

Section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>9</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change does not 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. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>11</sup>

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the

protection of investors and the public interest and will promote competition because such waiver will allow ISE to continue the existing Pilot Program without interruption.<sup>12</sup> Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 No. SR-ISE-2008-48 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2008-48. 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, 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 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-ISE-2008-48 and should be submitted on or before July 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-58021; File No. SR-NSX-2008-10]

#### **Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NSX Rules To Provide for an Optional Limit Cap Price on Any Pegged Zero Display Reserve Order**

June 25, 2008.

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 June 17, 2008, the National Stock Exchange ("NSX" 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 prepared by the Exchange. The NSX designated the proposed rule change as "non-controversial" under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> 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 is proposing to amend NSX Rules 11.11(c)(2) and 11.14 to

<sup>13</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)(iii).

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

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

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

<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)(iii) requires a self-regulatory organization to provide the Commission with 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 business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

allow ETP holders the option of submitting a limit cap price on any pegged Zero Display Reserve Order. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nsx.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 NSX 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 Exchange is proposing to amend Exchange Rules 11.11(c)(2) and 11.14 to allow ETP Holders the option of submitting a limit cap price on any pegged Zero Display Reserve Order. Under current Rule 11.11(c)(2), Zero Display Reserve Orders may be entered with either a limit price or with a "peg," which, at the ETP Holder's discretion, is pegged to the buy-side, sell-side, or midpoint of the Protected Best Bid or Offer ("PBBO"). Under this proposal, ETP Holders would be able to enter an optional limit cap price on any pegged Zero Display Reserve Order. The cap price will prevent the pegged order from following the PBBO past the ETP Holder's specified price. A limit price may be entered, providing a ceiling price (for Buy orders) and floor price (for Sell orders). All pegged Zero Display Reserve Orders—including those that track the inside quote on the same side of the market ("Primary Peg"), the opposite side of the market ("Market Peg") or the Midpoint—are eligible to have a limit cap price.

The methodology used to price the pegged orders will remain unchanged. However, if the pegged order upon price re-evaluation would be assigned a value that violates its limit price due to the cap, the pegged order will not be assigned that new price and will therefore not be eligible for matching. This pegged order will be re-evaluated again when a new marketable order arrives.

In addition, the limit price may be modified by entering a cancel/replace of the pegged order. In this case, a new timestamp will be applied. Rule 11.14 will be amended to reflect this priority.

#### 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and Section 6(b)(5) of the Act,<sup>6</sup> in particular, which requires, among other things, that the rules of an exchange be designed 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.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

#### 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 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 after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup> As required under Rule 19b-4(f)(6)(iii),<sup>9</sup> the NSX provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, prior to the filing of the proposed rule change.

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to the 30th day after the date of filing.<sup>10</sup> However, Rule

19b-4(f)(6)(iii)<sup>11</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The NSX requested that the Commission waive the 30-day operative delay and make the proposed rule change effective and operative upon filing because the proposal is similar to a feature available on other markets and raises no new issues. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. In particular, the Commission does not believe that the rule change presents any novel issues since the inclusion of a limit cap on the Zero Display Reserve Order has been included on similar order types currently available on other markets.<sup>12</sup>

Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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-NSX-2008-10 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NSX-2008-10. This file

<sup>11</sup> *Id.*

<sup>12</sup> See, e.g., Securities Exchange Act Release Nos. 54613 (October 17, 2006), 71 FR 62325 (October 24, 2006) (SR-NASDAQ-2006-043); 51326 (March 7, 2005), 70 FR 12521 (March 14, 2005) (SR-NASD-2004-173).

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</sup> See *id.*

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, 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 office of the NSX. 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-NSX-2008-10 and should be submitted on or before July 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58024; File No. SR-NYSEArca-2008-63]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change Relating to the Listing and Trading of Shares of the MacroShares Medical Inflation Trusts

June 25, 2008.

