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

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 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 Act[16] and Rule 19b–4(f)(6) thereunder.[17]

The Exchange has requested the Commission to waive the 30-day operative delay so that the Exchange can extend the operative date of NYSE Amex Equities Rule 92(c)(3) without interruption. The Exchange notes that extending the delayed operative date of Rule 92(c)(3) from December 31, 2009 to July 31, 2010 will provide sufficient time for the Exchange, NYSE, and FINRA to obtain Commission approval for and implement a harmonized approach to customer order protection rules, including how riskless principal transactions should be reported. The Commission hereby grants the Exchange's request and believes such waiver is consistent with the protection of investors and the public interest.[18] 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–2009–92 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–2009–92. 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 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–2009–92 and should be submitted on or before January 26, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–31273 Filed 1–4–10; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

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

[18] 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).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61244; File No. SR–NYSEAmex–2009–81]

Self-Regulatory Organizations; NYSE Amex LLC; Order Approving the Proposed Rule Change, as Modified by Amendment No. 1, Amending NYSE Amex Equities Rule 123C To Modify the Procedures for Its Closing Process and Make Conforming Changes to NYSE Amex Equities Rule 13 and Rule 15

December 28, 2009.

I. Introduction

On November 9, 2009, the NYSE Amex LLC (''NYSE Amex'' 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'')[1] and Rule 19b-4 thereunder,[2] a proposed rule change to modify the procedures for its closing process in Rule 123C and make conforming changes to NYSE Amex Equities Rules 13 (''Definitions of Orders'') and Rule 15 (''Pre-Opening Indications''). The proposed rule change was published for comment in the **Federal Register** on November 17, 2009.[3] On November 25, 2009, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comment letters on the proposal; however, the Commission received one comment letter on the parallel NYSE proposal[5] which is germane to this proposal.[6] This order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 60973 (November 9, 2009), 74 FR 59308 (''Notice'').

[4] In Amendment No. 1, the Exchange proposes to correct an erroneous cross-reference in Exhibit 5. Because Amendment No. 1 is technical in nature, the Commission is not publishing it for comment.

[5] *See* Securities Exchange Act Release No. 60974 (November 9, 2009), 74 FR 59299 (November 17, 2009) (SR–NYSE–2009–111).

[6] *See* Letter from John F. Neary, Managing Director, Morgan Stanley, to Elizabeth M. Murphy,

Continued

approves the proposed rule change as amended.

II. Description of the Proposal

The Exchange seeks to amend NYSE Amex Equities Rule 123C to modify its closing process.[7] Specifically, the Exchange proposes to amend NYSE Amex Equities Rule 123C to: (i) Extend the time for the entry of Market ''At-The-Close'' (''MOC'') and Limit ''At-The-Close'' (''LOC'') orders from 3:40 p.m. to 3:45 p.m.; (ii) amend the procedures for the entry of MOC/LOC orders in response to imbalance publications and regulatory trading halts; (iii) change to the cancellation time for MOC/LOC orders to 3:58 p.m.; (iv) require only one mandatory imbalance publication; (v) rescind the provisions governing Expiration Friday Auxiliary Procedures for the Opening and Due Diligence Requirements; (vi) modify the dissemination of Order Imbalance Information pursuant to NYSE Amex Equities Rule 123C(6) to commence at 3:45 p.m.; (vii) include additional information in both the pre-opening and pre-closing Order Imbalance Information data feeds; (viii) amend NYSE Amex Equities Rule 13 to create a conditional-instruction limit order type called the Closing Offset Order (''CO order''); (ix) delete the ''At the Close'' order type from NYSE Amex Equities Rule 13 and replace it with the specific definitions of MOC and LOC orders; and (x) codify the hierarchy of allocation of interest in the closing transaction in NYSE Amex Equities Rule 123(C). Similar changes to the rules of the New York Stock Exchange LLC have recently been approved.[8]

The Exchange stated in its filing that it seeks to build on changes it made earlier this year to simplify its closing procedures in order to provide customers with a more efficient closing process.[9] The closing transaction on the Exchange continues to be a manual auction, which the Exchange believes facilitates greater price discovery and allows for the maximum interaction between market participants. While the Exchange currently provides DMM units with electronic tools to facilitate an efficient closing process, the Exchange believes that the proposed changes would maximize the use of those tools and allow for an even more efficient closing process.

