

believes that the proposal reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in section 6(b)(5). Trading during extended hours carries more risks than during regular business hours. With ETFs in particular, customers who trade when an IIV is not calculated and publicly disseminated may be at a disadvantage to professional traders who have their own means of calculating a reliable estimate of the net asset value. The Exchange has represented that it will distribute to its ETP Holders an information bulletin that discusses this particular risk and other risks of trading ETFs outside of normal business hours. In view of these additional disclosures, the Commission believes it is reasonable and consistent with the Act for the Exchange to extend the trading hours of certain ETFs in the manner described in this proposal.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NYSEArca-2007-73) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Nancy M. Morris,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56627; File No. SR-NYSEArca-2007-75]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Expand the Trading Hours of Certain Exchange-Traded Funds

#### I. Introduction

**DATED:** October 5, 2007.

On July 30, 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”), 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> a proposal to expand the trading hours of certain exchange-traded funds (“ETFs”). On

August 22, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 31, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

#### II. Description of the Proposal

NYSE Arca proposes to expand the trading hours of certain ETFs to include all three Exchange trading sessions.<sup>4</sup> NYSE Arca Equities Rule 7.34 provides for three trading sessions on the NYSE Arca Marketplace each day that NYSE Arca Equities is open for business: (1) An Opening Session (4 a.m. to 9:30 a.m. eastern time or “ET”); (2) a Core Trading Session (9:30 a.m. to 4 p.m. ET);<sup>5</sup> and (3) a Late Trading Session (4 p.m. to 8 p.m. ET). The Commission previously approved Exchange proposals to list and trade, or trade pursuant to UTP, the Covered ETFs in one or two, but not all three trading sessions.

The Exchange makes the following representations with respect to the trading of Covered ETFs during all three Exchange trading sessions:

1. The Exchange has appropriate rules to facilitate transactions in the shares of ETFs during all trading sessions. The Exchange deems such shares to be equity securities, thus rendering trading in such shares subject to the Exchange’s existing rules governing the trading of equity securities.

2. The Exchange’s surveillance procedures are adequate to properly monitor the trading of shares of the ETFs in all trading sessions.<sup>6</sup>

<sup>3</sup> See Securities Exchange Act Release No. 56329 (August 28, 2007), 72 FR 50431 (“Notice”).

<sup>4</sup> The Notice provides a detailed list of the specific ETFs subject to the proposed rule change (“Covered ETFs”) and citations to the corresponding approval orders for listing and trading, or trading pursuant to unlisted trading privileges (“UTP”), of the Covered ETFs. See *id.*, 72 FR at 50431-50433.

<sup>5</sup> The Core Trading Session for securities described in NYSE Arca Equities Rules 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 currently concludes at 4:15 p.m. ET. NYSE Arca Equities Rules 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 relate to Investment Company Units, Portfolio Depositary 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) (establishing hours of trading for securities of certain ETFs).

<sup>6</sup> The Exchange states that it may obtain information via the Intermarket Surveillance Group (“ISG”) from other exchanges who are members or affiliate members of ISG. In addition, as referenced in the applicable approval orders, the Exchange has in place information sharing agreements with the relevant exchange(s).

3. The Exchange has distributed an Information Bulletin to Equity Trading Permit (“ETP”) Holders prior to the commencement of trading of the shares of the ETFs that explains the terms, characteristics, and risks of trading such shares. In addition, the Exchange states that it will distribute an Information Bulletin that explains the terms, characteristics, and risks of trading the shares of the ETFs that have not yet been launched to ETP Holders prior to the commencement of trading of such shares.

4. The Exchange will require ETP Holders with a customer who purchases newly issued shares of the ETFs in any trading session on the NYSE Arca Marketplace to provide that customer with a product description, if available, or a prospectus, and has noted this delivery requirement in the Information Bulletin.

5. When the Exchange is the UTP trading market, the Exchange will cease trading in the shares of the ETFs during all trading sessions if (a) the listing market stops trading the shares, or (b) the listing market delists the shares. Additionally, the Exchange may cease trading the shares if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. UTP trading in the shares of the ETFs is also governed by the trading halt provisions of NYSE Arca Equities Rule 7.34 relating to temporary interruptions in the calculation or wide dissemination of the intraday indicative value (“IIV”)<sup>7</sup> or the value of the underlying index or other applicable underlying benchmark. Shares of the ETFs will be traded following a trading halt in accordance with NYSE Arca Equities Rule 7.35(f).