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 June 13, 2008, 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, II, and III below, which Items have been substantially prepared by the Exchange. 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 proposes to amend NYSE Arca Equities Rule 8.400 (Paired Trust Shares), and to list and trade shares of the MacroShares Medical Inflation Up Trust Series 2008-1 ("Up Trust") and the MacroShares Medical Inflation Down Trust Series 2008-1 ("Down Trust") (collectively, the "Trusts") pursuant to that rule. The shares of the Up Trust are referred to as the Up MacroShares, the shares of the Down Trust are referred to as the Down MacroShares, and they are referred to collectively as the "Shares." 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 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 Exchange proposes to amend NYSE Arca Equities Rule 8.400 (Paired Trust Shares), and to list and trade the Up MacroShares and the Down MacroShares under the rule, as proposed to be amended herein.<sup>3</sup> The

<sup>3</sup> The Commission approved for listing and trading a similar product on the American Stock Exchange. See Securities Exchange Act Release No. 54839 (November 29, 2006), 71 FR 70804 (December 6, 2006) (SR-Amex-2006-82) (approving listing and trading Claymore MACROshares Oil Up Tradeable Shares and Claymore MACROshares Oil Down Tradeable Shares). The Commission also approved this

Up MacroShares and the Down MacroShares will be offered by the Up Trust and the Down Trust, respectively, established by MACRO Inflation Depositor, LLC, as depositor, under the laws of the State of New York. The Trusts are not registered with the Commission as investment companies.<sup>4</sup>

###### a. Amendment to NYSE Arca Equities Rule 8.400

The Exchange proposes to amend NYSE Arca Equities Rule 8.400, which applies to Paired Trust Shares, to accommodate the listing and trading of Shares. In its current form, NYSE Arca Equities Rule 8.400 applies to Paired Trust Shares that consist of Holding Shares and Tradeable Shares.<sup>5</sup> As described in more detail below, the structure of the series of Paired Trust Shares proposed to be listed and traded on the Exchange pursuant to this proposed rule change varies from the structure of Holding Shares and Tradable Shares in that there are no Holding Trusts and there is only one set of trusts (the "Up Trust" and the "Down Trust") instead of two.

Under the proposed amendments to NYSE Arca Equities Rule 8.400(b)(1), the term "Paired Trust Shares" would refer to: (1) Both Holding Shares and Tradeable Shares; or (2) solely "Trading Shares," which is a new defined term in NYSE Arca Equities Rule 8.400(b)(1)(B). Trading Shares would be defined similarly to Holding Shares in current NYSE Arca Equities Rule 8.400(b)(2) (proposed to be renumbered as NYSE Arca Equities Rule 8.400(b)(1)(A)(i)), except that it is not required that a majority of Trading Shares be acquired

product for trading on the Exchange pursuant to unlisted trading privileges when it approved new NYSE Arca Equities Rule 8.400. See Securities Exchange Act Release No. 55033 (December 29, 2006), 72 FR 1253 (January 10, 2007) (SR-NYSEArca-2006-75) (approving trading Claymore MACROshares Oil Up Tradeable Shares and Claymore MACROshares Oil Down Tradeable Shares).

<sup>4</sup> The Shares are being offered by the Trusts under the Securities Act of 1933, as amended, 15 U.S.C. 77a. On January 25, 2008, the depositor filed with the Commission Amendment No. 1 to Registration Statement on Form S-1 for the Up MacroShares (File No. 333-147948) ("Up Trust Registration Statement"). The depositor will file with the Commission a Registration Statement on Form S-1 for the Down MacroShares prior to commencement of trading in the Shares on the Exchange.

<sup>5</sup> Holding Shares are issued by a matched pair of trusts ("Holding Trusts") in exchange for cash, and Tradeable Shares are issued by a different pair of trusts ("Tradeable Trusts") in exchange for the deposit of Holding Shares. These rules accommodated the structure of the Claymore MACROshares Oil Up Tradeable Shares and Claymore MACROshares Oil Down Tradeable Shares previously approved by the Commission. See note 3, *supra*.

<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.