Order Entry, Cancellation, Mandatory MOC/LOC Imbalance and Informational Imbalance Publications

The Exchange proposes to amend NYSE Amex Equities Rule 123C to require electronic entry of all MOC and LOC orders, including those entered to offset imbalances.[10] The Exchange stated that electronic entry of MOC and LOC interest would obviate the need to have imbalance publications at both 3:40 p.m. and 3:50 p.m. because the DMM would not have to manually keep track of the MOC/LOC interest; rather, Exchange systems would track the electronically entered MOC/LOC interest, which the Exchange believes would allow its systems to disseminate imbalance information to all market participants in a more accurate and timely fashion. In addition, according to the Exchange, its customers have expressed that in the current trading environment, two imbalance publications ten minutes apart are not useful. Accordingly, the Exchange proposes to modify the order information available prior to the closing transaction and amend NYSE Amex Equities Rule 123C to provide for a single imbalance publication as soon as practicable after 3:45 p.m., to be referred to as the ''Mandatory MOC/LOC Imbalance Publication'' (herein ''Mandatory MOC/LOC Imbalance''), when there is an imbalance: (i) Of 50,000 shares or more; or (ii) of less than 50,000 shares that is deemed to be ''significant'' (*i.e.,* significant in relation to the average daily volume of the security).[11] The last sale price at 3:45 p.m. would serve as the basis for the Mandatory MOC/LOC Imbalance.

The proposal retains the current ability to publish an Informational Imbalance of any size. The Exchange seeks to extend the time for the publication of such imbalance from 3:40 p.m. until 3:45 p.m. in order to provide a mechanism for an imbalance publication prior to any Mandatory MOC/LOC Imbalance if the DMM, in consultation with a Floor Official or qualified NYSE Euronext employee as defined in Supplementary Material .10 of NYSE Amex Equities Rule 46, deems that such imbalance publication is warranted for the security. In extending the time to 3:45 p.m., the proposed rule would provide that a Mandatory MOC/LOC Imbalance or ''no imbalance'' notice must occur as soon as possible after 3:45 p.m.[12]

The proposed new rule would further explicitly state that the entry of MOC/LOC orders in response to a Mandatory MOC/LOC Imbalance after 3:45 p.m. may be entered only to offset the published imbalance.[13] In the case of a ''no imbalance'' notification, no offsetting MOC/LOC interest could be entered at all after 3:45 p.m.[14]

The Exchange's proposal also allows customers to cancel or reduce MOC/LOC orders only in cases of legitimate errors[15] between 3:45 p.m. and 3:58 p.m.[16] After 3:58 p.m., cancellations or reductions in the size of MOC/LOC orders, even in the event of legitimate error, would not be permitted.[17]

Secretary, Commission, dated December 8, 2009 (''Morgan Stanley Letter''). While the Morgan Stanley Letter welcomed the incremental progress under the proposal with regard to transparency, the commenter urged the Exchange to adopt additional changes to the closing process, including mandating a final and absolute cutoff time for participation in the closing process and instituting a more transparent and accurate calculation of the real time closing imbalance feed.

On December 18, 2009, the Exchange responded to the Morgan Stanley letter. *See* Letter from Janet M. Kissane, Senior Vice President—Legal & Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission (''Response Letter''). In the Response Letter, the Exchange noted that it took into consideration input provided by its diverse constituent base, including Morgan Stanley, in crafting the changes to the closing process, as well as accommodating the interests of diverse constituencies whose business models vary widely, and ensuring that changes are implemented in a way that minimizes the possibility of unintended consequences. The Exchange stated that, given available development resources and the complexity of modern markets, it was hesitant to introduce a level of incremental change that could have broad-ranging and unforeseen consequences. The Exchange noted further that, as it implements the changes to the closing process, it will continue to work with its varied constituency, including Morgan Stanley, to assess the operation of the closing process, with an eye toward any potential changes in the behavior of market participants and to identify further ways to enhance the efficiency and transparency of the Close.

