

By the Commission.

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64277; File Nos. SR-NYSE-2010-48 and SR-NYSEAMEX-2010-61]

### Self-Regulatory Organizations; New York Stock Exchange LLC and NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Technical Procedures With Respect to Comparison of Executed Transactions

July 9, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> notice is hereby given that on June 17, 2010, New York Stock Exchange LLC (“NYSE”) and NYSE Amex LLC (“NYSE Amex”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes and on June 29, 2010, NYSE and NYSEAMEX amended the proposed rule changes as described in Items I, II, and III below, which Items have been prepared primarily by NYSE and NYSE Amex (collectively, “Exchanges”). The Exchanges filed the proposed rule changes pursuant to Section 19(b)(3)(A)(iii) of the Act <sup>3</sup> and Rule 19b-4(f)(6) thereunder <sup>4</sup> so that the proposals were effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

#### I. Self-Regulatory Organizations’ Statements of the Terms of Substance of the Proposed Rule Changes

The Exchanges will amend NYSE Rule 134 (Differences and Omissions-Cleared Transactions) and NYSE Amex Equities Rule 134 (NYSE Amex Equities. Differences and Omissions-Cleared Transactions) to provide for certain technical procedures with respect to comparison of executed transactions.

#### II. Self-Regulatory Organizations’ Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the Exchanges 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 Exchanges have prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organizations’ Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Background

The Exchanges operate the On-Line Comparison System (“OCS”) to assist in trade settlement. OCS conducts comparison processing, which includes matching initial trade submissions, correction processing, omnibus processing, and questioned trade (“QT”) resolution for trades that take place on the Exchanges. The OCS system is used by the Exchanges’ members in their roles as clearing firms, brokers, and Designated Market Making Units (“DMM Units”) for trade executions. OCS is linked internally to NYSE’s trading systems and externally to the National Securities Clearing Corporation. <sup>5</sup>

To facilitate the comparison process, the Exchanges utilize omnibus account designations to record trade data. <sup>6</sup> Using omnibus account designations allows for universal contras for one trade side, thereby reducing the number of different data elements that have to be independently recorded into a broker’s hand-held device or written on a Floor report for a trade.

In May 2009, each of the Exchanges amended its Rule 134 to enable them to assign on the second business day after the trade date (“T+2”) any open balance in any of the omnibus accounts they use to compare trades to either a DMM Unit or to the member organization that had been identified as the clearing firm for one side of an unresolved trade. <sup>7</sup> Specifically, each of the Exchanges added new subsection (e)(iii) to its Rule 134 to enable the Exchanges to assign a Floor broker’s clearing firm or DMM Unit at the close of business on T+2 as the contra side to an imbalance in any omnibus account that is used by OCS.

<sup>5</sup> National Securities Clearing Corporation (“NSCC”) is a clearing agency registered with the Commission under Section 17A of the Act. NSCC provides centralized clearance and settlement services for equity security trades in the U.S.

<sup>6</sup> An “omnibus account” is an account in which the transactions of multiple individual participants are combined.

<sup>7</sup> Securities Exchange Release Act No. 59997 (May 28, 2009), 74 FR 28086 (June 12, 2009).

##### 2. Proposed Amendment of NYSE Rule 134 and NYSE Amex Rule 134

Each of the Exchanges will now amend its Rule 134(e)(iii). Rule 134(e)(iii) will now specify that DMM units are assigned as the contra party to any unresolved omnibus account imbalances remaining in OCS. New subsection (iv) to Rule 134(e) will provide that a Floor broker’s clearing firm will be assigned as the contra party to any uncompar e-Quote transactions remaining in OCS. Each of the Exchanges will also add to both subsections that the contra party shall be assigned pursuant to the processes set forth in subsection (e)(i) and (e)(ii) of their Rule 134 but no earlier than 7 p.m.

