

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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-NYSEArca-2008-03 and should be submitted on or before February 26, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, 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.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹ which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, 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.

Surveillance

The Commission notes that the Exchange has represented that its existing surveillance procedures applicable to trading options are adequate to properly monitor trading in Multiple Fund Shares options and Inverse Fund Shares options. In addition, the Exchange represented that the expansion of the types of investments that may be held by Multiple Fund Shares or Inverse Fund Shares under NYSE Arca Rules 5.3(g) and 5.4 will not have any effect on the rules pertaining to position and exercise limits¹² or margin.¹³

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

¹¹ 15 U.S.C. 78f(b)(5).

¹² See NYSE Arca Rules 5.49 and 6.9.

¹³ See NYSE Arca Rule 5.25.

Listing and Trading Options on Fund Shares

The Commission notes that, pursuant to the proposed rule change, the Exchange represented that the current continuing or maintenance listing standards for options on Exchange Traded Fund Shares will continue to apply. These provisions include requirements regarding initial and continued listing standards, suspension of opening transactions, and trading halts. Proposed amended NYSE Arca Rule 5.3(g), would require that Multiple Fund Shares and Inverse Fund Shares be traded on a national securities exchange and must be an "NMS stock" as defined under Rule 600 of Regulation NMS.¹⁴

The Commission believes that this proposal is necessary to enable the Exchange to list and trade options on Multiple Fund Shares and Inverse Fund Shares such as those currently issued by ProShares Trust and Rydex ETF Trust that trade on the Exchange pursuant to unlisted trading privileges under NYSE Arca Equities Rule 5.2(j)(3).¹⁵ The Commission believes that the ability to trade options on the Multiple and Inverse Fund Shares will provide investors with additional risk management tools. The Commission further believes that the proposed amendment to the Exchange's listing criteria for options on Exchange Traded Fund Shares will ensure that the Exchange will be able to list options on the Funds of the ProShares Trust and Rydex ETF Trust as well as other Multiple Fund Shares or Inverse Fund Shares that may be introduced in the future, thereby affording investors greater investment choices.

The Commission finds good cause for approving this proposal before the 30th day after the publication of notice thereof in the **Federal Register**. The Commission notes that it has previously approved substantially similar proposals by other national securities exchanges.¹⁶ The Commission presently is not aware of any regulatory issue that should cause it to revisit those findings or would preclude the listing and trading of the options on Multiple Fund and Inverse Fund Shares on the Exchange. Accelerating approval of this proposed rule change would allow the

¹⁴ 17 CFR 242.600(b)(47).

¹⁵ See *supra* note 5.

¹⁶ See Securities Exchange Act Release Nos. 56871 (November 30, 2007), 72 FR 68924 (December 6, 2007) (approving SR-ISE-2007-87 on an accelerated basis); 56715 (October 29, 2007), 72 FR 62287 (November 2, 2007) (approving SR-CBOE-2007-119 on an accelerated basis); 56650 (October 12, 2007), 72 FR 59123 (October 18, 2007) (SR-Amex-2007-35).

options on Multiple Fund and Inverse Fund Shares to be listed on the Exchange without undue delay and continuously traded without interruption, to the benefit of investors.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change (SR-NYSEArca-2008-03) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-1986 Filed 2-4-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57221; File No. SR-NYSEArca-2008-11]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Fees Applicable to Certain Exchange Traded Funds and Rebates for Tape B Securities

January 29, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,² notice is hereby given that on January 16, 2008, NYSE Arca, Inc. ("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 substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(2) thereunder,⁴ 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.