[7] Conforming changes related to the information disseminated prior to the opening transaction are also proposed.

[8] *See* Securities Exchange Act Release No. 61233 (December 23, 2009) (SR–NYSE–2009–111).

[9] *See* Notice, *supra* note 3, at pp. 59308–13 for a detailed description of the current closing process.

[10] In the event a Floor broker's handheld device malfunctions, the DMM should assist the Floor broker by entering or cancelling MOC/LOC orders on the Floor broker's behalf. DMMs perform this administrative function on a best efforts basis. *See* NYSE Information Memos 09–26 (June 18, 2009); NYSE Member Education Bulletin 05–24 (December 9, 2005).

[11] *See* proposed NYSE Amex Equities Rule 123C(1)(d) and (4).

[12] *See* proposed NYSE Amex Equities Rule 123C(1)(b) and (4).

[13] *See* proposed NYSE Amex Equities Rule 123C(2)(b)(i).

[14] *See* proposed NYSE Amex Equities Rule 123C(2)(b)(ii).

[15] Pursuant to proposed NYSE Amex Equities Rule 123C(1)(c), a legitimate error is defined to be an error in any term of an MOC or LOC order, such as price, number of shares, side of the transaction (buy or sell) or identification of the security.

[16] *See* proposed NYSE Amex Equities Rule 123C(3) (Cancellation of MOC and LOC orders). The Exchange anticipates that DMMs will have sufficient time to perform the requisite calculations for the closing transaction while affording customers the ability to cancel or reduce in size an MOC/LOC order until 3:58 p.m.

[17] The Exchange could temporarily suspend the prohibitions on canceling or reducing an MOC or LOC order if there is an extreme order imbalance

The Exchange further proposes to create a CO order type, which would provide all market participants an additional method to offset an order imbalance at the close. The CO order would not be guaranteed to participate in the closing transaction. CO orders would only be eligible to participate in the closing transaction when there is an imbalance of orders to be executed on the opposite side of the market from the CO order and there is no other interest remaining to trade at the closing price. CO orders must yield to all other eligible interest.

Unlike MOC/LOC orders, CO orders could be entered on any side of the market at anytime prior to the close.[18] CO orders would not be included in the calculation of the Mandatory MOC/LOC Imbalance and Informational Imbalance. Consistent with the cancellation requirements for MOC and LOC orders, a CO order could be cancelled or reduced for any reason up to 3:45 p.m. Between 3:45 p.m. and 3:58 p.m., a CO order could be canceled or reduced only in the case of a legitimate error. After 3:58 p.m., a CO order, like MOC/LOC orders, could not be cancelled or reduced for any reason.

CO orders would be eligible to participate in the closing transaction only to offset an imbalance and could not add to or flip the imbalance. If there is an imbalance at the close and the price of the closing transaction is at or within the limit of the CO order, the CO order would be eligible to participate in the closing transaction, subject to strict time priority of receipt in Exchange systems among such eligible CO orders and after yielding to all other interest in the closing execution, including MOCs, marketable LOCs, ''G'' orders, DMM interest, and at-priced LOCs. CO orders deemed eligible to participate in the close would be executed at the price of the closing transaction. If the number of shares represented by CO orders is larger than the number of shares required to offset the imbalance, Exchange systems would execute only those shares of CO orders required to complete the execution of the imbalance in full based on the time priority of receipt in Exchange systems of the CO orders. CO orders therefore would not be allowed to swing an imbalance to the opposite side of the market.

