

Shares, Currency Trust Shares, and Commodity Trust Shares will not be counted toward the NYSE's total annual fees cap of \$500,000.

In addition, the annual fee charged for ICUs, Currency Trust Shares, Commodity Trust Shares and streetTRACKS® Gold Shares by the Exchange is currently a flat amount. Under the proposed rule change, this fee will be tiered based on the number of shares outstanding for each issue at the end of the preceding calendar quarter and will be billed on a quarterly basis.

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁵ which requires that the rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Commission notes that, in part, the proposed rule change merely reflects on the Exchange's fee schedule listing fees that had previously been approved by the Commission.⁶ In addition, the Commission notes that it has approved similar tiered annual fee structures.⁷

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-NYSE-2007-01) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-5983 Filed 3-30-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55522; File No. SR-NYSEArca-2007-26]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Certain Types of Orders on Ox

March 26, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 2, 2007, NYSE Arca, Inc. ("NYSE Arca" 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 substantially prepared by the Exchange. The Exchange filed the proposed rule change as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act and Rule 19b-4(f)(6) 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

NYSE Arca proposes to update and amend its rules concerning order types by incorporating the order type definitions of NYSE Arca Rule 6.62A into a revised NYSE Arca Rule 6.62. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nysearca.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. NYSE Arca has substantially 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 filing is to incorporate the order definitions contained in NYSE Arca Rule 6.62A into a revised NYSE Arca Rule 6.62. Presently, Rule 6.62 defines certain order types applicable under the PCX Plus System, which is obsolete, while Rule 6.62A defines certain order types applicable under the current OX Trading System. Many of these rules overlap and actually apply to both systems, while some portions are obsolete. Revising the two rules will eliminate obsolete references and redundancies.

In September 2006, NYSE Arca introduced the OX Trading System ("OX"), a new automated options trading platform. OX replaced the Exchange's legacy system, PCX Plus. In conjunction with the introduction of OX, the Exchange filed, and received approval for, a new rule set applicable to the new system.⁵ During the introductory phase of OX, the Exchange operated two trading systems, which necessitated the need for two rule sets: one pertaining to PCX Plus; and another pertaining to OX. The Exchange has now completed its rollout of OX. As such, options issues no longer trade on the PCX Plus at the Exchange, thereby rendering the PCX Plus rule set effectively duplicative and obsolete.⁶

Order types that are contained in Rule 6.62, designated as PCX Plus rules, may also be applicable under the OX system. Other order types that are presently designated as PCX Plus rules, may also be applicable in open outcry trading. The Exchange proposes to combine all order types from Rule 6.62 and Rule 6.62A into one rule. Revised Rule 6.62 will now contain all defined order types for options that trade on NYSE Arca and Rule 6.62A will be deleted in its entirety. In rule text where either "PCX Plus" or "OX" has been used, the Exchange proposes to replace such designation with "NYSE Arca" or "Exchange." The Exchange also proposes removing the "PCX Plus" designation from the title of Rule 6.62. A more detailed description of proposed

⁴ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(4).

⁶ See, e.g., Securities Exchange Act Release Nos. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR-NYSE-2004-22) and 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR-NYSE-2006-35).

⁷ See, e.g., Securities Exchange Act Release Nos. 53059 (January 5, 2006), 71 FR 2072 (January 12, 2006) (SR-Amex-2005-128) and 54007 (June 16, 2006), 71 FR 36155 (June 23, 2006) (SR-PCX-2006-16).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 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)(6).

⁵ See Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR-NYSEArca-2006-13) (Order approving rules related to the OX Trading System).

⁶ The Exchange anticipates submitting a comprehensive clean-up rule filing in the near future. At the request of the Commission staff, the instant filing is targeted to eliminate confusion regarding certain order types.

changes is shown below. In addition to these changes, minor technical corrections, and new subsection designations are shown in the proposed rule text, accompanying this filing.

- Rule 6.62(b) will include text taken from Rule 6.62A(b) related to “marketable” limit orders and will also contain new subsection (1) defining Inside Limit Orders. This definition is presently Rule 6.62A(c).

- Rule 6.62(c) Contingency Orders. This rule will also cover Working Order types, presently defined in Rule 6.62A(e), including definitions for Stop Orders and Stop Limit Orders.

- Rule 6.62(h) Combination Orders. New subsection (1)–(2) will be added defining Stock/option Orders and Single Stock Future (“SSF”)/Option Order. These definitions are presently contained in subsection (j)(1)–(2).

- Rule 6.62(k)–(r) are taken from Rule 6.62A(d) and (f)–(k).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, because 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.

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

The Exchange does not believe that the proposed rule change would 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 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 Act⁹ and subparagraph (f)(6) of Rule 19b–4 thereunder.¹⁰

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹¹ However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has satisfied the five-day pre-filing requirement. In addition, the Exchange has requested that the Commission waive the 30-day pre-operative delay and designate the proposed rule change to become operative upon filing. The Commission believes that waiving the 30-day pre-operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to clarify and update its rules concerning order types without delay. Therefore, the Commission designates the proposal to become effective and operative upon filing.¹²

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 the 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–2007–26 on the subject line.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b–4(f)(6).

¹¹ 17 CFR 240.19b–4(f)(6)(iii).

¹² For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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–2007–26. 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. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. 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–2007–26 and should be submitted on or before April 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0454]

Emergence Capital Partners SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Emergence Capital Partners SBIC, L.P., 160 Bovet Road, Suite 300, San Mateo, CA 94402, a Federal Licensee under the Small Business Investment Act of 1958, as amended (“the Act”), in connection

¹³ 17 CFR 200.30–3(a)(12).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).