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

The Exchange, through its wholly-owned subsidiary NYSE Arca Equities, proposes to amend the section of its Schedule of Fees and Charges for

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

Exchange Services (the "Fee Schedule") that applies to: (1) Orders submitted to the Exchange by ETP Holders⁵ for (i) equity securities listed on the American Stock Exchange, LLC or any regional securities exchange ("Tape B Securities") or (ii) Exchange Traded Funds ("ETFs") listed on the New York Stock Exchange, LLC ("NYSE"); and (2) fees assessed by the Exchange for certain connectivity applications. While changes to the Fee Schedule pursuant to this proposal are effective upon filing, this filing applies the changes retroactively to January 1, 2008. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and on the Exchange's Internet Web site at <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 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 purpose of this proposed rule change is to amend the relevant section of its Fee Schedule that applies to rebates provided to ETP Holders that submit orders which provide liquidity on NYSE Arca Equities for equity securities listed on the American Stock Exchange, LLC, or any regional stock exchange, commonly referred to as Tape B Securities. Currently, ETP Holders must qualify to receive the rebates for Tape B Securities by meeting criteria specified within the Fee Schedule. These criteria, based on trade volume submitted to NYSE Arca Equities in Tape B securities by an ETP Holder, designate initial and ongoing requirements in order for the ETP Holder to meet and maintain their eligibility to receive the rebates. Paid monthly,⁶ the rebate represents an

estimated fifty percent (50%) of the tape revenue credit received from the Consolidated Tape Association ("CTA") by the Exchange for the eligible transactions⁷ of Tape B securities executed by the ETP Holder. Tape revenue received by the Exchange for transactions submitted by ETP Holders that do not meet the eligibility criteria for the Tape B rebates is not shared with such ETP Holders.

As NYSE Arca Equities no longer believes such criteria, or limiting the eligibility for such rebates, to be appropriate, the Exchange proposes to remove the criteria in their entirety and provide fifty percent (50%) of the estimated tape revenue credit to all ETP Holders which submit limit orders for Tape B securities that provide liquidity for the NYSE Arca Equities Book. Payment of the rebates will continue on a monthly basis. While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will be implemented retroactively to January 1, 2008 for billing purposes of the Exchange.

With this filing, the Exchange also makes clarifying amendments to the Fee Schedule to reflect the transfer of all ETFs previously listed on the NYSE to NYSE Arca Equities. The transfer, announced by the NYSE in 2007, was completed by its deadline of December 31, 2007. Therefore, references to fees, credits or rebates specific to ETFs listed on the NYSE are obsolete.

Additionally, the current charge of \$300 listed for subscription of the RealTick® financial software, operated by Townsend Analytics ("TAL") and offered to ETP Holders by the Exchange is not appropriate in light of the various options that ETP Holders may select to receive. Depending on the RealTick® package an ETP Holder elects to receive, the charge may be greater or lesser than the current listed charge of \$300. For this reason, NYSE Arca Equities proposes to clarify that all fees assessed to an ETP Holder for each RealTick® workstation to which they subscribe shall be fees incurred by the Exchange from TAL, for providing such services, and passed through to the ETP Holder. There will be no change to the fees payable by ETP Holders for the use of the RealTick® software as a result of this amendment.

from the CTA quarterly. As a result, the Exchange provides an estimated monthly payment to ETP Holders for eligible transactions submitted for Tape B securities based on information available and/or previous monies received from the CTA.

⁷ Rebates for Tape B securities are applicable to limit orders submitted by ETP Holders that are residing in the NYSE Arca Equities Book and that execute against inbound marketable orders.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act,⁹ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members and other persons using its facilities.

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 not solicited, and does not intend to solicit, comments on this proposed rule change.

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

The foregoing proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii)¹⁰ of the Act and Rule 19b-4(f)(2)¹¹ thereunder because it establishes or changes a due, fee, or other charge applicable only to a member 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. Please include File Number SR-NYSEArca-2008-11 on the subject line.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

⁵ See NYSE Arca Equities Rule 1.1(n).

⁶ Although the rebates for Tape B securities are paid by the Exchange to ETP Holders on a monthly basis, these revenues are received by the Exchange

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-2008-11. 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 on official business days between the hours of 10 a.m. and 3 p.m. 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 No. SR-NYSEArca-2008-11 and should be submitted on or before February 26, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-1987 Filed 2-4-08; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION**Public Federal Regulatory Enforcement Fairness Hearing; Region IX Regulatory Fairness Board**

The U.S. Small Business Administration (SBA) Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a National Regulatory Fairness Hearing on Tuesday, February 5, 2008, at 10 a.m. The forum is open to the public and will take place at the San

Francisco Chamber of Commerce Board Room, 235 Montgomery Street, 12th Floor, San Francisco, CA 94104. The purpose of the meeting is for Business Organizations, Trade Associations, Chambers of Commerce and related organizations serving small business concerns to report experiences regarding unfair or excessive Federal regulatory enforcement issues affecting their members.

