

of the Act<sup>19</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>20</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 mechanisms of a free and open market and a national market system. The Exchange is proposing to expand the position limit on options on SPDRs®. The Exchange believes that this proposal will be beneficial to large market makers (which generally have the greatest potential and actual ability to provide liquidity and depth in the product), as well as retail traders, investors, and public customers.

#### *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 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 either solicited or received.

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

Within 45 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 or disapprove the 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-Phlx-2011-58 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2011-58. 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 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-Phlx-2011-58 and should be submitted on or before May 24, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011-10653 Filed 5-2-11; 8:45 am]

**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-64349; File No. SR-NYSEArca-2011-22]

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.16 (Short Sales) To Modify the Exchange's Procedures for Early Termination of the Short Sale Price Test Restrictions of Rule 201 of Regulation SHO Based on a Triggering Transaction That Another Exchange or a Self-Regulatory Organization Has Determined Was a Clearly Erroneous Execution**

April 27, 2011.

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 April 25, 2011, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 substantially 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 amend NYSE Arca Equities Rule 7.16 (Short Sales) to modify the Exchange's procedures for early termination of the short sale price test restrictions of Rule 201 of Regulation SHO ("Rule 201")<sup>4</sup> under the Act based on a triggering transaction that another exchange or a self-regulatory organization ("SRO") has determined was a clearly erroneous execution pursuant to the rules of that exchange or SRO. 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

<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> 17 CFR 242.201.

<sup>19</sup> 15 U.S.C. 78f(b).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

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

On February 26, 2010, the Commission adopted amendments to Rule 201.<sup>5</sup> In order to implement the provisions of revised Rule 201, the Exchange amended NYSE Arca Equities Rule 7.16 (Short Sales) to (1) Establish procedures for the Exchange, as a listing market, to determine that the short sale price test restrictions of Rule 201 have been triggered for a covered security, (2) establish the protocols for the handling of short sale orders by the Exchange, as a trading center, in the event the short sale price test restrictions of Rule 201 are triggered, including establishing what types of short sale orders will be re-priced to achieve a Permitted Price (as defined and calculated in NYSE Arca Equities Rule 7.16(f)(v)(C)), in accordance with Rule 201, during a period when the short sale price test restrictions of Rule 201 are in effect ("Short Sale Period"), (3) establish the Exchange's procedures regarding the execution and display of permissible orders during a Short Sale Period, and the execution and display of orders marked "short exempt" during such a period, and (4) provide that, during a Short Sale Period, Exchange systems will not execute or display a short sale order with respect to that security at a price that is less than or equal to the current national best bid, except as otherwise provided by NYSE Arca Equities Rule 7.16(f) and consistent with Rule 201.<sup>6</sup>

Under NYSE Arca Equities Rule 7.16(f)(iii), when the Exchange is the listing market for a covered security, Exchange systems will determine whether the short sale price test restrictions of Rule 201 have been triggered (i.e., that a covered security

has experienced a decrease in price of 10% or more from the security's closing price as of the end of regular trading hours on the prior day) and will notify the single plan processor responsible for consolidation of information for the covered security pursuant to Rule 603(b) of Regulation NMS.<sup>7</sup> Once the short sale price test restrictions of Rule 201 are triggered by the listing market, those restrictions will remain in effect until the close of trading on the next trading day.<sup>8</sup>

If, however, the Exchange determines that the short sale price test for a covered security was triggered because of a clearly erroneous execution on the Exchange,<sup>9</sup> pursuant to NYSE Arca Equities Rule 7.16(f)(iv)(A), the Exchange may lift the short sale price test restrictions before the Short Sale Period ends for a security for which the Exchange is the listing market or, for a security listed on another market, notify the other market of the Exchange's determination that the triggering transaction was a clearly erroneous execution.

