

to adopt objective, exercise price range limitations applicable to equity option classes, options on ETFs and options on trust issued receipts.<sup>8</sup> CBOE believes that these price range limitations will have a meaningful quote mitigation impact. CBOE also notes that it recently delisted 216 option classes as part of its mandatory class delisting policy.<sup>9</sup>

The margin requirements set forth in Chapter XII of the Exchange's rules and the position and exercise requirements set forth in Rule 4.11 and Rule 4.12 will continue to apply to these new series, and no changes are being proposed to those requirements by this rule change.

With regard to the impact on system capacity, CBOE has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of an expanded number of series as proposed by this filing.

## 2. Statutory Basis

The Exchange believes the rule proposal is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Exchange believes that the listing of the \$1 strike price in LEAPS series will benefit investors by giving them more flexibility to closely tailor their investment decisions.

### *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*

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**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **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 No. SR-CBOE-2009-068 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 No. SR-CBOE-2009-068. 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 changes 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 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 No. SR-CBOE-2009-068 and should be submitted on or before October 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60753; File No. SR-CHX-2009-14]

### **Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Fees and Rebates in Various Trading Sessions**

September 30, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 22, 2009, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") 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. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit

<sup>8</sup> See SEC Release No. 34-60531 (August 19, 2009), approving Amendment No. 3 to the OLPP. CBOE's proposal to list \$1 strikes in LEAPs to \$5 would not be subject to the exercise price range limitations contained in new paragraph (3)(g)(ii) of the OLPP.

<sup>9</sup> See CBOE Information Circular IC09-172.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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

<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).

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

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 CHX proposes to amend its Schedule of Participant Fees and Assessments (the "Fee Schedule"), effective September 28, 2009, to provide for separate trading activity fees for its new Early and Late Trading Sessions. The text of this proposed rule change is available on the Exchange's Web site at [http://www.chx.com/rules/proposed\\_rules.htm](http://www.chx.com/rules/proposed_rules.htm) and in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549.

### **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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes*

##### **1. Purpose**

In a separate filing, the Exchange has created a new Early Trading Session beginning at 6 a.m. CT on days the Exchange is open for trading and a Late Trading Session from 3 p.m. to 3:15 p.m. CT.<sup>5</sup> We plan to implement these two new sessions on September 28, 2009.

In furtherance of this initiative, the Exchange proposes to amend its Schedule of Participant Fees and Assessments. We propose to charge a trading activity fee for single-sided orders of \$0.003 per share for liquidity taken in Tape A, B and C securities priced at or above \$1 per share in the new early and late trading sessions. A corresponding rebate of \$0.0022 per share for liquidity provided in such securities would also be added to the Fee Schedule. Fees and rebates will be assessed based upon the session in which the underlying transactions were executed. We believe that these fees and charges are appropriate to meet the Exchange's objective of attracting

sufficient trading activity in these sessions on a profitable basis. The increased differential reflects, in part, our expectation of a lower amount of market data revenue for trades executed in the Early and Late Trading Sessions, and a corresponding reliance on trading activity fee revenue to support the operational costs associated with these two sessions.

The Exchange acknowledges that these charges differ from the fees and rebates for such securities in the Regular Trading Session. Trading activity fees and rebates, however, are often not uniform at a given exchange depending on the circumstances. For example, Nasdaq and NYSE Arca have different Tiers for take/provide fees for a member depending on the average number of shares transacted and liquidity provided to their exchanges. Trading activity fees and rebates frequently vary depending on whether the security is reported as Tape A, B or C. Provide rebates may vary depending on the nature of the order, *e.g.*, if the order was not displayed (Nasdaq) or was a Market-on-Close/Limit-on-Close order (NYSE Arca). Finally, a number of exchanges, including the CHX, have different take/provide rates for securities trading under \$1. Our charges for trading activity are and will continue to be disclosed in the Fee Schedule posted on our public Web site and in a Legal Notice to our Participants.

