

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-FINRA-2009-076), as modified by Amendment No. 1, be, and it hereby is, approved.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61240; File No. SR-NYSEArca-2009-101]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change Amending Equities Rule 5.2(j)(3)

December 24, 2009.

On November 5, 2009, NYSE Arca, Inc. ("Arca" or the "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 Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3), the initial listing standards for Investment Company Units. The proposed rule change was published for comment in the **Federal Register** on November 24, 2009.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

Arca proposes to amend the initial listing standards for Investment Company Units ("ICUs"), which are based both on U.S. indexes or portfolios, and international or global indexes or portfolios. Specifically, Arca proposes to amend the trading volume listing standard to lower the minimum component stock weight requirement from 90% to 70% of the weight of the underlying index or portfolio. Arca also proposes to measure minimum monthly trading volume as averaged over the last six months. Currently, the minimum monthly trading volume is measured during each of the last six months. With respect to international or global indexes or portfolios, Arca proposes to clarify that the component stock trading volumes are determined on a global

basis. Finally, as an option for meeting the listing requirements, Arca proposes to adopt a minimum notional volume traded per month of \$25,000,000, also averaged over the last six months.

The Commission has carefully reviewed the proposed rule change and 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<sup>4</sup> and, in particular, Section 6(b)(5) of the Act,<sup>5</sup> which requires that an exchange have rules designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

The Commission believes that the proposed 70% weighting requirement should: (1) Be sufficient to help ensure that a substantial portion of the underlying index or portfolio remains liquid; and (2) facilitate the listing and trading of ICUs benefit investors by providing them with a wider selection of derivative products. When this requirement is combined with other listing requirements, the Commission believes that the underlying index or portfolio will remain sufficiently liquid to minimize potential manipulation.

The Commission also believes that the proposed use of minimum notional volume as an alternative measure to minimum trading volume should mitigate the volume discrepancies between low- and high-priced stocks. In addition, measuring minimum trading volume and notional volume based on a six-month average should help to eliminate seasonal volume fluctuations that may occur in the trading of component securities.

For the foregoing reasons, the Commission believes that the proposed rule change is consistent with the Act.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSEArca-2009-101) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-31163 Filed 12-31-09; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61235; File No. SR-NYSE-2009-126]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rules 116 and 123C To Allow More Than One Closing Print To Be Reported to the Consolidated Tape for Closing Transactions That Exceed 99,999,999 Shares

December 23, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on December 16, 2009, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been 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 amending [sic] the provisions of NYSE Rules 116 ("Stop" Constitutes Guarantee) and 123C (Market On The Close Policy And Expiration Procedures) to allow on a temporary basis more than one closing print to be reported to the Consolidated Tape for closing transactions that exceed 99,999,999 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change

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

<sup>9</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. 61022 (November 17, 2009), 74 FR 61388 ("Notice").

<sup>4</sup> 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).

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

<sup>6</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.