

Section 6(b) of the Act,¹¹ in general, and Section 6(b)(5),¹² 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. The Exchange believes that it has developed adequate trading rules, procedures, surveillance programs, and listing standards for the initial and continued listing and trading of the Notes, which promote investor protection in the public interest.¹³ In addition, the Notes satisfy all of the requirements of NYSE Arca Equities Rule 5.2(j)(6), with the two exceptions noted above.¹⁴

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

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 No. SR-NYSEArca-2008-77 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-NYSEArca-2008-77. 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 Number SR-NYSEArca-2008-77 and should be submitted on or before August 19, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Florence E. Harmon,
Acting Secretary.

[FR Doc. E8-17307 Filed 7-28-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58212; File No. SR-NYSEArca-2008-56]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend the Pilot Program Expiring on November 30, 2008 for Listing Standards To Provide That Currently Traded Issuers Will Be Required To Meet Each of the \$5 Per Share Closing Price Requirement and the \$150 Million Market Value of Listed Securities Requirement on the Basis of a 90 Trading Day Average of the Closing Price of the Issuer's Common Stock Prior To Applying for Initial Listing

July 23, 2008.

I. Introduction

On May 28, 2008, 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"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its pilot program for listing standards expiring on November 30, 2008 ("Pilot")³ for initial listing standards applicable to currently traded issuers. The proposed rule change, as modified by Amendment No. 1, was published in the **Federal Register** on June 20, 2008.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend NYSE Arca Equities Rule 5.2(c) to provide that a currently traded issuer will be required to, among other things, have: (1) Met each of the \$5 closing

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission initially approved the Pilot for six months, until May 29, 2007. See Securities Exchange Act Release No. 54796 (November 20, 2006), 71 FR 69166 (November 29, 2006) (SR-NYSEArca-2006-85). The Pilot was subsequently extended for an additional six months, until November 30, 2007. See Securities Exchange Act Release No. 55838 (May 31, 2007), 72 FR 31642 (June 7, 2007) (SR-NYSEArca-2007-51). The Pilot was then extended for an additional six months, until May 31, 2008. See Securities Exchange Act Release No. 56885 (December 3, 2007), 72 FR 69272 (December 7, 2007) (SR-NYSEArca-2007-123). The Pilot was most recently extended for an additional six months, until November 30, 2008. See Securities Exchange Act Release No. 57922 (June 4, 2008), 73 FR 33137 (June 11, 2008) (SR-NYSEArca-2008-55).

⁴ See Securities Exchange Act Release No. 57958 (June 12, 2008), 73 FR 35184.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ E-mail from Timothy J. Malinowski, Director, NYSE Euronext, to Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated July 21, 2008 (confirming the Exchange's statutory basis for the proposed rule change).

¹⁴ See *id.*

¹⁵ 17 CFR 200.30-3(a)(12).

price requirement⁵ and the \$150 million market value of listed securities requirement⁶ on the basis of a 90 trading day average of the closing price of the issuer's common stock prior to applying for listing on the Exchange; (2) at least \$5 closing price and \$150 market value at the time it applies for listing;⁷ and (3) a closing price of at least \$1 per share in each day of the 90 trading day period.⁸

III. Discussion

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 and, in particular, the requirements of section 6(b) of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,⁹ 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, to protect investors and the public interest, and to not permit unfair discrimination between customers, issuers, brokers, or dealers.¹⁰

The development and enforcement of adequate standards governing the initial listing of securities on an exchange is an activity of critical importance to financial markets and the investing public. Listing standards, among other things, serve as a means for an exchange to screen issuers and to provide listed status only to bona fide companies that have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets. Adequate standards are especially important given the expectations of investors regarding exchange trading and the imprimatur of listing on a particular market.