6. When the Exchange is the listing market, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the shares of an ETF. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the shares inadvisable. Factors for consideration may include (a) the extent to which trading is not occurring in the securities or other instruments underlying an ETF, or (b) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the shares of listed ETFs are subject

<sup>7</sup> The IIV is also sometimes referred to as the Indicative Optimized Portfolio Value (“IOPV”), the Indicative Fund Value (“IFV”), the Indicative Trust Value (“ITV”), and the Indicative Partnership Value (“IPV”), depending upon the type of ETF being traded.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</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.

to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule (NYSE Arca Equities Rule 7.12) or by the halt or suspension of trading of the underlying securities or other instruments underlying an ETF. If the IIV or the index value (or value of the underlying asset or instrument, if not an index) applicable to a series of shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the index value occurs. If the interruption to the dissemination of the IIV or the index value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

7. The IIV and/or index value (or value of the underlying asset or instrument, if not an index) will continue to be disseminated during all three trading sessions, to the extent the relevant approval order provides for this dissemination requirement.

The Exchange states that the representations in the corresponding approval orders for each of the Covered ETFs shall continue to apply with respect to trading during the Core and Late Trading Sessions.

In a separate filing with the Commission, the Exchange recently amended NYSE Arca Equities Rule 7.34(e) to require ETP Holders to disclose additional risks associated with extended hours trading in new derivative securities products to customers.<sup>8</sup> The Exchange has committed to distribute to its ETP Holders and make available on its Web site an Information Bulletin titled "Exchange-Traded Funds—Extended Trading Hours" that discloses and discusses such risks, in addition to the following: (1) The underlying index value may not be updated during the Core and Late Trading Sessions; (2) the IIV may not be updated during the Core and Late Trading Sessions; (3) commodity and currency spot prices are available in the Core and Late Trading

Sessions, but commodity and currency futures prices generally will not be available in the Core and Late Trading Sessions;<sup>9</sup> (4) lower liquidity in the Core and Late Trading Sessions may impact pricing; (5) higher volatility in the Core and Late Trading Sessions may impact pricing; (6) wider spreads may occur in the Core and Late Trading Sessions; (7) other required customer disclosures; (8) the circumstances that trigger trading halts; and (9) suitability requirements.

The Exchange notes that, if the official index value does not change during some or all of the period when trading is occurring on the Exchange (for example, because of time zone differences or holidays in countries where the index component stocks trade), then the last calculated official index value must remain available throughout Exchange trading hours. Similarly, if the IIV does not change during any portion of Exchange trading hours, then the last official calculated IIV must remain available throughout Exchange trading hours.

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

After careful review and based on the Exchange's representations, 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>10</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act.<sup>11</sup> The Commission believes that the proposal reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in Section 6(b)(5) of the Act. Trading during extended hours carries more risks than during regular business hours. With ETFs in particular, customers who trade when an IIV is not calculated and publicly disseminated may be at a disadvantage to professional traders who have their own means of calculating a reliable estimate of the net asset value. The Exchange has represented that it will distribute to its

ETP Holders an information bulletin that discusses this particular risk and other risks of trading the Covered ETFs outside of normal business hours. In view of these additional disclosures, the Commission believes it is reasonable and consistent with the Act for the Exchange to extend the trading hours of the Covered ETFs in the manner described in this proposal.

### IV. Conclusion

*It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-NYSEArca-2007-75), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.*

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

Nancy M. Morris,  
Secretary.

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## DEPARTMENT OF STATE

[Public Notice 5957]

### Culturally Significant Objects Imported for Exhibition Determinations: "Objects for Water: H<sub>2</sub>O=Life"

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Objects for Water: H<sub>2</sub>O=Life," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the American Museum of Natural History, New York, NY, from on or about November 3, 2007, until on or about May 26, 2008; San Diego Natural History Museum, San Diego, CA, from on or about July 19, 2008, until on or about November 30, 2008; Science Museum of Minnesota, St. Paul, MN, from on or about January 17,

<sup>8</sup> See Securities Exchange Act Release No. 56270 (August 15, 2007), 72 FR 47109 (August 22, 2007) (SR-NYSEArca-2007-74). Specifically, the Exchange requires ETP Holders to disclose to their customers who are not ETP Holders that an updated underlying index value or IIV may not be calculated or publicly disseminated during extended trading hours. Since the IIV is not calculated or widely disseminated during the Opening and Late Trading Sessions, an investor who is unable to calculate an implied value for a derivative securities product in those sessions may be at a disadvantage to market professionals. The Exchange believes that requiring ETP Holders to disclose this risk to non-ETP Holders will facilitate informed participation in extended hours trading.

<sup>9</sup> The Exchange states that, in certain cases, the futures or options markets for a particular commodity may be closed during part of the Core Trading Session, and the IIV would be static for that particular future or options price, but widely disseminated. In addition, the prices of certain futures contracts in commodities (*e.g.*, gold) and currencies are available on a 24-hour basis.

<sup>10</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(2).

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