

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63558; File No. SR-NYSEAmex-2010-100)

December 16, 2010

Self-Regulatory Organizations; NYSEAmex LLC; Order Approving a Proposed Rule Change Relating to Complex Orders

I. Introduction

On October 20, 2010, 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 (the “Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change to: (i) add to Rule 900.3NY(h) a definition of “Stock/Complex Order;” (ii) revise Rule 963NY(d) to update the provisions governing open outcry trading of Complex Orders and Stock/option Orders and apply these provisions to Stock/Complex Orders; (iii) delete Rule 963.1NY; (iv) add Rule 980NY(e) to establish an electronic Complex Order Auction (“COA”); and (v) revise other provisions of Rule 980NY to include Stock/Complex Orders. The proposed rule change was published for comment in the Federal Register on November 2, 2010.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

A. Definition of Stock/Complex Order

The proposal amends Rule 900.3NY(h) to add a definition of “Stock/Complex Order.” Rule 900.3NY(h)(2) defines a “Stock/Complex Order” as the purchase or sale of a Complex

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 63187 (October 27, 2010), 75 FR 67424 (“Notice”).

Order, as defined in Rule 900.3NY(e), coupled with an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock (“convertible security”) representing either (A) the same number of units of the underlying stock or convertible security as are represented by the options leg of the Complex Order with the least number of options contracts, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight options contracts per unit of trading of the underlying stock or convertible security established for that series by the Clearing Corporation, as represented by the options leg of the Complex Order with the least number of options contracts.

B. Revisions to Open Outcry Rules

The proposal revises paragraph (d) of Rule 963NY, “Priority and Order Allocation Procedures—Open Outcry,” to update the provisions governing the trading of Complex Orders Stock/option Orders in open outcry. Rule 963NY(d), as amended, will also apply to Stock/Complex Orders trading in open outcry. According to the Exchange, the changes to Rule 963NY(d) streamline and update the text of Rule 963NY(d), but do not alter the Exchange’s existing procedures for trading Complex Orders or Stock/option Orders, or the priority of quotations and orders. The Exchange notes that the Rule 963NY(d), as amended, is based on Chicago Board Options Exchange, Incorporated (“CBOE”) Rule 6.45(e).⁴

⁴ CBOE Rule 6.45(e) states that “A complex order as defined in Rule 6.42.01 may be executed at a net debit or credit price with another Trading Permit Holder without giving priority to equivalent bids (offers) in the individual series legs that are represented in the trading crowd or in the public customer limit order book provided at least one leg of the order betters the corresponding bid (offer) in the public customer limit order book by at least one minimum trading increment as defined in Rule 6.42 (i.e., \$0.10, \$0.05 or \$0.01, as applicable) or a \$0.01 increment, which increment shall be determined by the Exchange on a class-by-class basis. Stock-option orders and security future-option orders, as defined in Rule 1.1(ii)(a) and Rule 1.1(zz)(a), respectively, have priority over

Under Rule 963(d), as amended, Complex Orders, as defined in Rule 900.3NY(e), and Stock/Complex Orders, as defined in Rule 900.3(h)(2), may be executed at a net debit or credit with another ATP Holder without giving priority to equivalent bids (offers) in the individual series legs that are represented in the Trading Crowd or Customer limit orders in the Consolidated Book, provided that at least one options leg of the order betters the corresponding Customer bid (offer) in the Consolidated Book by at least one minimum trading increment, as defined in Rule 960NY (i.e., \$0.10, \$0.50, or \$0.01, as applicable), or a \$0.01 increment, as determined by the Exchange on a class-by-class basis. Stock/option Orders, as defined in Rule 900.3(h)(1), have priority over equivalent bids (offers) of the trading crowd, but not over equivalent Customer bids (offers) in the Consolidated Book.

In addition, Rule 963NY(d) provides that bids and offers for Complex Orders, Stock/option Orders, and Stock/Complex Orders may be expressed in \$0.01 increments regardless of the minimum increment otherwise applicable to the individual legs of the order.

The Exchange also proposes to delete Rule 963.1NY, “Complex Order Transactions—Open Outcry.” According to the Exchange, Rule 963NY(d) describes priority for all Complex Orders and Stock/option Orders. The Exchange states that Rule 963.1NY describes procedures for executing Complex Orders in open outcry, but does not describe any execution priority, obligation, or privilege that is not already described in other rules. In addition, Rule 963.1NY describes procedures only for Complex Orders with two options legs, rather than for all Complex Orders. The Exchange notes, further, that Rule 963.1NY(f) describes a narrow circumstance, relating to a Locked Book Market, that was more appropriate when an Order Book Official maintained the Public Customer Book. According to the Exchange, Rule 963NY(d), as

bids (offers) of the trading crowd but not over bids (offers) in the public customer limit order book.”

amended, addresses this and similar circumstances more clearly. Accordingly, the Exchange proposes to delete Rule 963.1NY.

