

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61565; File No. SR-CBOE-2010-016]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Correct an Inadvertent Numbering Inconsistency

February 22, 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 12, 2010, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 correct a numbering inconsistency in CBOE Rule 6.53 that was unintentionally created by a recent CBOE rule filing.<sup>5</sup> The text of the proposed rule change is available on the Exchange's Web site ([www.cboe.org/Legal](http://www.cboe.org/Legal)), at the Exchange's Office of the Secretary and at the Commission.

#### 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 CBOE 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

In SR-CBOE-2009-097, an error was inadvertently made in the ordering of Rule 6.53. The subsection of Rule 6.53—Certain Types of Orders Defined—regarding Reserve Orders was unintentionally ordered as subsection (p), when there already exists a subparagraph (p) in that rule. This filing is made in order to correct that error and to re-order the subsection regarding Reserve Orders as subsection (t) to Rule 6.53. No substantive changes to CBOE rules would be made by this proposal.

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act")<sup>6</sup> and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>7</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>8</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed correction would protect investors and the public interest by eliminating any potential confusion.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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 neither solicited nor received comments on the proposal.

#### 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 19(b)(3)(A)(iii) of the Act<sup>9</sup> and Rule

19b-4(f)(6) thereunder.<sup>10</sup> Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for thirty 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<sup>11</sup> and Rule 19b-4(f)(6)<sup>12</sup> thereunder.

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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2010-016 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-CBOE-2010-016. 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

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the 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 the pre-filing requirement.

<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).

<sup>5</sup> See Securities Exchange Act Release No. 61248 (December 29, 2009), 75 FR 498 (January 5, 2010) (SR-CBOE-2009-097).

<sup>6</sup> 15 U.S.C. 78s(b)(1).

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

submission,<sup>13</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, 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 CBOE. 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-CBOE-2010-016 and should be submitted on or before March 23, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61557; File No. SR-NYSE-2010-10]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange LLC Changing Certain NYSE Rules and Rule Interpretations To Correspond With Rule Changes Filed by the Financial Industry Regulatory Authority, Inc.

February 22, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on February 16, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed

<sup>13</sup> The text of the proposed rule change is available on CBOE's Web site at <http://www.cboe.org/Legal>, on the Commission's Web site at <http://www.sec.gov>, at CBOE, and at the Commission's Public Reference Room.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III 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 and to approve the proposal on an accelerated basis.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes changes to certain NYSE Rules and Rule Interpretations to correspond with rule changes filed by the Financial Industry Regulatory Authority, Inc. ("FINRA") and approved by the Commission.<sup>4</sup> The Exchange proposes to apply these changes retroactively to February 8, 2010. 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 Exchange 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 purpose of the proposed rule changes is to adopt changes to certain NYSE Rules and Rule Interpretations to correspond with rule changes filed by FINRA and approved by the Commission. The Exchange proposes to apply these changes retroactively to February 8, 2010, the same effective

<sup>4</sup> See Securities Exchange Act Release No. 60933 (November 4, 2009), 74 FR 58334 (November 12, 2009) (order approving SR-FINRA-2008-067). FINRA also recently filed for immediate effectiveness to (i) adopt non-substantive technical changes to consolidated FINRA Rule 4521(d), and (ii) amend FINRA Incorporated NYSE Rule 312(g). See Securities Exchange Act Release No. 61408 (January 22, 2010), 75 FR 4596 (January 28, 2010) (SR-FINRA-2010-004). See also SR-FINRA-2010-008, filed on February 4, 2010. These changes are incorporated in this rule filing.

date for FINRA's rule changes.<sup>5</sup> The Exchange states that making the proposed rule change retroactive to February 8, 2010 would ensure that the proposed rule changes are operative and effective at the same time as FINRA's rule changes, that there are no regulatory gaps between the FINRA and NYSE Rules and that, as applicable, the NYSE Rules maintain their status as Common Rules under the 17d-2 Agreement.<sup>6</sup>

#### Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. ("NASD"), and NYSE Regulation, Inc. ("NYSER") consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d-2 under the Act,<sup>7</sup> NYSE, NYSER and FINRA entered into an agreement (the "17d-2 Agreement") to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations ("FINRA Incorporated NYSE Rules"). NYSE Amex LLC ("NYSE Amex") became a party to the 17d-2 Agreement effective December 15, 2008.<sup>8</sup>

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE and NYSE Amex of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.<sup>9</sup>

<sup>5</sup> See FINRA Regulatory Notice 09-71 (December 7, 2009).

<sup>6</sup> As provided in paragraph 2(b) of the 17d-2 Agreement, FINRA and NYSE will amend the list of Common Rules to conform to the rule changes proposed herein.

<sup>7</sup> 15 U.S.C. 78a, *et seq.*

<sup>8</sup> See Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the 17d-2 Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR-NASD-2007-054) (order approving the incorporation of certain NYSE Rules as "Common Rules"); and 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated 17d-2 Agreement, adding NYSE Amex LLC as a party). Paragraph 2(b) of the 17d-2 Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE Amex to the substance of any of the Common Rules.

<sup>9</sup> FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Common Members"), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, see FINRA Information Notice, March 12, 2008.