Modifications To Order Imbalance Information Data Feed Prior to the Closing and Opening Transaction

The Exchange further proposes to modify the Order Imbalance data feed disseminated prior to the closing transaction. Pursuant to proposed NYSE Amex Equities Rule 123C(6)(a)(iii), the Order Imbalance data feed would be disseminated approximately every five seconds between 3:45 p.m. and 4 p.m. Moreover, the Exchange proposes to expand the order information included in the Order Imbalance Information data feed. Currently, the pre-closing Order Imbalance Information data feed includes the: (i) Reference price; (ii) MOC/LOC imbalance and the side of the market; (iii) d-Quotes and all other e-Quotes containing pegging instructions eligible to participate in the closing transaction; and (iv) MOC/LOC paired quantity at reference price. The proposed new data feed would also additionally include (i) CO orders on the opposite side of the imbalance and (ii) at-priced LOC interest eligible to offset the imbalance.

The proposed Order Imbalance Information data feed prior to the closing transaction would also make available two new data fields. The proposed new data fields would provide subscribers with a snap shot of the prices at which interest eligible to participate in the closing transaction would be executed in full against contra interest at the time data feed is disseminated. It would also provide subscribers with the price at which closing-only interest (*i.e.,* MOC orders, marketable LOC orders, and CO orders on the opposite side of the imbalance) may be executed in full and the price at which orders in the Display Book (*e.g.,* Minimum Display Reserve Orders, Floor broker reserve e-Quotes not designated to be excluded from the aggregated agency interest information available to the DMM, d-Quotes pegged e-Quotes,[19] and Stop orders) would be executed in full. Only those CO orders on the opposite side of the imbalance would be included in the calculation of the new data fields. If the price at which all closing orders in the Display Book would be executed in full is at or between the quote, then both data fields indicating imbalance information would publish the price at which the closing-only interest (*i.e.,* MOC orders, marketable LOC orders, and CO orders) could be executed in full.

Similarly the Exchange proposes to conform the pre-opening Order Imbalance Information data feed to provide its market participants with more information prior to the opening transaction. As such, the pre-opening Order Imbalance Information data feed would include the price at which all the interest eligible to participate in the opening transaction may be executed in full.[20] The Exchange does not propose to modify the time periods pursuant to NYSE Amex Equities Rule 15 when the pre-opening Order Imbalance data feed is disseminated. Moreover, the calculation of the reference price would also remain the same.

Execution of the Closing Transaction

The Exchange proposes to maintain its current execution logic and to codify the hierarchy of allocation logic applied to interest participating in the closing transaction. Proposed NYSE Amex Equities Rule 123C(7) would list all the interest that must be executed or cancelled as part of the closing transaction and the hierarchy of the interest that may be used to offset the closing imbalance. This codification would now also incorporate the new proposed CO order type into the closing transaction as the last interest eligible to participate in the closing transaction to offset an imbalance.

Trading Halts

The Exchange further proposes to amend NYSE Amex Equities Rule 123C to define ''trading halt'' as a halt in trading in any security pursuant to the provisions of NYSE Amex Equities Rule 123D (''Trading Halt'').[21] Under the proposal, when a Trading Halt is in effect at 3:45 p.m., a Mandatory MOC/LOC Imbalance would be published as close to the resumption of trading as possible if the Trading Halt is lifted prior to the close of trading. In this event, MOC/LOC orders could be entered to offset the published imbalance. If the Trading Halt is not lifted, the entry of MOC/LOC interest, including offsetting interest, would be prohibited.

Where a Trading Halt occurs in a security after a Mandatory MOC/LOC Imbalance is published, MOC/LOC orders could be entered to offset the published imbalance.[22] Where a Trading Halt occurs after 3:45 p.m. and there is no Mandatory MOC/LOC

at or near the close. *See* proposed NYSE Amex Equities Rule 123C(9).

[18] *See* proposed NYSE Amex Equities Rule 123C(2)(b)(iv).

[19] d-Quotes and pegged e-Quotes included in this new data field of the Order Imbalance Information data feed would be included at the price indicated on the order as the base price to be used to calculate the range of discretion and not at prices within their discretionary pricing instructions.

[20] *See* Proposed NYSE Amex Equities Rule 15.

[21] *See* proposed NYSE Amex Equities Rule 123C(1)(f).

