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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61550; File No. SR-CBOE-2010-017]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the CBOE Stock Exchange Fees Schedule To Increase the Maker Rebate for Transactions in Securities Priced Less Than \$1 to 0.25% of the Dollar Value of the Transaction

February 19, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 12, 2010, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 amend the Fees Schedule for the CBOE Stock Exchange ("CBSX") to increase the Maker rebate for transactions in securities priced less than \$1 to 0.25% of the dollar value of the transaction. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary, at the Commission's Web site (<http://www.sec.gov>), 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

CBSX proposes to amend its Fees Schedule to increase the Maker rebate for transactions in securities priced less than \$1 to 0.25% of the dollar value of the transaction. This increase would serve to attract trading activity to CBSX and match the rebate offered by other stock exchanges, including NASDAQ OMX BX.³

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act")⁴ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, increasing the Maker rebate encourages investment and trading activity.

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.

³ See NASDAQ OMX BX Price List—Trading & Connectivity.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii)⁷ of the Act and subparagraph (f)(2) of Rule 19b-4⁸ thereunder. 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. Please include File Number SR-CBOE-2010-017 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-CBOE-2010-017. 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

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240.19b-4(f)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

printing 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 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-CBOE-2010-017 and should be submitted on or before March 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61549; File No. SR-NYSE-2010-09]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Time Allowed To Temporarily Suspend Certain NYSE Requirements Relating to the Closing of Securities on the Exchange Which Currently Operates as a Pilot Pursuant to Former NYSE Rule 123C(8)(a)(1) Currently NYSE Rule 123C(9)(a)(1)

February 19, 2010.

Pursuant to section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on February 12, 2010,⁴ New York Stock Exchange LLC ("NYSE" 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 time allowed to temporarily suspend certain NYSE requirements relating to the closing of securities on the Exchange which currently operates as a pilot pursuant to former NYSE Rule 123C(8)(a)(1) currently NYSE Rule 123C(9)(a)(1). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

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 Rule 123C(9)(a)(1), formerly NYSE Rule 123C(8)(a)(1), allows the Exchange to temporarily suspend certain rule requirements at the close when extreme order imbalances may cause significant dislocation to the closing price. The rule has operated on a pilot basis since April 2009 ("Extreme Order Imbalance Pilot" or Pilot).⁵ Through this filing, [sic] proposes to temporarily extend the time allowed to temporarily suspend certain NYSE requirements relating to the closing of securities on the Exchange which currently operates as a pilot pursuant to 123C(9)(a)(1).

Background

Pursuant to NYSE Rule 123C(9)(a)(1), the Exchange may suspend NYSE Rules 52 (Hours of Operation) to resolve an extreme order imbalance that may result in a price dislocation at the close as a result of an order entered into Exchange

systems, or represented to a DMM orally at or near the close.⁶

The provisions of NYSE Rule 123C(9)(a)(1) operate as the Extreme Order Imbalance Pilot. The Exchange invokes NYSE Rule 123C(9)(a)(1) to attract offsetting interest in those rare circumstances where there exists such a large imbalance at the close that a DMM is unable to close the security without significantly dislocating the price. Further, pursuant to NYSE Rule 123C(9)(ii) the time to receive such off-setting interest must not be later than 4:30 p.m. (or 30 minutes after the scheduled close in the case of an earlier close).

Proposal To Extend the Time To Receive Off-Setting Interest in Berkshire Hathaway A Security on February 12, 2010

On February 12, 2009, significant corporate actions in Berkshire Hathaway Class A and B securities significantly increased the trading volume in those securities. It was determined based on the fact that there is a relation between the price of the two securities and the fact that there was significantly greater liquidity in the Class B shares than the Class A shares that the most efficient manner to effect the close of trading in those securities was to effect the closing transaction in Berkshire Hathaway Class B securities first.

The significant volume resulted in [sic] Class B security closing transaction be [sic] completed at 4:19 p.m. Thereafter the DMM immediately assessed the shares eligible to be executed in the closing transaction for the Class A securities. At 4:27 p.m. when the imbalance was determined the Exchange sought off-setting interest; however, the remaining 3 minutes was not a sufficient amount of time to receive and effect the closing transaction in the Class A security.

As to effect a fair and orderly close, the closing transaction for the Class A security occurred after 4:30 p.m.⁷

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ The Exchange attempted to file this proposed rule change prior to the close of business on February 12, 2010, but experienced delays with the electronic filing system which caused this filing to be received after the close of business and to be assigned a filing date of February 16, 2010, the next business day. Because the delay was caused by technical issues, the Commission deems the official filing date of this proposed rule change to be February 12, 2010.

⁵ See Securities Exchange Act Release No. 59755 (April 13, 2009), 74 FR 18009 (April 20, 2009) (SR-NYSE-2009-15).

⁶ See NYSE Rule 123C(9)(a)(1).

⁷ Specifically, the order acceptance cut-off time period designated by the Exchange was 4:35 p.m. Thereafter, once such offsetting interest from both on-Floor and off-Floor participants was received, the closing transaction for the Class A security was completed at approximately 4:41 p.m. See E-mail from Deanna G. W. Logan, Managing Director, NYSE Regulation, to David Liu, Assistant Director, et al., Division of Trading and Markets, Commission, dated February 16, 2010.