By creating a new subsection (iv) pertaining only to Floor brokers’ clearing firms and removing all such references to Floor brokers’ clearing firms from subsection (e)(iii), the Exchanges are making clear that the DMM unit is assigned as the contra party to an omnibus account imbalance and that clearing firms are the assigned contra party to an uncompar trade. Specifically, a Floor broker’s clearing firm is assigned as the default contra side in a trade resulting from an execution involving e-Quotes (*i.e.*, trades involving Floor broker agency interest files). <sup>8</sup> The DMM Unit is assigned in instances where there is an open imbalance in an omnibus account whether the DMM was involved in the transaction or not.

For new subsection 134(e)(iv), the Exchanges will shorten the time frame for assignment of uncompar e-Quote transactions from T+2 to the first business day after the trade date (“T+1”). The Exchanges believe that the shortened time frame for resolving uncompar e-Quote transactions will provide Floor brokers and clearing firms with more information and certainty on settlement date, which is the third business day after trade date (T+3). In particular, the Exchanges believe that the changes for resolving uncompar e-Quote transactions are necessary for situations where there are system outages. Under normal trading conditions, the number of e-Quote QTs that remain unresolved by the end of T+1 is relatively low. In the event of a Broker System outage, however, the number of e-Quote QTs could increase dramatically. Therefore, to mitigate risk and exposure to the Floor broker community and to facilitate comparison and settlement, the Exchanges believe that reducing the time period from close

<sup>8</sup> NYSE Rule 70(a)(i).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

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

of business on T+2 to the close of business on T+1 is appropriate. The Exchanges further understand that the change from T+2 to T+1 will not impact clearing member organization's systems. Rather, clearing member organizations have requested the change to provide them with more time before settlement on T+3 to resolve uncompleted transactions.

### 3. Statutory Basis

The Exchanges state that the basis under the Act for these proposed rule changes is the requirement under Section 6(b)(5)<sup>9</sup> that a national securities 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 Exchanges believe that these rule changes accomplish these goals by enhancing the comparison process at the Exchanges thereby supporting the timely settlement of securities transactions.

#### *B. Self-Regulatory Organizations' Statement on Burden on Competition*

The Exchanges do not believe that the proposed rule changes 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 Changes Received From Members, Participants, or Others*

The Exchanges have not solicited or received written comments with respect to the proposed rule changes. The Exchanges will notify the Commission of any written comments it receives.

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

The Exchanges have filed the proposed rule changes pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> Because the proposed rule changes do 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 they were filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the

proposed rule changes have become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6)(iii)<sup>13</sup> thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>14</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>15</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchanges have asked the Commission to waive the 30-day operative delay so that the proposals may become operative immediately upon filing.

The Commission is granting this request because doing so will enable the Exchanges to further clarify and strengthen their processes to resolve uncompleted e-Quote transactions or unresolved account imbalances without undue delay while still affording interested parties the opportunity to submit comments or concerns to the Commission regarding these proposals. The new processes should instill greater confidence among the Exchanges' members and investors that such situations will be handled in a timely and orderly manner.

For these reasons, the Commission is waiving the 30-day delay in operability so that the proposed rule changes have become operative immediately upon filing.

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](mailto:rule-comments@sec.gov). Please include File No. SR-NYSE-2010-48 or SR-NYSEAMEX-2010-61 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 No. SR-NYSE-2010-48 or SR-NYSEAMEX-2010-61. At least one of these file numbers 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549-1090 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the Exchanges principal offices and on NYSE's Internet Web site at <http://www.nyse.com>. 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 No. SR-NYSE-2010-48 or SR-NYSEAMEX-2010-61 and should be submitted on or before August 6, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> Above note 3.

<sup>11</sup> Above note 2.

<sup>12</sup> Above note 3.

<sup>13</sup> 17 CFR 240.19b(f)(6)(iii).

<sup>14</sup> Above note 4.

<sup>15</sup> Above note 13.

<sup>16</sup> 17 CFR 200.30-3(a)(12).