

Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act<sup>7</sup> in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the Exchange's proposal is consistent with the Act, and, in particular, 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. The Commission notes that a variety of exchange-traded funds seeking to provide (a) investment results that correspond to or exceed twice (200%) the direct performance of a specified stock index, or (b) investment results that correspond to twice (-200%) the inverse or opposite of the index's performance, are currently traded on the Exchange.<sup>8</sup> In addition, the Commission further believes that heightened suitability standards are appropriate for derivative securities products, including Index-Linked Securities, which seek to provide investment results that correspond to the direct or inverse performance of an underlying reference asset by a specified multiple and allow for a loss or negative payment at maturity to be accelerated by a specified multiple. Before recommending transactions in these types of leveraged products, ETP Holders must have a reasonable basis to believe that the customer can evaluate the special characteristics, and is able to bear the financial risks, of such investment. The Commission expects the Exchange to continue to monitor the application of these suitability requirements, including those under NYSE Arca Equities Rule 9.2(a).

#### IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-NYSEArca-2007-122), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57158; File No. SR-NYSEArca-2007-120]

#### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Relating to Restrictions on Acting as Market Makers and Floor Brokers

January 15, 2008.

On November 27, 2007, the NYSE Arca, Inc. ("NYSE Arca" or "Exchange") 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 proposed rule change to amend certain Exchange rules to restrict an OTP Holder from concurrently registering as both a Market Maker and a Floor Broker. The proposed rule change was published for comment in the **Federal Register** on December 11, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

Presently, OTP Holders may be registered as either a Market Maker or a Floor Broker, or in certain situations, both. An OTP Holder that wished to act in both capacities must apply for and receive approval from the Exchange.<sup>4</sup> The Exchange represented that presently there are no OTP Holders registered in the dual capacity of Market Maker and Floor Broker, nor does the Exchange have any pending applications from existing OTP Holders.

The Exchange further represented that the practice of dual registration dates back to the early days of floor-based, open outcry trading. Open outcry trading was for the most part a manual process, necessitating the need for a large number of Floor Brokers. On occasion, often in periods of unusually active market conditions, there might have been a shortage of brokers on the floor, and in the interest of maintaining a fair and orderly market, Market

Makers might be called upon to act as a Floor Broker. The vast majority of trades on NYSE Arca now occur electronically, and thus, there is a dramatic decrease in open outcry trading executions done by Floor Brokers.

For the reasons stated above, the Exchange proposes to establish new Rule 6.33(b) stating that an OTP Holder registered as a Market Maker on NYSE Arca may not be concurrently registered as a Floor Broker on NYSE Arca. Accordingly, the Exchange also proposes establishing new Rule 6.44(b), stating that an OTP Holder presently registered as a Floor Broker on NYSE Arca cannot be concurrently registered as a Market Maker on NYSE Arca. The Exchange also proposes making non-substantive changes regarding the numbering of existing rules in order to accommodate the new rules.

Pursuant to NYSE Arca Rule 6.82(h)(3), Lead Market Makers ("LMM") may perform the functions of a Floor Broker. Historically, LMMs might perform the duties of a Floor Broker and represent public customer orders when there was a shortage of Floor Brokers available. As stated above, due to increased automation in the marketplace, the Exchange does not anticipate a shortage of Floor Brokers such that it would necessitate an LMM to have to act as a Floor Broker. As such, the Exchange proposes deleting Rule 6.82(h)(3) in its entirety. The Exchange also proposes deleting Commentary .02 to Rule 6.82 relating to a LMMs handling of public customer orders.

Presently, OTP Holders acting as both Floor Broker and Market Maker are subject to certain restrictions under NYSE Arca Rule 6.38. Upon approval of the above mentioned rule changes, these restrictions will become obsolete. Since Market Makers will be prohibited from acting as a Floor Broker, and visa-versa, there is no need to have specific restrictions governing their trading activity. Therefore, the Exchange proposes eliminating Rule 6.38 in its entirety.

The Exchange noted that LMMs and InterMarket Linkage Maker Makers ("IMM") are exempt from certain provisions contained in NYSE Arca Rule 6.38. Currently, LMMs and IMMs may be called upon to send Principal Acting as Agent ("P/A") Orders through the InterMarket Linkage System ("Linkage") pursuant to NYSE Arca Rules 6.92 and 6.93. Linkage is a fully automated process on NYSE Arca, and while the IMM or LMM may be acting in an agency capacity, as the responsible party for sending the order, they are not acting in the capacity of a Floor Broker.

proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> See *supra* note 5 and accompanying text.