C. Electronic COA

As described more fully in the Notice,⁵ the Exchange proposes to adopt Rule 980NY(e), which establishes an electronic request for responses COA for Complex Orders, Stock/option Orders, and Stock/Complex Orders (“Electronic Complex Orders”). The Exchange states that the COA is similar to the electronic complex order auction provided for in CBOE Rule 6.53(d), with a priority change based on Nasdaq OMX Phlx, Inc. Rule 1080, Commentary .08(e)(vi)(A)(2). Electronic Complex Orders processed through the Exchange’s COA may be executed without consideration to prices of the same complex orders that might be available on other exchanges.⁶

The Exchange may determine, on a class-by-class basis, the Electronic Complex Orders that are eligible for a COA (“COA-eligible orders”), based on the order’s marketability, size, number of series, and order origin type (i.e., Customer, broker-dealer that is not a Market-Maker or options exchange specialist, and/or Market-Maker or options exchange specialist).⁷ Upon receipt of a COA-eligible order, and direction from the entering ATP Holder that an auction be initiated, the Exchange will send an RFR message to ATP Holders that subscribe to RFR messages.⁸ The RFR message will identify the component series, the size of the order and any contingencies, but not the side of the market.⁹

⁵ See note 3, supra.

⁶ See Rule 980NY(e)(1).

⁷ See Rule 980NY(e)(1)(A).

⁸ See Rule 980NY(e)(2).

⁹ Id.

Each Market-Maker with an appointment in the relevant option class, and each ATP Holder acting as agent for orders resting at the top of the Consolidated Book in the relevant option series, may submit responses to the RFR message (“RFR Responses”) during the Response Time Interval.¹⁰ RFR Responses, which may be submitted in \$0.01 increments, will be ranked and displayed in the Consolidated Book.¹¹ The Exchange will determine the length of the Response Time Interval, which will not exceed one second.¹² The obligations of Rule 935NY, “Order Exposure Requirements,” are separate from the duration of the Response Time Interval.¹³

RFR Responses may be modified, but may not be withdrawn, at any time prior to the end of the Response Time Interval.¹⁴ At the end of the Response Time Interval, RFR Responses are firm with respect to the COA-eligible order, and RFR Responses that exceed the size of the COA-eligible order are also firm with respect to other incoming COA-eligible orders and RFR Responses that are received during the Response Time Interval.¹⁵ Any RFR Responses that are not accepted in full or in a permissible ratio will expire at the end of the Response Time Interval.¹⁶

¹⁰ See Rule 980NY(e)(4).

¹¹ Id.

¹² See Rule 980NY(e)(3).

¹³ Id. Rule 935NY provides that: “With respect to orders routed to the NYSE Amex System, Users may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one (1) second or (ii) the User has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such bid or offer.”

¹⁴ See Rule 980NY(e)(7).

¹⁵ Id.

¹⁶ Id.

At the conclusion of the Response Time Interval, a COA-eligible order will be executed in whole or in part against the best priced contra side interest.¹⁷ At the same net price, a COA-eligible order will execute first against individual orders and quotes in the leg markets resting in the Consolidated Book prior to the initiation of the COA, provided that the COA-eligible order can be executed in full, or in a permissible ratio, by orders and quotes in the Consolidated Book; second, against Customer Electronic Complex Orders resting in the Consolidated Book before, or that are received during, the Response Time Interval, and Customer RFR Responses, allocated on a size pro rata basis as defined in Rule 964NY(b)(3); and third, against non-Customer Electronic Complex Orders resting in the Consolidated Book or placed in the Consolidated Book during the Response Time Interval, and non-Customer RFR Responses, allocated on a size pro rata basis as defined in Rule 964NY(b)(3).¹⁸ Individual orders and quotes in the leg markets that cause the derived Complex Best Bid/Offer to be improved during the COA and match the best RFR Responses and/or Electronic Complex Orders received during the Response Time Interval will be filled after Electronic Complex Orders and RFR Responses at the same net price.¹⁹ Any unexecuted portion of a COA-eligible order will be placed in the Consolidated Book or, if marketable, will initiate another COA.²⁰

¹⁷ See Rule 980NY(e)(5) and (6).

