

display and any modification to previous displays.

The Vendor is required to submit the new screen shot no later than at the time it first commences to provide the new or modified display to others.

The display requirements do not apply insofar as the data recipient distributes NYSE AMEX OpenBook data to its officers, partners and employees or to those of its affiliates.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,⁸ in that it is 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. The Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of NYSE Amex OpenBook data.

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 regarding 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

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing in order to immediately provide market participants that use NYSE Amex OpenBook with more information about the current state of the NYSE Amex market and provide increased transparency to market participants. The Commission believes such waiver is consistent with the protection of investors and the public interest.¹¹ Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

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-NYSEAmex-2009-28 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEAmex-2009-28. 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

to submit to the Commission 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 satisfied this requirement.

¹¹ For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 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-NYSEAmex-2009-28 and should be submitted on or before July 15, 2009.

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

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60130; File No. SR-CBOE-2009-038]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Related to the Complex Order Book

June 17, 2009.

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 June 16, 2009, the Chicago Board Options Exchange, Incorporated ("CBOE" or "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 prepared by the CBOE. The Commission is publishing this notice to solicit

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 CBOE proposes to amend Rule 6.53C, "Complex Orders on the Hybrid System," with respect to order and quote types that may be entered to trade against orders in the complex order book ("COB") system. The text of the proposed rule change is available on the Exchange's Web site at (<http://www.cboe.org/Legal>), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

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

Under Rule 6.53C(c)(1), the Exchange determines which classes and which complex order origin types (*i.e.*, non-broker-dealer public customer, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange) are eligible for entry into the COB and whether such complex orders can route directly to the COB and/or from PAR to the COB. Complex orders not eligible to route to COB (either directly or from PAR to COB) route to PAR. In addition, Rule 6.53C(c)(ii)(3) provides in relevant part that market participants, as defined in Rule 6.45A or 6.45B, may submit orders or quotes to trade against orders resting in the COB.

Depending on the particular option class, orders and quotes submitted by market participants may or may not be eligible to rest in COB. For example, the Exchange may determine for a particular option class that only non-broker-dealer public customer and broker-dealers that are not Market-Makers or specialists on an options exchange are eligible to rest

in COB. For that class, Market-Maker orders and quotes would not be eligible to rest in COB, but may be submitted to trade against orders resting in COB pursuant to subparagraph (c)(ii)(3).

Currently, market participants whose orders and quotes are not eligible to rest in COB but who wish to trade against orders resting in the COB may enter limit orders using an immediate-or-cancel ("IOC") contingency to avoid resting in COB. Alternatively, if an IOC contingency is not used, a market participant needs to cancel any remaining volume for a limit order or quote after the limit order or quote trades against an order resting in COB.

The Exchange now proposes to amend Rule 6.53C(c)(ii)(3) to provide that market participants entering orders or quotes that are not eligible to rest in the COB may only enter IOC orders, and such other order or quote types as the Exchange may determine on a class-by-class basis, to trade against orders resting in the COB. For orders types that are not eligible to rest in or trade against the COB, the orders will be automatically routed to PAR or at the order entry firm's discretion to the order entry firm's booth. For quotes types that are not eligible to rest in or trade against the COB, the quotes will be automatically cancelled. In this regard, the Exchange notes that only Market-Makers may enter quotes. The Exchange also notes that, should the Exchange determine that Market-Maker quotes are not eligible to rest in or trade against the COB, Market-Makers would at a minimum be permitted to submit IOC orders to trade against the COB.

Finally, the Exchange is also proposing changes to the text of Rule 6.53C(c)(i) to clarify that complex orders not eligible to rest in or trade against the COB will route to PAR or at the order entry firm's discretion to the order entry firm's booth. Currently the rule text in this subparagraph only references that such orders will route to PAR.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act³ in general and furthers the objectives of Section 6(b)(5) of the Act⁴ in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. In particular, the Exchange believes that the addition of the new functionality further automates the handling of complex orders and quotes in accordance with the requirements of Rule 6.53C.