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

<sup>10</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> See Securities Exchange Act Release No. 56899 (December 5, 2007), 72 FR 70367 ("Notice").

<sup>4</sup> See NYSE Arca Rule 6.38(b)(4).

Thus, the Exchange proposes to add language to Rule 6.33(b) stating that a prohibition on concurrent registration as both a Market Maker and Floor Broker will not prevent an IMM or LMM from acting in an agency capacity for Linkage purposes.

The Commission finds that the proposed rule change is consistent with the requirements of section 6(b) of the Act<sup>5</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,<sup>7</sup> which requires that a national securities exchange's rules be designed to facilitate transactions in securities, to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Commission notes that the practice of OTP Holders registering in the dual capacity of Market Maker and Floor Broker dates back to the days of floor-based, open outcry trading environment. The Commission also notes that the vast majority of trades on NYSE Arca now occur electronically, such that the need for dual registration by the OTP Holders may no longer be necessary. Further, the Commission notes that the Exchange stated that currently, there are no OTP Holders registered in this dual capacity, and the Exchange does not have any pending applications from existing OTP Holders to be dually registered in such capacity.

The Commission believes that it is reasonable and consistent with the Act for the Exchange to delete Rule 6.38, and also promulgate new rule provisions within Rules 6.33 and 6.44 to prohibit dual registration by OTP Holders as Market Makers and Floor Brokers. The Commission recognizes that eliminating the dual registration of OTP Holders as Market Makers and Floor brokers will not affect the ability of LMMs and IMMs, who may continue to be called upon today, to act in an agency capacity, to send P/A Orders through Linkage.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NYSEArca-2007-120) be, and hereby is, approved.

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

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-998 Filed 1-18-08; 8:45 am]

**BILLING CODE 8011-01-P**

## DEPARTMENT OF STATE

### [Public Notice 6022]

#### U.S. National Commission for UNESCO Notice of Open Advisory Committee Teleconference Meeting

*Summary:* The U.S. National Commission for UNESCO will meet via telephone conference on Friday, February 1, 2008, from 11 a.m. until 12 p.m. Eastern Time. The purpose of the teleconference meeting is to consider the recommendations of the Commission's National Committee for the International Hydrological Program (IHP). The U.S. National Committee for the IHP was asked to provide recommendations to the Commission on proposals received to establish a U.S. water-related UNESCO Category II Center. (For more information see <http://www.state.gov/p/io/unesco/c21083.htm>). The call will also be an opportunity to provide an update on recent and upcoming Commission and UNESCO activities. The Commission will accept brief oral comments during a portion of this conference call. This public comment period will last 15 minutes, and comments are limited to two minutes per person. Members of the public who wish to present oral comments or to listen to the conference call must make arrangements with the Executive Secretariat of the National Commission by January 30, 2008. For more information or to arrange to participate in the teleconference meeting, contact Alex Zemek, Deputy Executive Director of the U.S. National Commission for UNESCO, Washington, DC 20037. Telephone: (202) 663-0026; Fax: (202) 663-0035; E-mail: [DCUNESCO@state.gov](mailto:DCUNESCO@state.gov).

Dated: January 15, 2008.

**Susanna Connaughton,**

*U.S. National Commission for UNESCO,  
Department of State.*

[FR Doc. E8-1002 Filed 1-18-08; 8:45 am]

**BILLING CODE 4710-19-P**

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Agency Information Collection Activity Seeking OMB Approval

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 29, 2007, vol. 72, no. 208, page 61199. The information collected is needed to determine applicant eligibility and compliance for certification of Civil Aviation mechanics and operation of aviation mechanic schools.

**DATES:** Please submit comments by February 21, 2008.

**FOR FURTHER INFORMATION CONTACT:** Carla Mauney at [Carla.Mauney@faa.gov](mailto:Carla.Mauney@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Federal Aviation Administration (FAA)

*Title:* Aviation Maintenance Technician School Certification and Ratings Application.

*Type of Request:* Extension without change of a currently approved collection.

*OMB Control Number:* 2120-0040.

*Form(s):* FAA Form 8310-6.

*Affected Public:* An estimated 174 Respondents.

*Frequency:* This information is collected on occasion.

*Estimated Average Burden Per Response:* Approximately 1 hour per response.

*Estimated Annual Burden Hours:* An estimated 174 hours annually.

*Abstract:* The information collected is needed to determine applicant eligibility and compliance for certification of Civil Aviation mechanics and operation of aviation mechanic schools.

*Addresses:* Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-6974.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance