

Although the Commission supports efforts to implement a uniform, industry-wide quote mitigation plan, it does not believe such efforts preclude individual exchanges from initiating their own quote mitigation strategies. The Exchange stated its belief that, “by not burdening the marketplace with excessive quotes, in series that have proven to have little or no investor interest, the Exchange will have the ability to supply additional quoting activity where most needed, thereby creating liquidity and a more competitive marketplace, which in turn should provide increased opportunities for all investors.”<sup>12</sup> In addition, the Exchange clarified that it will continue to collect and process quotes from Exchange Market Makers and will publish a quote upon a trade at another market or upon receipt of an order in that series.

The Commission believes that NYSE Arca’s proposed quote mitigation strategy is consistent with the Act and that it is unlikely to lead to confusion among market participants. In this regard, the Commission notes that Exchanges do not currently quote the identical series and classes of options. Furthermore, the Exchange has committed to provide a thorough study of the impact that its quote mitigation plan has on, among other things, system capacity problems or other problems that arose related to the operation of the Penny Pilot Program. Consequently, the Commission believes there are sufficient safeguards in place to analyze and, if necessary, address any negative impact that may result from NYSE Arca’s proposal to disseminate quotes only in “active options series” as defined by Commentary .03 to NYSE Arca Rule 6.86.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR–NYSEArca–2006–73), as modified by Amendment No. 1, be, and hereby is, approved on a six-month pilot basis, which will commence on January 26, 2007.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55178; File No. SR–NYSEArca–2007–02]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Arca Marketplace Trading Sessions

January 25, 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 January 12, 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”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b–4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission.

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

The Exchange proposes to update the list in NYSE Arca Equities Rule 7.34 of securities eligible to trade in one or more, but not all three, of the Exchange’s trading sessions. The securities to be added to the list are: (1) Claymore MACROshares Oil Up Tradeable Shares and (2) Claymore MACROshares Oil Down Tradeable Shares. These securities are traded on NYSE Arca, L.L.C. (“NYSE Arca Marketplace”), the equities trading facility of NYSE Arca Equities, pursuant to unlisted trading privileges (“UTP”) and are described in NYSE Arca Equities Rule 8.400 (“Paired Trust Shares”). The Exchange also proposes to include a reference to NYSE Arca Equities Rule 8.400 in NYSE Arca Equities Rules 7.34(a)(3)(A) and 7.34(a)(4)(A).

The text of the proposed rule change is available on the Exchange’s Web site (<http://www.nysearca.com>), at the principal office of the Exchange, 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. 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

NYSE Arca Equities Rule 7.34 currently provides, in part, that the NYSE Arca Marketplace shall have three trading sessions each day: an Opening Session (1 a.m. Pacific Time (“PT”) to 6:30 a.m. PT), a Core Trading Session (6:30 a.m. PT to 1 p.m. PT), and a Late Trading Session (1 p.m. PT to 5 p.m. PT), and that the Core Trading Session for securities described in NYSE Arca Equities Rules 5.1(b)(13), 5.1(b)(18), 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, and 8.300 (each, a “Derivative Securities Product”) shall conclude at 1:15 pm (PT).<sup>5</sup> The Exchange proposes to amend NYSE Arca Equities Rule 7.34(a)(3)(A) to add Paired Trust Shares described in NYSE Arca Equities Rule 8.400 to the securities for which the Core Trading Session concludes at 1:15 p.m. PT.<sup>6</sup>

The Exchange also includes in NYSE Arca Equities Rule 7.34 a list of those securities which are eligible to trade in one or more, but not all three, of the Exchange’s trading sessions, and maintains on its Web site a list that

<sup>5</sup> NYSE Arca Equities Rules 5.1(b)(13), 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, and 8.300 relate to Unit Investment Trusts, Investment Company Units and Portfolio Depositary Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, and Partnership Units, respectively. See Securities Exchange Act Release No. 54997 (December 21, 2006), 71 FR 78501 (December 29, 2006) (SR–NYSEArca–2006–77) (relating to amendments to NYSE Arca Equities Rule 7.34).

<sup>6</sup> In Securities Exchange Act Release No. 55033 (December 29, 2006), 72 FR 1253 (January 10, 2007) (SR–NYSEArca–2006–75), the Commission approved NYSE Arca Equities Rule 8.400 to permit trading on the NYSE Arca Marketplace, either by listing or pursuant to UTP, of securities issued by a pair of related trusts and based on an index or other numerical variable whose value reflects the value of assets, prices, or other economic interests. The Commission also approved in this filing the trading, pursuant to UTP, of the Claymore MACROshares Oil Up Tradeable Shares and Claymore MACROshares Oil Down Tradeable Shares.

<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)(6).

<sup>12</sup> See Exchange Response, *supra* note 6.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30–3(a)(12).

identifies all securities traded on the NYSE Arca Marketplace that do not trade for the duration of each of the three sessions specified in NYSE Arca Equities Rule 7.34. The Exchange proposes to add the following securities to these lists: (1) Claymore MACROshares Oil Up Tradeable Shares and (2) Claymore MACROshares Oil Down Tradeable Shares.<sup>7</sup> These securities are traded on the Exchange pursuant to UTP and are Paired Trust Shares, as described in NYSE Arca Equities Rule 8.400.

Finally, the Exchange proposes to amend NYSE Arca Equities Rule 7.34(a)(4)(A) relating to trading halt procedures applicable to trading specified Derivative Securities Products on a UTP basis in the Opening, Core, and Late Trading Sessions. The Exchange proposes to add Paired Trust Shares described in NYSE Arca Equities Rule 8.400 to the list of Derivative Securities Products to which NYSE Arca Equities Rule 7.34(a)(4)(A) applies.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of section 6(b)(5)<sup>9</sup> in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and to protect investors and the public interest.

### *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*

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

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

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or

such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and rule 19b-4(f)(6) thereunder.<sup>11</sup>

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because the proposed rule change should provide transparency and more clarity with respect to the trading hours eligibility of certain derivative securities products and should promote consistency in the trading halts of derivative securities. For these reasons, the Commission designates the proposed rule change as operative immediately.<sup>12</sup>

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2007-02 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.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires an exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing notice requirement in this case.

<sup>12</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-NYSEArca-2007-02. 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 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-2007-02 and should be submitted by February 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55151; File No. SR-OCC-2006-16]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Definition of Fund Share

January 23, 2007.

#### I. Introduction

On September 21, 2006, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2006-16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

<sup>7</sup> See note 5, *supra*.

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).