SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59194; File No. SR-NYSEArca-2008-135)

January 5, 2009

Self-Regulatory Organizations; ; NYSE Arca, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Amending Rule 6.47A to Reduce the Order Exposure Period from Three Seconds to One Second

I. Introduction

On December 9, 2008, NYSE Arca, Inc. ("NYSE Arca" 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 reduce certain order exposure periods from three seconds to one second. The proposed rule change was published for comment in the Federal Register on December 18, 2008.[3] The Commission received no comments on the proposal. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

The purpose of the proposed rule change is to reduce the exposure time during which order entry firms may not execute as principal against orders they represent as agent from three seconds to one second. Under the current NYSE Arca Rule 6.47A, Order Exposure Requirements – OX, order entry firms may not execute as principal, orders they represent as agent unless (i) the agency orders are first exposed on the NYSE Arca OX trading system for at least three seconds or (ii) the order entry firm has been bidding or offering for at least three seconds prior to receiving the agency order that is executable against such bid or offer. During

1 15 U.S.C. 78s(b)(l).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 59082 (December 11, 2008), 73 FR 77091 ("Notice").

this three-second exposure period, other market participants may enter orders to trade against the exposed order. Under this proposal, the exposure period contained in Rule 6.47A would be reduced to one second.

III. Discussion and Commission Findings

After carefully reviewing the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, 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 Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,[6] which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that, given the electronic environment of NYSE Arca OX, reducing the exposure period from three seconds to one second could facilitate the prompt execution of orders, while continuing to provide market participants with an opportunity to compete for exposed bids and offers. To substantiate that NYSE Arca members could receive, process, and communicate a response back to the Exchange within one second, the Exchange

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[4] 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).

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

[6] 15 U.S.C. 78f(b)(8).

stated that it distributed a survey to its members that regularly access the Exchange on an electronic basis. NYSE Arca stated that all but one responding firm indicated that their approximate turnaround time for responding to trading interest was equal to, or less than, 100 milliseconds, while the other responding firm simply stated that their turnaround time was "less than one second."[7] NYSE Arca also stated that none of the responding firms anticipated any problems related to order processing, if the Exchange was to reduce the exposure period to one second.[8] Based on NYSE Arca's statements regarding the survey results, the Commission believes that market participants should continue to have opportunities to compete for exposed bids and offers within a one second exposure period. Accordingly, the Commission believes that it is consistent with the Act for NYSE Arca to reduce the exposure time discussed herein from three seconds to one second.

The Commission finds good cause to approve the proposed rule change prior to the thirtieth day after publication for comment in the Federal Register. The Commission notes that the proposed rule change was noticed for a fifteen-day comment period, and no comments were received. The Commission believes that the Exchange has provided reasonable support for its belief that the Exchange's market participants would continue to have an opportunity to compete for exposed bids and offers if the exposure period was reduced to one second as proposed. Finally, the Commission also notes that the proposed rule change is similar to recently approved proposals submitted by the Chicago Board Options Exchange, Incorporated, the International Securities Exchange, LLC, and NASDAQ OMX PHLX, Inc.[9] Therefore, the Commission finds

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7 See Notice.

8 Id.

9 See Securities Exchange Act Release Nos. 58088 (July 2, 2008), 73 FR 39747 (July 10, 2008)(SR-CBOE-2008-16); 58224 (July 25, 2008), 73 FR 44303 (July 30, 2008) (SR-

good cause, consistent with Section 19(b)(2) of the Act,[10] to approve the proposed rule change on an accelerated basis.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR-NYSEArca-2008-135), be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon
Deputy Secretary

ISE-2007-94); and 59081 (December 11, 2008), 73 FR 76432 (December 16, 2008) (SR-Phlx-2008-79).

10 15 U.S.C. 78s(b)(2).

11 15 U.S.C. 78s(b)(2).

12 17 CFR 200.30-3(a)(12).