The current fee and rebate structure for stocks trading under \$1 would be extended to the Early and Late Trading Sessions. All other current trading-related fees and charges would extend equally to the Early and Late Trading Sessions. Fees and charges relating to cross transactions executed in the Late Crossing Session would remain unchanged.

##### **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members. Among other things, the change to the fee schedule would provide a reasonable amount of expected revenue to the Exchange to offset the expenses of operating these new trading sessions.

#### *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 Regarding the Proposed Rule Changes Received From Members, Participants or Others*

No written comments were either solicited or received.

### **III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(B)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>9</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such 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 purpose of the Act.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR-CHX-2009-14 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-CHX-2009-14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> SR-CHX-2009-13 (Sept. 1, 2009).

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 changes 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 will also be available for inspection and copying at the principal office of the CHX. 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 No. SR-CHX-2009-14 and should be submitted on or before October 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60750; File No. SR-NYSEArca-2009-87]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period to Receive Inbound Routes of Orders From Archipelago Securities LLC

September 30, 2009.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on September 30, 2009, NYSE Arca, Inc. ("NYSE Arca" 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 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 extend the pilot period of the Exchange's prior approvals to receive inbound routes of equities orders from Archipelago Securities LLC ("Arca Securities"), an NYSE Arca affiliated ETP Holder. 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

Currently, Arca Securities is the approved outbound order routing facility of the Exchange.<sup>3</sup> Arca Securities is also the approved outbound order routing facility of the New York Stock Exchange ("NYSE") and NYSE Amex LLC ("NYSE Amex").<sup>4</sup>

<sup>3</sup> See Securities Exchange Act Release No. 34-53238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (order approving SR-NYSEArca-2006-13); see also, Securities Exchange Act Release No. 52497 (September 22, 2005), 70 FR 56949 (September 29, 2005) (SR-PCX-2005-90); see also, Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR-PCX-00-25); see also, Securities Exchange Act Release No. 58681 (September 29, 2008), 73 FR 58285 (October 6, 2008) (order approving NYSEArca-2008-90).

<sup>4</sup> See Securities Exchange Act Release No. 34-55590 (April 5, 2007), 72 FR 18707 (April 13, 2007) (notice of immediate effectiveness of SR-NYSE-2007-29); see also, Securities and Exchange Act Release No. 34-58680 (September 29, 2008), 73 FR 58283 (October 6, 2008) (order approving SR-NYSE-2008-76). See Securities Exchange Act Release No. 59009 (November 24, 2008), 73 FR

The Exchange, through its wholly-owned subsidiary, NYSE Arca Equities, Inc., has also been previously approved to receive inbound routes of equities orders by Arca Securities in its capacity as an order routing facility of NYSE Amex and the NYSE.<sup>5</sup> The Exchange's authority to receive inbound routes of equities orders by Arca Securities was subject to a pilot period ending September 29, 2009. The Exchange hereby seeks to extend the previously approved pilot period (with the attendant obligations and conditions) for an additional 3 months, through December 31, 2009.

###### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>6</sup> of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)<sup>7</sup> in particular in that 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. Specifically, the proposed rule change will allow the Exchange to continue receiving inbound routes of equities orders from Arca Securities acting in its capacity as a facility of the NYSE and NYSE Amex, in a manner consistent with prior approvals and established protections. The Exchange believes that extending the previously approved pilot period for three months is of sufficient length to permit both the Exchange and the Commission to assess the impact of the Exchange's authority to receive direct inbound routes of equities orders via Arca Securities (including the attendant obligations and conditions).

##### 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

73363 (December 2, 2008) (order approving SR-NYSEALTR-2008-07); see also, Securities and Exchange Act Release No. 34-59473 (February 27, 2009) 74 FR 9853 (March 6, 2009) (order approving SR-NYSEALTR-2009-18).

<sup>5</sup> See Securities Exchange Act Release No. 58681 (September 29, 2008), 73 FR 58285 (October 6, 2008) (order approving NYSEArca-2008-90); see also, Securities and Exchange Act Release No. 34-59010 (November 24, 2008), 73 FR 73373 (December 2, 2008) (order approving SR-NYSEArca-2008-130).

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.