Under the proposal, issuers with currently listed securities on other markets would have to meet the proposed standards to list their common

stock on the Exchange. First, instead of meeting the closing price per share of \$5 or more for 90 consecutive trading days prior to applying for listing, the closing price per share must be met over a 90 trading day average prior to applying for listing. In addition, instead of meeting the market value of listed securities of \$150 million or more for 90 consecutive trading days prior to applying for listing, the market value of listed securities must be met over a 90 trading day average prior to applying for listing. Second, the common stock must have at least \$5 closing price and the \$150 million market value at the time the issuer applies for listing. Finally, the issuers must have closing price per share of \$1 or more for 90 consecutive trading days prior to applying for listing.

Originally, the Commission approved the Pilot's initial listing standards, with three alternative listing standards, based on similarity to the Nasdaq Global Market initial listing standards.¹¹ The Exchange subsequently amended the Pilot's initial listing standards to eliminate two alternative listing standards and, among other things, increase the market value of listed securities from \$75 million to \$150 million.¹² The Nasdaq Global Market—Entry Standard 3, which forms the foundation of the Exchange's Pilot initial listing standards, requires, among other things, a currently traded issuer to have a market value of listed securities of \$75 million for 90 consecutive trading days and a bid price per share of \$5 or more.¹³ The Commission notes that the proposed initial listing standards are substantially similar to the Nasdaq Global Market initial listing standards.¹⁴ The Exchange's proposed market value of listed securities requirement, albeit calculated differently, remains higher than Nasdaq's comparable standard.¹⁵

The Commission notes that under the proposal, while the closing price could fall below \$5 per share during the 90 trading day period before applying for listing, it cannot fall below \$1 per share. In addition, the closing price must be at least \$5 per share at the time the issuer

applies to list on the Exchange. The Commission believes that the combination of the \$1 per share floor and \$5 per share at the time of applying to list should help to ensure that currently traded issuers have some meaningful minimum price history to qualify for listing. In addition, the Commission notes that under the proposal, while the market value could fall below \$150 million during the 90 trading day period before applying for listing, it must be at least \$150 million at the time the issuer applies to list. The Commission believes that the proposed market value requirements are sufficient to demonstrate meaningful depth and liquidity for these securities.

Based on the above, the Commission believes the proposed rule change is reasonable and should continue to provide only for the listing of securities with sufficient depth and liquidity to maintain fair and orderly markets. Accordingly, the Commission believes that the changes are consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁶ that the proposed rule change, as modified by Amendment No. 1 (SR-NYSEArca-2008-56) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon,
Acting Secretary.

[FR Doc. E8-17308 Filed 7-28-08; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Delegation of Authority

AGENCY: U.S. Small Business Administration.

ACTION: Notice of delegation of authority.

SUMMARY: This document provides the public notice of the delegation of authority for certain investment activities by the Administrator of the Small Business Administration (SBA) to the Deputy Administrator, the Chief of Staff and the Agency Licensing Committee.

FOR FURTHER INFORMATION CONTACT: A. Joseph Shepard, Associate Administrator for Investment, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; telephone number: (202) 205-6565,

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).

⁵ See proposed NYSE Arca Equities Rule 5.2(c)(ii).

⁶ See proposed NYSE Arca Equities Rule 5.2(c)(vi).

⁷ See proposed NYSE Arca Equities Rules 5.2(c)(ii) and 5.2(c)(vi).

⁸ See proposed NYSE Arca Equities Rule 5.2(c)(iii).

⁹ 15 U.S.C. 78f(b)(5).

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

¹¹ See Securities Exchange Act Release No. 54796 (November 20, 2006), 71 FR 69166 (November 29, 2006) (SR-NYSEArca-2006-85). See also Nasdaq Rule 4420(a)-(c).

¹² See Securities Exchange Act Release No. 56606 (October 3, 2007), 72 FR 57982 (October 11, 2007) (SR-NYSEArca-2007-69).

¹³ See Nasdaq Rule 4420(c).

¹⁴ See Nasdaq Rule 4420(c).

¹⁵ In addition, the Commission notes that the Exchange requires a higher amount of public float (\$45 million) versus the comparable Nasdaq standard (\$20 million). See NYSE Arca Equities Rule 5.2(c)(iv) and Nasdaq Rule 4420(c)(2).