

primarily pursuant to Rule 9 and Addendum D with related provisions in Addendum D with related provisions in Addendum K and Procedure XV. The primary substantive changes of this proposed rule change are in Rule 9, Addendum D, and Addendum K with a conforming change to Procedure XV. Technical clean-up changes are also being made in each.

The delivering member must attach to each envelope, a credit list (in duplicate), which reflects the total money value, if any, of the envelope's contents. If after receipt of the envelope NSCC determines that the envelope is properly listed on the accompanying credit list, NSCC stamps the duplicate credit list and makes it immediately available to the delivering member's representative. An envelope listed on the credit list shall be deemed to have been accepted by NSCC when the duplicate credit list is stamped.

As a related feature of ESS, the payment shown on the credit list is processed as part of the members' daily end of day net money settlement obligations in reliance on the agreement between the delivering and receiving parties outside NSCC that the amount listed is the contract amount.

In order to protect the NSCC against the risk of member non-payment NSCC is amending Rule 9 and related provisions so that NSCC does not guarantee the payment obligation to the receiving member in an ESS delivery and so that the credits and debits of the payment amount of an envelope may be reversed. The payment reversal may be effected by NSCC even if the receiving member has taken possession of the envelope; however, if the receiving member has not yet taken possession of the envelope at the time of a payment reversal, NSCC will return the envelope to the delivering member. Any dispute between the delivering and receiving members must be resolved by them outside the facilities of the NSCC.

Changes to Rule 9 affirmatively provide that NSCC does not guarantee the payment obligation in ESS and that payment credits and debits may be reversed. Technical and conforming changes clarify the concepts of delivering and receiving members and that settlement processing is subject not only to the rights of NSCC in Section 2 of Rule 12 but also to the new reversal provision in Section 4 of Rule 9.

To conform to amended Rule 9, Addendum D is similarly being amended to state that ESS is not guaranteed and that payment credits and debits may be reversed as provided in Rule 9. Language making it clear that settlement processing is subject to the

rights of NSCC under new Section 4 of Rule 9 and Section 2 of Rule 12, was also carried over to Addendum D. Because Addendum D also covers other services for which no change is made by this filing, certain of the revisions to Addendum D clarify that the revisions are limited to ESS. Historical statements in Addendum D are being eliminated.

The change to Addendum K is to delete the provision whereby NSCC provided a guarantee for ESS and thereby deemed ESS to be a "System" within the meaning of Rule 4. Without the guarantee, ESS is not considered to be a "System." Consistent with the change, Procedure XV is modified so that when the clearing fund component titled "For Other Transactions" (that is, for other than CNS transactions and balance order transactions) is computed, ESS will not be included.

In considering the elimination of the guarantee, NSCC surveyed selected members and learned that they did not consider it vital that NSCC be responsible for their ESS payment obligations and that they do not rely on the NSCC to guarantee such payments. However, these members expressed a strong desire for NSCC to maintain the centralized delivery service. NSCC designed the proposed rule changes to meet the expressed need of certain members while reducing risk to NSCC and its members generally. NSCC believes that it is shifting the burden of risk to those that should bear it and to outside NSCC's facilities.

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act<sup>4</sup> and the rules and regulations thereunder applicable to NSCC. In particular, the Commission believes that by amending its rules, NSCC's exposure to potential losses from member defaults, insolvencies, mistakes, and fraud will be reduced and the risk of such potential losses will be appropriately shifted to the contracting members in an ESS transaction outside NSCC. The proposal is therefore consistent with the requirements of Section 17A(b)(3)(F),<sup>5</sup> which requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions.

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the

Act and in particular with the requirements of Section 17A of the Act<sup>6</sup> and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (File No. SR-NSCC-2010-01) be, and hereby is, approved.<sup>8</sup>

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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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61612; File No. SR-NYSE-2010-11]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 123C(9)(a)(1) To Extend the Operation of the Pilot Operating Pursuant the Rule Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or June 1, 2010

March 1, 2010.

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 February 24, 2010, 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 amend NYSE Rule 123C(9)(a)(1) to extend the operation of the pilot operating pursuant the Rule until the earlier of Securities and Exchange Commission approval to make such pilot permanent or June 1, 2010. The text of the proposed

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<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>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

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 the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The New York Stock Exchange ("NYSE" or the "Exchange") proposes to amend NYSE Rule 123C(9)(a)(1)<sup>3</sup> to extend the operation of the pilot operating pursuant the Rule until the earlier of Securities and Exchange Commission approval to make such pilot permanent or June 1, 2010.

NYSE Rule 123C(9)(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").<sup>4</sup> Through this filing, NYSE proposes to extend the Pilot until the earlier of Securities and Exchange Commission approval to make such Pilot permanent or June 1, 2010.<sup>5</sup>

#### Background

Pursuant to NYSE Rule 123C(9)(a)(1), the Exchange may suspend NYSE 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. The provisions of NYSE Rule 123C(9)(a)(1)

<sup>3</sup> See Securities Exchange Release No. 61233 (December 23, 2009), 74 FR 69169 (December 30, 2009) (SR-NYSE-2009-111) (Modify the closing process and renumbering 123C(8) to 123C(9)). The Exchange anticipates operation of these changes to commence on or about March 1, 2010.

<sup>4</sup> See Securities Exchange Act Release No. 59755 (April 13, 2009), 74 FR 18009 (April 20, 2009) (SR-NYSE-2009-18).