¹⁸ See Rule 980NY(e)(6)(A) – (C).

¹⁹ See Rule 980NY(e)(6)(D).

²⁰ See Rule 980NY(e)(5).

The COA rules also address the handling of unrelated Electronic Complex Orders received during a COA,²¹ and the effect of a change in the best bid or offer in the leg markets.²²

A pattern or practice of submitting unrelated orders that cause a COA to conclude early, or the dissemination to third parties of information related to COA-eligible orders, will be deemed conduct inconsistent with just and equitable principles of trade.²³

D. Additional Changes

The proposal modifies Rule 980NY, Commentary .02 to provide that at least one leg of an Electronic Complex Order must trade at a price that is at least \$0.01 better than the corresponding Customer bid or offer in the Consolidated Book if the Exchange has designated the options class as eligible for COAs. The proposal also amends Rule 980NY, Commentary .03(a) to require the execution of the stock component of a Stock/Complex Order to be consistent

²¹ Incoming Electronic Complex Orders received during the Response Time Interval that are on the opposite side of the market from, and marketable against, the COA-eligible order will be ranked and executed in price/time priority with RFR Responses by account type, as provided in Rule 980NY(e)(6), and any remaining balance of the initiating COA-eligible order or the incoming Electronic Complex Order will be placed in the Consolidated Book. Incoming COA-eligible orders received during the Response Time Interval that are on the same side of the market and at a price that is equal to the price of the original COA-eligible order will join the COA, and a message with the updated size will be published. The incoming order(s) and the initiating COA-eligible order will be ranked and executed in price/time priority, and any remaining balance of the initiating order or the incoming order(s) will be placed in the Consolidated Book. Similarly, an incoming COA-eligible order on the same side of the market as the original COA-eligible order with a price that is worse than the price of the original COA-eligible order will join the COA, and will be ranked and executed with the initiating COA-eligible order in price/time priority. An incoming COA-eligible order on the same side of the market as the original COA-eligible order with a price that is better than the price of the original COA-eligible order will cause the auction to end, and the initiating COA-eligible order will be executed in accordance with Rule 980NY(e)(6). The COA-eligible order that caused the auction to end will then be executed, and any unexecuted portion will either be placed in the Consolidated Book or, if marketable, will initiate another COA. See Rule 980NY(e)(8).

²² See Rule 980NY(e)(9).

²³ See Rule 980NY(e), Commentary .04.

with the rules of the stock execution venue. In addition, the proposal revises Rule 980NY, Commentary .03(c) to establish the execution sequence for Stock/Complex Orders submitted to the Exchange's Complex Matching Engine ("CME"). The proposal also amends Rule 980NY, Commentary .03(d), to provide that the requirement to trade with existing Customer interest at the Exchange's best bid (offer) before executing the options legs of a Stock/Complex Order will apply only if there are Customer orders at the best bid (offer) for each of the options legs of the Stock/Complex Order.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.²⁴ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,²⁵ which requires, in part, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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 Commission finds that the proposal is designed to facilitate the trading of Complex Orders, Stock/option Orders, and Stock/Complex Orders on the Exchange.

Rule 900.3NY(h)(2) defines a new order type, the Stock/Complex Order, that could provide market participants with flexibility by permitting orders composed of an underlying stock or convertible security and multiple options legs. As discussed above, a Stock/Complex

²⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁵ 15 U.S.C. 78f(b)(5).

Order must be comprised of a Complex Order, as defined in Rule 900.3NY(e), and a stock leg.²⁶ Under the proposal, the options legs of a Stock/Complex Order must (a) satisfy the conditions in the definition of Complex Order;²⁷ and (b) at least one options leg of a Complex Order or a Stock/Complex Order must trade at a price that is better than the corresponding Customer bid or offer for the same series.²⁸ Accordingly, the priority provisions applicable to Stock/Complex Orders are consistent with the priority provisions applicable to Complex Orders.

