

have been received. OCC will notify the Commission of any written comments received by OCC.

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

Within thirty-five 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 ninety 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 self-regulatory organization consents, the Commission will:

(A) By order approve the 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 Commissions 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-OCC-2009-15 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-OCC-2009-15. 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

Section, 100 F Street, NE., Washington, D.C. 20549-1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of the OCC and on OCC's Web site at http://www.optionsclearing.com/publications/rules/proposed_changes/sr_09_15.pdf. 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-OCC-2009-15 and should be submitted on or before October 27, 2009.

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60741; File No. SR-NYSEAmex-2009-45]

Self-Regulatory Organizations; NYSE Amex LLC; Order Approving Proposed Rule Change Amending Rule 476A (Imposition of Fines for Minor Violation(s) of Rules)

September 29, 2009.

On July 29, 2009, NYSE Amex LLC ("NYSE Amex" 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 amending its Minor Rule Plan ("MRP") to incorporate additional violations into the MRP and to increase the fine levels for certain MRP violations. The proposed rule change was published for comment in the **Federal Register** on August 26, 2009.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change.

The Exchange proposes to amend its MRP to incorporate violations for opening transactions in restricted classes, failure to report position and account information, and failure to complete mandatory annual training.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60520 (August 18, 2009), 74 FR 43176 ("Notice").

The Exchange proposes to implement a fine schedule for Amex Options Trading Permit ("ATP") Holders that effect opening transactions in restricted series of options, inconsistent with the terms of any such restriction, in violation of Rule 916 or 916C. This fine will consist of \$1,000 for the first violation during a rolling 24-month period, \$2,500 for a second violation within the same period, and \$5,000 for a third violation during the same period. The Exchange also proposes to incorporate violations for failing to accurately report position and account information to the Exchange on a Large Option Position Report ("LOPR") pursuant to Rules 906(a) and 906C(a). This fine will consist of \$1,000 for the first violation in a rolling 24-month period, \$2,500 for a second violation within the same period, and \$5,000 for a third violation within the same period. The Exchange believes that, in most cases, violations of trading in restricted classes and violations of LOPR reporting may be handled efficiently through the MRP. However, any egregious activity or activity that is believed to be manipulative will continue to be subject to formal disciplinary proceedings.⁴ The Exchange also proposes to implement a fine schedule for individuals who fail to complete a mandatory regulatory training program in violation of Rule 50, Commentary .03-.04. This fine will consist of \$1,000 for the first violation in a rolling 24-month period, \$2,500 for a second violation within the same period, and \$5,000 for a third violation within the same period.

The Exchange also proposes to increase fines for violations of NYSE Amex Rules 933NY(a),⁵ 935NY,⁶ and 963NY⁷ to \$1,000 for the first violation in a rolling 24-month period, \$2,500 for

⁴ See Notice, *supra* note 3, 74 FR at 43177.

⁵ NYSE Amex Rule 933NY(a) requires that a Floor Broker handling an order use due diligence to execute the order at the best price or prices available to him, in accordance with the Rules of the Exchange.

⁶ NYSE Amex Rule 935NY states that users may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one second or (ii) the User has been bidding or offering on the Exchange for at least one second prior to receiving an agency order that is executable against such bid or offer.

⁷ NYSE Amex Rule 963NY states that the highest bid/lowest offer shall have priority over all other orders. In the event there are two or more bids/offers for the same option contract representing the best price and one such bid/offer is displayed in the Consolidated Book, such bid shall have priority over any other bid at the post. In addition, if two or more bids/offers represent the best price and a bid/offer displayed in the Consolidated Book is not involved, priority shall be afforded to such bids in the sequence in which they are made. Rule 963NY also contains certain provisions related to split-price priority and priority of complex orders.

a second violation within the same period, and \$5,000 for a third violation within the same period. The MRP currently provides for fines of \$1,000 for the first violation of Rule 933NY(a) in a rolling 24-month period, \$2,500 for a second violation within the same period, and \$3,500 for a third violation within the same period. The MRP currently provides for fines of \$500 for the first violation of Rule 935NY in a rolling 24-month period, \$1,000 for a second violation within the same period, and \$2,500 for a third violation within the same period. The MRP currently provides for a fine of \$500 for the first violation of Rule 963NY in a rolling 24-month period, \$1,000 for a second violation within the same period, and \$2,000 for a third violation within the same period. The Exchange believes that, given the nature of these violations, the current fine levels are inadequate, and that increased fines for these violations are needed to deter future violations.⁸

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁹ In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,¹⁰ which requires that the rules of an exchange be designed to, among other things, protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,¹¹ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and exchange rules. Furthermore, the Commission believes that the proposed changes to the MRP should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation. Therefore, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,¹² which governs minor rule violation plans.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with NYSE Amex rules and all other rules subject to the imposition of fines under the MRP. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, the MRP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that NYSE Amex will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRP or whether a violation requires formal disciplinary action under NYSE Amex Rule 476.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act¹³ and Rule 19d-1(c)(2) under the Act,¹⁴ that the proposed rule change (SR-NYSEAmex-2009-45) be, and it hereby is, approved and declared effective.

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60744; File No. SR-NYSEAmex-2009-62]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending Rule 900.3NY

September 29, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 14, 2009, NYSE Amex LLC ("NYSE Amex" 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders it 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 proposes to amend Rule 900.3NY to (i) offer PNP Blind orders to its Participants and (ii) make technical corrections to the numbering of Rule 900.3NY. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex has an existing order type known as PNP (Post No Preference)⁵ which is a limit order that is only to be executed on the Exchange, and may be ranked in the Consolidated Book if not marketable, but is never to be routed. A PNP order that is marketable against the NBBO when entered is cancelled back to the entering ATP Holder.

Certain ATP Holders have asked for a similar order type that will also not route if marketable against the NBBO, but, unlike a PNP order, will not be cancelled if similarly marketable.

A PNP Blind order is a limit order that is to be executed on the Exchange, but never routed to another market. The

⁸ See Notice, *supra* note 3, 74 FR at 43178.

⁹ 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).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

¹² 17 CFR 240.19d-1(c)(2).

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 240.19d-1(c)(2).

¹⁵ 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).

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 NYSE Amex Rule 900.3NY(p).