

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,¹¹ in general, and Section 6(b)(5) of the Act,¹² 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 for a free and open market and a national market system and, in general, to protect investors and the public interest, by expanding the ability of investors to hedge risks associated with stocks trading at or under \$3. The proposal should create greater trading and hedging opportunities and flexibility and provide customers with the ability to more closely tailor investment strategies to the price movement of the underlying stocks, trading in many of which is highly liquid.

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 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 comments on the proposed rule change.

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

Because the foregoing 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 the filing, 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 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

The Exchange has requested that the Commission waive the 30-day operative delay to permit the Exchange to compete effectively with other options exchanges offering a similar \$.50 Strike Program. The Commission recently approved SR-Phlx-2009-65,¹⁵ and therefore finds that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will encourage fair competition among the exchanges. Therefore, the Commission designates the proposal operative upon filing.¹⁶

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-BX-2009-063 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-BX-2009-063. 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

¹⁵ See Securities Exchange Act Release No. 60694 (September 18, 2009), 74 FR 49048 (September 25, 2009) (SR-Phlx-2009-65) (order approving a \$0.50 strike program substantially the same as the \$0.50 Strike Program proposed by the Exchange).

¹⁶ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 the 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-BX-2009-063 and should be submitted on or before November 9, 2009.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-25114 Filed 10-16-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60811; File No. SR-NYSEAmex-2009-68]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending NYSE Amex Equities Rule 14 To Be Consistent With the New System Capability To Receive Orders for Execution on the Exchange Containing Settlement Instructions of "Cash," "Next Day" and "Seller's Option" Directly to a Floor Broker's Hand-Held Device

October 9, 2009.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on October 1, 2009, NYSE Amex LLC ("Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

III below, which Items have been prepared by the self-regulatory organization. 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 NYSE Amex Equities Rule 14 ("Non-Regular Way Settlement Instructions for Orders") to be consistent with the new system capability to receive orders for execution on the Exchange containing settlement instructions of "cash," "next day" and "seller's option" directly to a Floor broker's hand-held device. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *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 amend NYSE Amex Equities Rule 14 ("Non-Regular Way Settlement Instructions for Orders") to be consistent with its new system capability to receive orders containing settlement instructions of "cash," "next day" and "seller's option" (collectively referred to herein as "non-

regular way settlement" ⁴) directly to a Floor broker's hand-held device.⁵

Currently, Designated Market Maker units do not have order handling responsibility for orders containing non-regular way settlement instructions. Moreover, Exchange systems that route orders to the Display Book do not accept orders containing non-regular way instructions. Routing orders directly to a Floor broker booth location via the Broker Booth Support System ("BBSS") for representation on the Floor is the only acceptable way for orders with non-regular way settlement instructions to be transmitted to the Exchange.

Pursuant to NYSE Amex Equities Rule 14 customers that seek to execute orders containing non-regular way settlement instructions must directly transmit those orders via BBSS directly to a Floor broker for representation in the trading crowd because at the time the Exchange established this capability, BBSS was the only Exchange system capable of accepting such orders. As a result customers are currently prohibited from transmitting orders containing non-regular settlement instructions directly to a Floor broker's hand-held device.

The Exchange has currently enhanced its systems to enable hand-held devices to receive and process orders containing non-regular way settlement instructions.⁶ As such, through this filing the Exchange seeks to provide its customers that seek to execute orders containing non-regular way settlement instructions with an additional systemic option for transmitting such orders to a Floor broker for representation on the Floor. The Exchange therefore proposes to amend NYSE Amex Equities Rule 14(a)(ii) to remove the words "booth system" and permit customers to

⁴ Orders indicating cash settlement instructions require delivery of the securities on the same day as the trade date. Next day settlement instructions require delivery of the securities on the first business day following the trade date. Orders that have settlement instructions of seller's option afford the seller the right to deliver the security or bond at any time within a specified period, ranging from not less than two business days to not more than sixty days for securities and not less than two business days and no more than sixty days for U.S. government securities.

Odd-lot orders containing non-regular way settlement instructions are not permitted.