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

CBOE does not believe that the proposed rule change will impose any burden on competition 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 Number SR-CBOE-2009-038 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-CBOE-2009-038. This file number should be included on the

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

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 CBOE. 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-CBOE-2009-038 and should be submitted on or before July 15, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60131; File No. SR-NYSE-2009-57]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending Until July 15, 2009 the Operation of Interim NYSE Rule 128, Which Permits the Exchange To Cancel or Adjust Clearly Erroneous Executions

June 17, 2009.

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 June 9, 2009, New York Stock Exchange LLC

("NYSE" or the "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. NYSE has designated the proposed rule change as constituting a rule change under Rule 19b-4(f)(6) under the Act,³ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to extend until July 15, 2009, the operation of interim NYSE Rule 128 ("Clearly Erroneous Executions for NYSE Equities") which permits the Exchange to cancel or adjust clearly erroneous executions if they arise out of the use or operation of any quotation, execution or communication system owned or operated by the Exchange, including those executions that occur in the event of a system disruption or system malfunction. 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 and discussed any comments it received on the proposed rule change. The text of those 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 parts 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 extend until July 15, 2009, the operation of interim NYSE Rule 128 ("Clearly Erroneous Executions for NYSE Equities") which permits the Exchange to cancel or adjust clearly erroneous executions if they arise out of the use or operation of any quotation, execution or communication system owned or

operated by the Exchange, including those executions that occur in the event of a system disruption or system malfunction.

Prior to the implementation of NYSE Rule 128 on January 28, 2008,⁴ the NYSE did not have a rule providing the Exchange with the authority to cancel or adjust clearly erroneous trades of securities executed on or through the systems and facilities of the NYSE.

In order for the NYSE to be consistent with other national securities exchanges which have some version of a clearly erroneous execution rule, the Exchange is drafting an amended clearly erroneous rule which will accommodate such other exchanges but will be appropriate for the NYSE market model.

The NYSE notes that the Commission approved an amended clearly erroneous execution rule for Nasdaq in May 2008.⁵ On July 28, 2008, the Exchange filed with the SEC a request to extend the operation of interim Rule 128 until October 1, 2008⁶ in order to review the provisions of Nasdaq's clearly erroneous rule and to consider integrating similar standards into its own amendment to Rule 128. On October 1, 2008⁷, the Exchange filed with the SEC a further request to extend the operation of interim Rule 128 until January 9, 2009 in order to consider integrating similar standards into the amendment to Rule 128. On January 9, 2009⁸, the Exchange filed with the SEC a request to extend the operation of interim Rule 128 until March 9, 2009, indicating that the Exchange was still in the process of reviewing the Nasdaq rule with a view towards incorporating certain provisions into the amendment of interim Rule 128.

On February 10, 2009, NYSE Arca submitted a proposal to the SEC to amend its clearly erroneous rule. The NYSE Arca proposed rule differed in certain respects from the Nasdaq clearly erroneous rule. On March 9, 2009, the Exchange filed with the SEC a request to extend the operation of interim Rule 128 until June 9, 2009⁹ to finalize

⁴ See Securities Exchange Act Release No. 57323 (February 13, 2008), 73 FR 9371 (February 20, 2008) (SR-NYSE-2008-09).

⁵ See Securities Exchange Act Release No. 57826 (May 15, 2008), 73 FR 29802 (May 22, 2008) (SR-NASDAQ-2007-001).

⁶ See Securities Exchange Act Release No. 58328 (August 8, 2008), 73 FR 47247 (August 13, 2008) (SR-NYSE-2008-63).

⁷ See Securities Exchange Act Release No. 58732 (October 3, 2008), 73 FR 61183 (October 15, 2008) (SR-NYSE-2008-99).

⁸ See Securities Exchange Act Release No. 59255 (January 15, 2009) 74 FR 4496 (January 26, 2009) (SR-NYSE-2009-02).

⁹ See Securities Exchange Act Release No. 59581 (March 9, 2009) 74 FR 12431 (March 24, 2009) (SR-NYSE-2009-26).

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).