<sup>5</sup> The Exchange notes that parallel changes are proposed to be made to the rules of NYSE Amex LLC. See SR-NYSEAmex-2010-15.

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 often a Rule 52 temporary suspension pursuant to the Pilot was invoked during the six months following its approval; and (ii) the Exchange's determination as to how to proceed with technical modifications to reconfigure Exchange systems to accept orders electronically after 4 p.m.

The Extreme Order Imbalance Pilot is scheduled to end operation on March 1, 2010.<sup>6</sup> The Exchange is currently preparing a rule filing seeking permission to make the provisions of the Pilot permanent with certain modifications but does not expect that filing to be completed and approved by the Commission before March 1, 2010.

#### Proposal To Extend the Operation of the Extreme Order Imbalance Pilot

The Exchange established the Extreme Order Imbalance Pilot to create a mechanism for ensuring a fair and orderly close when interest is received at or near the close that could negatively affect the closing transaction. The Exchange believes that this tool has proved very useful 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.

As the Exchange has previously stated, NYSE Rule 123C(9) will be invoked to attract offsetting interest in rare circumstances where there exists an extreme imbalance at the close such that a DMM is unable to close the security without significantly dislocating the price. This is evidenced by the fact that during the course of the Pilot, the Exchange invoked the provisions of NYSE Rule 123C(9), including the provisions of the Extreme Order Imbalance Pilot pursuant to NYSE Rule 123C(9)(a)(1), on four occasions.

In addition, during the operation of the Pilot, the Exchange determined that it would not be as onerous as previously believed to modify Exchange systems to accept orders electronically after 4:00 p.m. The Exchange has completed the system modifications and is now in the process of testing the modifications. The Exchange anticipates that its quality assurance review process will be completed by June 1, 2010.

<sup>6</sup> See Securities and Exchange Act Release No. 61264 (December 31, 2009), 75 FR 1107 (January 8, 2010) (SR-NYSE-2009-131) (extending the operation of the pilot from December 31, 2009 to March 1, 2010).

Given the above, the Exchange believes that provisions governing the Extreme Order Imbalance Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the Pilot in order to allow the Exchange to formally submit a filing to the Commission to convert the provisions governing the Pilot to permanent rules and complete the technological modifications required to accept orders electronically after 4 p.m. The Exchange therefore requests an extension from the current expiration date of March 1, 2010, until the earlier of Securities and Exchange Commission approval to make such Pilot permanent or June 1, 2010.

#### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>7</sup> 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 Exchange believes that the instant filing is consistent with these principles. Specifically an extension will allow the Exchange to: (i) Prepare and submit a filing to make the provisions governing the Extreme Order Imbalance Pilot permanent; (ii) have such filing complete public notice and comment period; and (iii) complete the 19b-4 approval process. The rule operates to protect investors and the public interest by ensuring that the closing price at the Exchange is not significantly dislocated from the last sale price by virtue of an extreme order imbalance at or near the close.

#### 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 Exchange has filed the proposed rule change pursuant to Section

<sup>7</sup> 15 U.S.C. 78f(b)(5).

19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> 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 prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing.<sup>10</sup> However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),<sup>11</sup> which would make the rule change operative immediately. The Exchange believes that continuation of the Pilot does not burden competition and would operate to protect investors and the public interest by ensuring that the closing price at the Exchange is not significantly dislocated from the last sale price by virtue of an extreme order imbalance at or near the close.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Pilot to continue without interruption while the Exchange works towards submitting a separate proposal to make the Pilot permanent. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.<sup>12</sup>

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.<sup>13</sup>

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2010-11 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-NYSE-2010-11. 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,<sup>14</sup> 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 Web site viewing and printing in the Commission's Public Reference Room, 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-NYSE-2010-11 and should be submitted on or before March 29, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## **SOCIAL SECURITY ADMINISTRATION**

[Docket No. SSA-2010-0011]

### **Occupational Information Development Advisory Panel Meeting**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of Upcoming Quarterly Panel Meeting.

**DATES:** March 24, 2010, 8:30 a.m.-3 p.m. (CST); March 25, 2010, 8:30 a.m.-11:30 a.m. (CST).

*Location:* Sheraton St. Louis City Center.

**ADDRESS:** 400 South 14th Street, St. Louis, MO 63103.

*By Teleconference:* 1-866-283-8275.

**SUPPLEMENTARY INFORMATION:** *Type of meeting:* The meeting is open to the public.

*Purpose:* This discretionary Panel, established under the Federal Advisory Committee Act of 1972, as amended, shall report to the Commissioner of Social Security. The Panel will provide independent advice and recommendations on plans and activities to replace the Dictionary of Occupational Titles used in the Social Security Administration's (SSA) disability determination process. The Panel will advise the Agency on creating an occupational information system tailored specifically for SSA's disability programs and adjudicative needs. Advice and recommendations will relate to SSA's disability programs in the following areas: Medical and vocational analysis of disability claims; occupational analysis, including definitions, ratings and capture of physical and mental/cognitive demands of work and other occupational information critical to SSA disability programs; data collection; use of occupational information in SSA's disability programs; and any other area(s) that would enable SSA to develop an occupational information system suited to its disability programs and improve the medical-vocational adjudication policies and processes.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission 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. NYSE has satisfied this requirement.

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

<sup>13</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>14</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

<sup>15</sup> 17 CFR 200.30-3(a)(12).