⁵ The Exchange notes that parallel changes are proposed to be made to the rules of New York Stock Exchange LLC. See SR-NYSE-2009-102.

⁶ Orders sent directly to the hand-held device, including those containing non-regular way settlement instructions, are systemically transmitted to the "Front End Systemic Capture" ("FESC") consistent with the requirements of NYSE Amex Equities Rule 123, which requires floor brokers to enter the details of an order, including any modification or cancellation, into a system which electronically timestamps the time of entry prior to representing or executing that order on the Floor.

transmit orders containing non-regular way settlement instructions to a Floor broker via either BBSS or a Floor broker's hand-held device.

The Exchange believes that the instant proposal better facilitates the needs of its customers to submit orders containing instructions for non-regular way settlement and maintains effective representation of such customer orders in the Exchange's current market.

The Exchange will commence installation of the new technology in Floor broker hand-held devices on or about October 5, 2009, with expected completion no later than October 30, 2009.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") [sic] for this proposed rule change is the requirement under Section 6(b)(5)⁷ that an exchange have rules that are 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 instant filing accomplishes these goals by providing its customers with an additional method to enter orders containing non-regular way settlement instructions, without changing the ability of such orders to be represented at the point of sale in the Exchange's auction market.

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

The proposed rule change is filed pursuant to paragraph (A) of Section 19(b)(3)⁸ and Rule 19b-4(f)(5).⁹ This proposed rule change effects a change in an existing order entry or trading system of a self-regulatory organization that: (A) Does not significantly affect the

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(5).

protection of investors or the public interest; (B) does not impose any significant burden on competition, and (C) does not have the effect of limiting the access to or availability of the system. The Exchange believes that the instant proposal is consistent with these provisions in that the enhancements to Exchange systems allow Floor broker hand-held devices to receive and process orders containing non-regular way instruction and do not change the operation of the rule in any other way.

At any time within 60 days of the filing of such 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-2009-68 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-2009-68. 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 publicly available. All submissions should refer to File Number SR-NYSEAmex-2009-68 and should be submitted on or before November 9, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60808; File No. SR-NYSEAmex-2009-70]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending NYSE Amex Equities Rule 123C(8)(a)(1) To Extend the Operation of the Extreme Order Imbalances Pilot

October 9, 2009.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on October 5, 2009, NYSE Amex LLC (the "Exchange" or "NYSE Amex") 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 self-regulatory organization. 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 NYSE Amex Equities Rule 123C(8)(a)(1) to extend the operation of the pilot to temporarily suspend certain NYSE requirements relating to the closing of

securities on the Exchange until the earlier of Securities and Exchange Commission approval to make such pilot permanent or December 31, 2009. 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

NYSE Amex Equities Rule 123C(8)(a)(1) allows the Exchange to temporarily suspend certain rule requirements at the close when extreme order imbalances may cause significant dislocation to the closing price. The rule has operated on a pilot basis since April 2009 ("Extreme Order Imbalances Pilot" or Pilot).⁴ Through this filing, NYSE Amex proposes to extend the Pilot until the earlier of Securities and Exchange Commission approval to make such Pilot permanent or December 31, 2009.⁵

Background

Pursuant to NYSE Amex Equities Rule 123C(8)(a)(1), the Exchange may suspend NYSE Amex Equities Rules 52 (Hours of Operation) to resolve an extreme order imbalance that may result in a closing price dislocation at the close as a result of an order entered into Exchange systems, or represented to a DMM orally at or near the close.⁶ The provisions of NYSE Amex Equities Rule 123C(8)(a)(1) operate as the Extreme Order Imbalance Pilot.

As a condition of the approval to operate the Pilot, the Exchange committed to provide the Commission with information regarding: (i) How

⁴ See Securities and Exchange Act Release No. 597755 [sic] (April 13, 2009) 74 FR 18009 (April 20, 2009) (SR-NYSEALTR-2009-15).

⁵ The Exchange notes that parallel changes are proposed to be made to the rules of New York Stock Exchange LLC. See SR-NYSE-2009-104.

⁶ See NYSE Amex Equities Rule 123C(8)(a)(1).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.