Anyone wishing to attend or to make a presentation must contact Gary Marshall, in writing or by fax in order to be placed on the agenda. Gary Marshall, Business Development Specialist, SBA, San Francisco District Office, 455 Market Street, 6th Floor, San Francisco, CA 94105-2420, phone (415) 744-6771 and fax (202) 481-2018, e-mail: Gary.marshall@sba.gov.

For more information, see our Web site at www.sba.gov/ombudsman.

Cherylyn H. Lebon,

Committee Management Officer.

[FR Doc. E8-2003 Filed 2-4-08; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE**[Public Notice 6090]****Notice of Receipt of Application for a Presidential Permit to Construct, Operate, and Maintain a New Border Crossing Facility on the U.S.-Canada Border at Buffalo, New York and Fort Erie, Ontario**

SUMMARY: The Department of State hereby gives notice that, on January 15, 2008, it received an application for a Presidential Permit to authorize the construction, operation, and maintenance of a new border crossing facility on the U.S.-Canada border at Buffalo, NY and Fort Erie, Ontario. The proposed new crossing, a vehicular bridge across the Niagara River, would be approximately one and one half miles north of the existing Peace Bridge across the Niagara River and would connect to existing roads via an interchange with State Route 198 (Scajaquada Expressway) leading to Interstate Route 190 (I-190, the Niagara Section of the New York State Thruway). The application was filed by the Ambassador Niagara Signature Bridge Group (ANSBG). According to the application, ANSBG is an unincorporated unit of the Detroit International Bridge Company (DIBC), a Michigan corporation. As stated in the application, DIBC, along with a related Canadian corporation, the Canadian Transit Company (CTC), own and operate the Ambassador Bridge across

the Detroit River, connecting Detroit, Michigan and Windsor, Ontario and DIBC and CTC are ultimately owned by Manuel J. and Matthew T. Maroun.

The Department of State's jurisdiction over this application is based upon Executive Order 11423 of August 16, 1968, as amended, and the International Bridge Act of 1972, 33 U.S.C. 535, et seq. As provided in E.O. 11423, the Department is circulating this application to relevant Federal and State agencies for review and comment. Under E.O. 11423 and the International Bridge Act, the Department has the responsibility to determine, taking into account input from these agencies and other interested stakeholders, whether this proposed border crossing is in the U.S. national interest.

DATES: Interested members of the public are invited to submit written comments regarding this application on or before April 28, 2008 to Ms. Eleanore Fox, Officer for Border Affairs, via e-mail at WHACAN@state.gov or by mail at WHA/CAN—room 3917, Department of State, 2201 C Street NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Ms. Eleanore Fox, Officer for Border Affairs, via e-mail at WHACAN@state.gov or by mail at WHA/CAN—room 3917, Department of State, 2201 C Street NW., Washington, DC 20520. General information about Presidential Permits is available on the Internet at <http://www.state.gov/p/wha/rt/permit>.

SUPPLEMENTARY INFORMATION: This application and related environmental documents are available for review in the Office of Canadian Affairs, Department of State, during normal business hours.

Dated: January 31, 2008.

Alex Lee,

*Director, Office of Canadian Affairs,
Department of State.*

[FR Doc. E8-2080 Filed 2-4-08; 8:45 am]

BILLING CODE 4710-29-P

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Notice of Final Federal Agency Actions on Proposed Highway in California**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims.

SUMMARY: This notice announces actions taken by the California Department of Transportation (Caltrans) pursuant to its assigned responsibilities under 23 U.S.C. 327, as well as certain Federal

¹² 17 CFR 200.30-3(a)(12).