

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-2007-36 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-NYSE-2007-36. 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 offices 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-NYSE-2007-36 and should be submitted on or before May 1, 2007.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-6673 Filed 4-9-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55577; File No. SR-NYSEArca-2007-32]

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

April 3, 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 March 23, 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, through NYSE Arca Equities, 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 Exchange proposes to add to the list shares of certain Funds ("Shares") that 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"). 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.

<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).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

#### 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

NYSE Arca Equities Rule 7.34 currently provides, in part, that 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, 8.300, and 8.400 (each, a "Derivative Securities Product") shall conclude at 1:15 p.m. PT.<sup>5</sup>

NYSE Arca Equities Rule 7.34 includes a list of those securities which are eligible to trade in one or more, but not all three, of the Exchange's trading sessions. The Exchange maintains on its Internet Web site (<http://www.nysearca.com>) a list that 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 list: (1) PowerShares DB Agriculture Fund; (2) PowerShares DB Base Metals Fund; (3) PowerShares DB Energy Fund; (4) PowerShares DB Gold Fund; (5) PowerShares DB Oil Fund; (6) PowerShares DB Precious Metals Fund; (7) PowerShares DB Silver Fund; (8) PowerShares DB U.S. Dollar Index Bearish Fund; and (9) PowerShares DB

<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, 8.300, and 8.400 relate to Unit Investment Trusts, Investment Company Units, Portfolio Depository 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) (amending NYSE Arca Equities Rule 7.34).

U.S. Dollar Index Bullish Fund.<sup>6</sup> These securities, which are Trust Issued Receipts as described in NYSE Arca Equities Rule 8.200 Commentary .02, are traded on the NYSE Arca Marketplace pursuant to UTP.

The Exchange proposes to delete the iShares® FTSE/Xinhua China 25 Index Fund from the lists since these securities are eligible to trade in all three of the Exchange's trading sessions.<sup>7</sup> These securities, which are Investment Company Units described in NYSE Arca Equities Rule 5.2(j)(3), are traded on the NYSE Arca Marketplace pursuant to UTP.

The Exchange proposes to change the trading sessions of iShares® COMEX Gold Trust trading session to accurately reflect that they are traded in the core trading session only.<sup>8</sup> The securities, which are Commodity-Based Trust Shares as described in NYSE Arca Equities Rule 8.201, are traded on the Exchange pursuant to UTP.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>10</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.

<sup>6</sup> The Commission has approved the trading of Shares of the PowerShares DB Agriculture Fund, PowerShares DB Base Metals Fund, PowerShares DB Energy Fund, PowerShares DB Gold Fund, PowerShares DB Oil Fund, PowerShares DB Precious Metals Fund, and PowerShares DB Silver Fund on the NYSE Arca Marketplace pursuant to UTP. See Securities Exchange Act Release No. 55453 (March 13, 2007), 72 FR 13333 (March 21, 2007) (SR-NYSEArca-2006-62). The Commission has approved the trading of Shares of the PowerShares DB U.S. Dollar Index Bearish Fund and PowerShares DB U.S. Dollar Index Bullish Fund on the NYSE Arca Marketplace pursuant to UTP. See Securities Exchange Act Release No. 55484 (March 16, 2007), 72 FR 13847 (March 23, 2007) (SR-NYSEArca-2006-67).

<sup>7</sup> The Commission has approved trading of these securities on the NYSE Arca Marketplace pursuant to UTP. See Securities Exchange Act Release No. 50799 (December 6, 2004), 69 FR 72242 (December 13, 2004) (SR-PCX-2004-99).

<sup>8</sup> The Commission has approved the trading of these securities on the NYSE Arca Marketplace pursuant to UTP. See Securities Exchange Act Release No. 51067 (January 21, 2005), 70 FR 3952 (January 27, 2005) (SR-PCX-2004-132).

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

### *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>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</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. The Commission notes that this filing does not change the trading hours of the Derivative Securities Products listed in NYSE Arca Equities Rule 7.34, but codifies trading hour sessions that have been established through other rule changes or through the use of the Exchange's generic listing standards pursuant to Rule 19b-4(e) under the Act. For these reasons, the Commission designates the proposed rule change as operative immediately.<sup>13</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

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</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>13</sup> For purposes only of waiving 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).

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-2007-32 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-2007-32. 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 will also 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-2007-32 and should be submitted by or before May 1, 2007.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-6675 Filed 4-9-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55578; File No. SR-NYSEArca-2007-29]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Arca Rule 7.20 and 7.31

April 4, 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 March 20, 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder, which renders it effective upon filing with the Commission.<sup>4</sup> 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 Arca, through its wholly owned subsidiary, NYSE Arca Equities, Inc. (“NYSE Arca Equities”), is proposing to amend its rules governing NYSE Arca, LLC (“NYSE Arca Marketplace”), the equities trading facility of NYSE Arca Equities. With this filing, the Exchange proposes to clarify: (1) That Equity Trading Permit (“ETP”) Holders who are not registered Market Makers<sup>5</sup> are prohibited from entering Q Orders pursuant to NYSE Arca Equities Rule 7.20(a), and (2) when Q Orders will automatically repost pursuant to NYSE Arca Equities Rule 7.31(l). The text of the proposed rule change is available at the Exchange, 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 NYSE Arca 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 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

Pursuant to NYSE Arca Equities Rule 7.23(a)(1) (Obligations of Market Makers), Market Makers are required to maintain continuous, two-sided Q Orders in those securities in which the Market Maker is registered to trade. NYSE Arca Equities Rule 7.31(k)(1)(A) provides that a Market Maker may instruct the NYSE Arca Marketplace before 6:28 a.m. (Pacific Time) to enter a Q Order on its behalf at price levels set forth in Rule 7.31(k)(1)(A).<sup>6</sup> Furthermore, Rule 7.31(k) provides that upon execution, the Q Order entered pursuant to the Market Maker’s instructions will automatically repost with the original size at \$10 below the original bid or \$10 above the original offer, but never below \$0.01.

The amendment to Rule 7.31 reflected in this rule filing is consistent with the intent of the rule and how the system currently operates. Specifically, such automatic reposting will not occur if the Market Maker initially enters the Q Order without a reserve size, or if the Market Maker initially enters the Q Order with a reserve size and such reserve size is exhausted. The proposed amendment clarifies that under such circumstances, a Market Maker will be responsible for reposting a new Q Order in the security in order to remain in compliance with its continuous Q Order obligation pursuant to Rule 7.23(a)(1).

In addition, due to the broad definition of “Q Order” in Rule 7.31(k)(1), ETP Holders, who are not registered Market Makers, have been

improperly acting as Market Makers by entering Q Orders on the NYSE Arca Marketplace. In order to prevent this practice, the Corporation is clarifying the language in NYSE Arca Equities Rule 7.20(a) to prohibit specifically ETP Holders not registered as Market Makers from acting as Market Makers (*i.e.*, submitting Q Orders) and make Rule 7.20(a) more consistent with the proposed changes to Rule 7.31(k)(1).

###### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>7</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5)<sup>8</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

##### 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, it has become effective pursuant to Section 19(b)(3)(A)<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</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,

<sup>14</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)(6).

<sup>5</sup> See NYSE Arca Rule 1.1(u).

<sup>6</sup> These price levels are: (1) At the last price and size entered by the Market Maker during the previous trading day, either including or excluding reserve size; (2) at a specified percentage from the best bid or offer; or (3) at the standard Q defined as \$0.01 bid and 2 times the previous day’s close for the offer with specified display and reserve sizes.

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

<sup>10</sup> 17 CFR 240.19b-4(f)(6).