

All submissions should refer to File Number SR-CBOE-2009-049. 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 inspection and copying 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 such 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-2009-049 and should be submitted on or before August 10, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60296; File No. SR-NYSEAmex-2009-37]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Adopting Rule 968NY-Cabinet Trades

July 13, 2009.

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 June 30,

2009, NYSE Amex ("NYSE Amex" or the "Exchange") 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 self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders it effective upon filing with the Commission. 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 adopt Rule 968NY-Cabinet Trades. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office and at the Commission's Public Reference Room.

#### 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

NYSE Amex proposes to adopt new Rule 968NY which will govern cabinet trading.<sup>6</sup> The proposed rule is substantially similar to NYSE Arca Rule 6.80.

On March 2, 2009 NYSE Amex (f/k/a NYSE Alternext US LLC, f/k/a The American Stock Exchange LLC (collectively "Amex")) adopted a new rule set governing the trading of options.<sup>7</sup> Much of the new rule set was

based on the rules of NYSE Arca Inc. ("NYSE Arca"). In conjunction with the filing of the new rule set, the Exchange filed a separate proposal deleting many out-of-date and/or obsolete rules.<sup>8</sup> Included as part of this filing was the deletion of former Amex Rule 959-Accommodation [sic] Transactions, which contained provisions governing both cabinet trading and position transfers. However, when filing the new rule set the Exchange inadvertently failed to include new rules governing cabinet trading.

The Exchange now proposes to add a new rule governing the trading of cabinet orders.<sup>9</sup> A brief description of the rules change is shown below.

###### Cabinet Trading

A cabinet order is a limit order in a non-Penny Pilot issue, which has been priced at \$1.00.<sup>10</sup> Cabinet orders serve as a way for market participants to liquidate a worthless, or near worthless position, at a minimal cost.

Prior to the adoption of the present NYSE Amex trading system, all cabinet trading on the Amex was done on a manual basis. Therefore, previous Rule Amex 959(a) dealt only with cabinet trading in open outcry. The Exchange now proposes to adopt new Rule 968NY which will govern both manual and electronic cabinet trading. This proposed rule is similar in all material respects to NYSE Arca Rule 6.80, which also governs both manual and electronic cabinet trading.

###### 2. Statutory Basis

The Exchange believes that for these reasons the proposed rule change is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. This proposal adds a new rule governing the

<sup>8</sup> See Securities Exchange Act Release No. 59454 (February 25, 2009), 74 FR 9461 (March 4, 2009) (notice of filing and immediate effectiveness of NYSEALTR-2009-17).

<sup>9</sup> NYSE Amex proposes to adopt new rules related to the transfer of options positions as part of a separate rule filing.

<sup>10</sup> Certain option issues on NYSE Amex are traded pursuant to a Penny Pilot Program scheduled to run through July 3, 2009.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</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.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> A Cabinet Trade is also known as an Accommodation Transaction.

<sup>7</sup> See Securities Exchange Act Release No. 59472 (February 27, 2009), 74 FR 9843 (March 6, 2009) (order approving NYSEALTR-2008-14, as amended).

trading of cabinet orders, based on NYSE Arca Rule 6.80.

#### *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**

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and

(iii) Become operative for 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

The Exchange has requested the Commission to waive the 30-day operative delay because the proposal will afford market participants on the Exchange the same opportunity to execute cabinet trades as is afforded to market participants on other exchanges. The Commission notes that the Exchange deleted its former rule on cabinet trading in March of this year and inadvertently failed to include a new rule on cabinet trading in its new rule set governing options trading.<sup>15</sup> The Commission believes waiving the 30-day operative delay to provide NYSE Amex market participants the ability to immediately engage in cabinet trading, as necessary, is consistent with the protection of investors and the public interest.<sup>16</sup> Accordingly, the Commission

designates the proposed rule change operative upon filing with the Commission.

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 Number SR-NYSEAmex-2009-37 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-2009-37. 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 inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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-2009-37 and should be submitted on or before August 10, 2009.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60298; File No. SR-FICC-2008-07]

### **Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Schedules**

July 13, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 31, 2009, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") and on January 12, 2009, May 11, 2009, and June 24, 2009, amended the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by FICC. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>2</sup> and Rule 19b-4(f)(2) thereunder<sup>3</sup> so that the proposal was effective upon filing with the Commission. 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 proposed rule change will amend FICC's Government Securities Division's ("GSD") and Mortgage Backed Securities Division's ("MBSD's") fees.

<sup>17</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. 78s(b)(3)(A)(ii).

<sup>3</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written 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. The Exchange has satisfied this requirement.

<sup>15</sup> See *supra* notes 7 and 8 and accompanying text.

<sup>16</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission

has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).