Rule 963NY(d), as amended, sets forth the procedures and priority requirements for Complex Orders, Stock/option Orders, and Stock/Complex Orders trading in open outcry. As described more fully above, Rule 963NY(d) states that Complex Orders and Stock/Complex Orders may be executed at a net debt or credit with another ATP Holder without giving priority to equivalent bids (offers) in the individual series legs that are represented in the Trading Crowd or Customer limit orders in the Consolidated Book, provided that at least one options leg of the order betters the corresponding Customer bid (offer) by at least one minimum trading increment or by a \$0.01 increment, as applicable. Stock/option Orders have priority over equivalent bids (offers) in the Trading Crowd, but not over equivalent Customer bids (offers) in the Consolidated Book. The Commission notes that Rule 963NY(d), as amended, is substantially similar to CBOE Rule 6.45(e). According to the Exchange, the proposal streamlines and updates Rule 963NY(d), but does not substantively alter the procedures or priorities for trading Complex Order and Stock/option Orders in open outcry.

²⁶ See Rule 900.3NY(h)(2).

²⁷ See Rule 900.3NY(e). Specifically, Rule 900.3NY(e) states that a Complex Order is an order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.

²⁸ See Rules 963NY(d) and 980NY, Commentary .02.

The proposal also applies the priorities and procedures in Rule 963NY(d) to Stock/Complex Orders. The Commission believes that it is reasonable to apply these procedures and priorities to Stock/Complex Orders to provide consistent treatment of Complex Orders, which are comprised of multiple options legs, and Stock/Complex Orders, which are comprised of multiple options legs and the underlying stock or convertible security. The Commission believes, further, that the changes to Rule 963NY(d), together with the deletion of Rule 963.1NY, which has become outdated, should help to assure that the Exchange's rules clearly describe the procedures and priorities for executing Complex Orders, Stock/Complex Orders, and Stock/option Orders in open outcry.

The Commission believes that the electronic COA provided in new Rule 980NY(e) could facilitate the trading of Complex Orders, Stock/Complex Orders, and Stock/option Orders and provide price improvement opportunities for these orders. As described more fully above, Market Makers with an appointment in the relevant options class and ATP Holders acting as agent for orders resting at the top of the Consolidated Book will be able to submit RFR Responses. At the conclusion of a COA, the auctioned order may execute against individual orders or quotes, Customer Electronic Complex Orders or RFR Responses, or non-Customer Electronic Complex Orders or RFR Responses, as provided in Rule 980NY(e)(6). The Commission notes that the Exchange's COA is substantially similar to the electronic complex order auction provided under CBOE Rule 6.53C(d).

The proposal revises Rule 980NY, Commentary .02, to provide that, for options classes designated as eligible for COAs, at least one leg of an Electronic Complex Order must trade at a price that is better than the corresponding Customer bids or offers in the same series in the Consolidated Book by at least \$0.01. The Commission believes that the \$0.01 price

improvement requirement is appropriate in this circumstance in light of the price competition for Electronic Complex Orders driven by the Consolidated Book and the availability of the COA.

In addition, the Commission notes that the changes to Rule 980NY, Commentary .03, relating to the electronic trading of Stock/Complex Orders, are consistent with the treatment in CBOE Rule 6.53C, Commentary .06, of orders composed of stock and multiple options legs. The requirement in Rule 980NY, Commentary .03(a) that the stock leg of a Stock/Complex Order be executed consistent with the rules of the stock execution venue is consistent with the requirement in CBOE Rule 6.53C, Commentary .06(a), that the stock leg of an order be executed consistent with the order execution rules of the CBOE Stock Exchange. The execution sequence for Stock/Complex Orders in Rule 980NY, Commentary .03(b) for orders submitted to the Exchange's CME is consistent with the execution sequence set forth in CBOE Rule 6.53C, Commentary .06(c), and the requirement in Rule 980NY, Commentary .03(d) to trade with Customer orders only if there are Customer orders at the Exchange's best quote for each of the options legs of a Stock/Complex Order is consistent with CBOE Rule 6.53C, Commentary .06(f).

Rule 980NY, Commentary .04 provides that a pattern or practice of submitting unrelated orders that cause a COA to conclude early will be deemed conduct inconsistent with just and equitable principles of trade, as will the dissemination to third parties of information related to COA-eligible orders. These provisions, which are comparable to CBOE Rule 6.53C, Commentary .05, will require the Exchange to surveil for, and should help to deter, potential abuses of the COA process. Finally, the Commission notes that the order exposure obligations in

Rule 935NY apply to orders submitted to a COA, and that these order exposure obligations are separate from the duration of the Response Time Interval.²⁹

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,³⁰ that the proposed rule change (File No. SR-NYSEAmex-2010-100) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Florence E. Harmon
Deputy Secretary

²⁹ See Rule 980NY(e)(3) and note 13, *supra*.

³⁰ 15 U.S.C. 78s(b)(2).

³¹ 17 CFR 200.30-3(a)(12).