

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61614; File No. SR-NYSEAmex-2010-17)

March 1, 2010

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC as Modified by Amendment No. 1 Thereto Clarifying the Implementation Date of the Amendments to NYSE Amex Equities Rule 123C to Modify the Procedures for Its Closing Process and Make Conforming Changes to NYSE Amex Equities Rules 13 and 15

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 25, 2010, 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 Exchange. On March 1, 2010, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to clarify the implementation date of the amendments to NYSE Amex Equities Rule 123C (Market On The Close Policy And Expiration Procedures) to modify the procedures for its closing process; and make conforming changes to NYSE Amex Equities Rules 13 (“Definitions of Orders”) and 15 (“Pre-Opening Indications”). The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and www.nyse.com.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

NYSE Amex LLC (“NYSE Amex” or the “Exchange”) submits this filing to clarify the implementation date of amendments to NYSE Amex Equities Rule 123C (Market On The Close Policy And Expiration Procedures) to modify the procedures for its closing process; and make conforming changes to NYSE Amex Equities Rules 13 (“Definitions of Orders”) and 15 (“Pre-Opening Indications”) approved by the Securities and Exchange Commission on December 23, 2009 (“Close³ Modifications”).⁴

The Exchange notes that similar changes are proposed to the rules of its affiliate, New York Stock Exchange LLC (“NYSE”).⁵

Background

In 2009, NYSE Amex implemented changes designed to streamline and improve the efficiency of its closing process, which included establishing a single print for the closing

³ Included in these amendments were conforming changes related to the information disseminated prior to the opening transaction are also proposed in this filing.

⁴ See Securities Exchange Release No. 61244 (December 28, 2009), 75 FR 479 (January 5, 2010) (SR-NYSEAmex-2009-81).

⁵ See SR-NYSE-2010-12.

transactions, activating systemic compliance filters for market at-the-close (“MOC”) and limit at-the-close (“LOC”) orders and enhancing the transparency of its informational data feed for imbalances by including d-Quotes⁶ and all other e-Quotes⁷ containing pegging instructions eligible to participate in the closing transaction in the NYSE Amex Order Imbalance Information datafeed.⁸

In addition, on December 23, 2009, the SEC approved the Exchanges filing to implement Close Modifications designed to further streamline the closing process, enhance transparency on the close and allow for greater customer participation when there is an imbalance in a security prior to the closing transaction. Pursuant to the Close Modifications, NYSE Amex amended NYSE Amex Equities Rule 123C to: (i) extend the time for the entry of MOC/LOC orders⁹ 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

⁶ See definition of d-Quotes NYSE Amex Equities Rule 70, Supplementary Material .25.

⁷ See definition of e-Quotes NYSE Amex Equities Rule 70(a).

⁸ See Securities Exchange Release No. 59360 (February 4, 2009), 74 FR 6936 (February 11, 2009) (SR-NYSEALTR-2009-06) (Establishing a single print for the closing transaction). See also, Securities Exchange Release No. 60151 (June 19, 2009), 74 FR 30653 (June 29, 2009) (SR-NYSEAmex-2009-29) (Inclusion of d-Quotes and all other e-Quotes containing pegging instructions eligible to participate in the closing transaction NYSE Amex Order Imbalance Information datafeed).

⁹ In the NYSE Amex Equities Rules and for the purposes of this discussion, the terms “market-on-close” and “limit-on-close” are used interchangeably with “market-at-the-close” and “limit-at-the-close”.

feeds; (viii) amend NYSE Amex Equities Rule 13 to create a conditional-instruction limit order type called the Closing Offset Order (“CO order”), which may only be used to offset an existing imbalance of orders on the close; (ix) delete the “At the Close” order type from NYSE Amex Equities Rule 13 and replace it with the specific definitions of MOC/LOC orders; and (x) codify the hierarchy of allocation of interest in the closing transaction in NYSE Amex Equities Rule 123(C).

Implementation of Closing Modifications

The Exchange has not made operative the amendments described above. Based on feedback from the member firm community, NYSE Amex has delayed the implementation of the Closing Modifications to March 1, 2010. The Exchange believes that commencing operation of the Closing Modifications on March 1, 2010, will provide participants with additional time to ensure that member firms community will be systemically ready for to comply with the new provisions of the Rule.

The Exchange anticipates that the Close Modifications will be operative in all securities effective March 1, 2010; however, should conditions arise to delay the implementation of the Close Modifications, the Exchange will provide information to its constituents about changes to the start date via its Trader Update Notices that are sent via e-mail to subscribers and posted on the Exchange’s website.

Deletion of Erroneously Included Text

The Exchange further proposes to delete NYSE Amex Equities Rule 123C(5)(d). Specifically, NYSE Amex Equities Rule 123C(5)(d) is duplicative rule text. It addresses the publication of the Order Imbalance Information data feed in the event of an early close. NYSE Amex Equities Rule 123C(5)(d) is the exact same language as NYSE

Amex Equities Rule 123C(6)(a)(v) (“Publication of Order Imbalance Information Data Feed”). The paragraph was inadvertently copied into the wrong section and should therefore be deleted.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)¹⁰ 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 proposal is in keeping with these principles in that it provides transparency to market participants by explaining the anticipated operation date of the Close Modifications and the locations where market participants.

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 19(b)(3)(A)(iii) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

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.¹³ 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),¹⁴ which would make the rule change operative immediately. The Exchange believes that waiver of the operative delay is appropriate because the proposed rule change is merely a clarification of the operative date of previously approved amendments to the Exchange's rules.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it merely clarifies the operative date of a previously approved rule change. Accordingly, the Commission designates the proposed rule change, as amended, as operative upon filing with the Commission.¹⁵

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

¹³ 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 Amex has satisfied this requirement.

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ 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).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁶

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-2010-17 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-2010-17. 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 Web site viewing and printing in the Commission's Public Reference Room, on

¹⁶ 15 U.S.C. 78s(b)(3)(C).

official business days between the hours of 10:00 a.m. and 3:00 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-NYSEAmex-2010-17 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).