice of the proposed rule change to solicit comments from interested parties.<sup>2</sup> The Commission received ten comment letters.<sup>3</sup> To address the concerns raised by the commenters, OCC amended the proposed rule change on September 25, 2006. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested parties.

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

OCC is seeking to amend Article VI (Clearance of Exchange Transactions), Section 11A of OCC's By-Laws to (1) eliminate the need to round strike prices and/or units of trading in the event of certain stock dividends, stock distributions, and stock splits and (2)

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 53400 (March 2, 2006), 71 FR 12226.

<sup>3</sup> Joseph Haggemiller (March 8, 2006); Erik A. Hartog, Operating Manager, Allagash Trading LLC (March 21, 2006); Jeffrey Woodring (March 22, 2006); Adam Besch-Turner (March 23, 2006); Christopher Nagy, Chairman, Options Committee, Securities Industry Association (March 24, 2006); Mike Ianni (April 5, 2006); Mike Ianni (April 5, 2006); Peter van Dooijeweert, President, Alopex Capital Management, LLC (April 26, 2006); Bob Linville and Deborah Mittelman, Service Bureau Committee Co-Chairs, Financial Information Forum (May 2, 2006); and William H. Navin, Executive Vice President, General Counsel, and Secretary, The Options Clearing Corporation (September 29, 2006).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).