[22] *See* proposed NYSE Amex Equities Rule 123C(2)(c)(i).

Imbalance in the security, the entry of MOC/LOC interest would not be allowed.[23]

Unlike MOC/LOC orders, the entry of CO orders on both sides of the market would be permitted when a Trading Halt occurs in a security, but is lifted prior to the close of trading in the security. Because CO orders are the interest of last resort in the closing transaction, entry of such orders is not restricted to offsetting the Mandatory MOC/LOC Imbalance.

Rescission of Expiration Friday Auxiliary Procedures for the Opening and Due Diligence Requirements

The Exchange proposes to rescind the provisions governing ''Expiration Friday Auxiliary Procedures for the Opening.'' According to the Exchange, the provisions governing Expiration Friday were created to facilitate a fair and orderly opening transaction in light of the additional order flow on Expiration Fridays. Because Exchange systems now allow the DMM to accommodate for such fluctuations in volume, the Exchange believes that these provisions are unnecessary. The order marking provisions were an accommodation to member organizations whose systems were unable to electronically affix the designation, and the Exchange states that all of its member organizations are capable of affixing appropriate order designations.

The Exchange further seeks to make the provisions of NYSE Amex Equities Rule 123C govern solely Market and Limit ''on the Close'' Policy. Therefore, the Exchange proposes to delete the ''Due Diligence Requirements'' from this rule as they are redundant with the provisions codified in NYSE Amex Equities Rule 405.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[24] In particular, it is consistent with Section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of a national securities exchange be 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change as amended is consistent with the provisions of Section 6(b)(8) of the Act,[26] which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The electronic entry of MOC/LOC interest should increase the efficiency of NYSE Amex's market and permit accurate information to be disseminated to market participants more quickly. The modification of the procedures for the entry of MOC/LOC orders in response to imbalance publications and regulatory trading halts should likewise improve transparency and efficiency.

In connection with the change from two imbalance publications to one, the Commission notes the Exchange's representation that its customers have expressed that two imbalance publications ten minutes apart in the current electronic environment are unnecessary. Moving the cut-off time for the entry of MOC/LOC orders from 3:40 p.m. to 3:45 p.m. should allow Exchange participants additional control of the handling of their orders to be executed in the closing transaction and additional participation in active markets.

In connection with the postponing of the cancellation time for MOC and LOC orders to 3:58 p.m, the Commission notes the Exchange's representations that, with the proposed requirement that all MOC/LOC orders be entered electronically, Exchange systems will keep track of the available interest thus making it more readily available for the DMM and that systemic tracking of MOC/LOC interest makes it entirely feasible for the DMM to review in two minutes the interest eligible to participate in the closing transaction and facilitate the execution of the closing transaction.

The creation of the CO order provides an additional source of liquidity to offset an imbalance going into the closing transaction, and thus should increase the greater efficiency of the closing process.

The Commission believes that these proposed modifications are consistent with the Act because, taken as a whole, they should enhance the efficiency and transparency of the closing transaction and provide customers with a more accurate depiction of market conditions prior to the closing transaction, and therefore allow them to make better-informed trading decisions.

The Commission believes that the remainder of the proposed changes, including the codification of the hierarchy of the allocation of interest in the closing, the clarification of the definition of MOC and LOC orders, the inclusion of additional information in the Order Imbalance Information data feeds, and the rescission of the provisions governing Expiration Friday Auxiliary Procedures for the Opening and Due Diligence Requirements are either non-substantive or non-controversial in nature, while enhancing the transparency of NYSE Amex's market at the close, and therefore are consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change, as amended (SR–NYSEAmex–2009–81), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–31272 Filed 1–4–10; 8:45 am]

BILLING CODE 8011–01–P

[23] *See* proposed NYSE Amex Equities Rule 123C(2)(c)(iii).

[24] 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).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78f(b)(8).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61251; File No. SR–NYSE–2009–129]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Extending the Operative Date of NYSE Rule 92(c)(3) From December 31, 2009 to July 31, 2010

December 29, 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 December 23, 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 self-regulatory organization. The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.