For securities for which the Exchange is the listing market, NYSE Arca Equities Rule 7.16 currently addresses only clearly erroneous triggering transactions deemed to be clearly erroneous executions under the Exchange's rules, and does not address situations where another exchange or a SRO determines, under its respective rules, that a triggering transaction was a clearly erroneous execution. To address this scenario, the Exchange proposes to amend NYSE Arca Equities Rule 7.16(f)(iv)(A)<sup>10</sup> to provide that the Exchange may also lift the short sale price test restrictions before the Short Sale Period ends, for covered securities for which the Exchange is the listing market, if the Exchange has been informed by another exchange or a SRO that a transaction in the covered

security that occurred at the Trigger Price<sup>11</sup> was a clearly erroneous execution, as determined by that exchange or SRO under its rules.<sup>12</sup>

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>14</sup> in particular, in that it is designed to, among other things, prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposal is designed to refine the Exchange's written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security in violation of the short sale price test restrictions established in Rule 201. To that end, the proposed rule change expands the ability of the Exchange, as a listing market, to lift short sale price test restrictions to include situations where another exchange or a SRO has determined that a triggering transaction was a clearly erroneous execution under the rules of that exchange or SRO.

*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.

<sup>7</sup> See 17 CFR 242.201(b)(3); 17 CFR 242.603(b). See also Rule 201(a)(6) of Regulation SHO, which defines the term "plan processor" to have the same meaning as in Rule 600(b)(55) of Regulation NMS. 17 CFR 242.600(b)(55). The single plan processors are "exclusive processors" as defined under Section 3(a)(22) of the Act. See 15 U.S.C. 78c(a)(22).

<sup>8</sup> The short sale price test restrictions will remain in effect at all times when quotation information and the national best bid is collected, processed and disseminated pursuant to a national market system plan. This may extend beyond regular trading hours. Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, at Q&A 2.1.

<sup>9</sup> Determination of a "clearly erroneous" execution will be made in accordance with NYSE Arca Equities Rule 7.10.

<sup>10</sup> The Exchange is also proposing two technical amendments to NYSE Arca Equities Rule 7.16 to correct references to the Exchange (in subparagraphs (f)(iv)(A) and (f)(iv)(B) of NYSE Arca Equities Rule 7.16).

<sup>11</sup> The term "Trigger Price" is used in NYSE Arca Equities Rule 7.16(f) to refer to a decrease of 10% or more in a security's price from the security's closing price on the listing market as of the end of regular trading hours on the prior day. Under NYSE Arca Equities Rule 7.16(f)(iii), the short sale price test restrictions of Rule 201 are triggered if a transaction in a covered security occurs at a Trigger Price.

<sup>12</sup> The Exchange will only lift the short sale price test restrictions before the Short Sale Period ends under these circumstances when informed by another exchange or a SRO that a triggering transaction has been determined to be a clearly erroneous execution under the rules of the exchange or SRO, consistent with the authority of that exchange or SRO for making such determinations.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> See Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010) (File No. S7-08-09; Amendments to Regulation SHO) ("Rule 201 Adopting Release"). In the Rule 201 Adopting Release, the Commission also adopted amendments to Rule 200(g) of Regulation SHO to include a "short exempt" marking requirement. 17 CFR 242.200(g).

<sup>6</sup> See Securities Exchange Act Release No. 63971 (February 25, 2011), 76 FR 12157 (March 4, 2011) (SR-NYSEArca-2011-05).

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup> Because the 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 prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>17</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission has considered the Exchange's request to waive the 30-day operative delay, and hereby grants the request. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will permit the Exchange to lift Rule 201's short sale price test restrictions, in a covered security for which the Exchange is the listing market, when such restrictions were triggered by a transaction that another exchange or a SRO has determined to be a clearly erroneous execution, pursuant to the rules of that exchange or SRO.<sup>19</sup> For this reason, the Commission designates the proposed rule change to be operative upon filing.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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-NYSEArca-2011-22 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-NYSEArca-2011-22. 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 printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549-1090. Copies of the filing will also 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-NYSEArca-2011-22 and should be submitted on or before May 24, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011-10654 Filed 5-2-11; 8:45 am]

BILLING CODE 8011-01-P

## DEPARTMENT OF STATE

### [Public Notice 7439]

### 30-Day Notice of Proposed Information Collection: Certificate of Eligibility for Exchange Visitor (J-1) Status; Form DS-2019, OMB No. 1405-0119.

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Certificate of Eligibility for Exchange Visitor (J-1) Status
- *OMB Control Number:* 1405-0119
- *Type of Request:* Extension of a Currently Approved Collection
- *Originating Office:* Office of Exchange Coordination & Designation, ECA/EC
- *Form Number:* Form DS-2019
- *Respondents:* U.S. Department of State Designated Sponsors
- *Estimated Number of Respondents:* 1460
- *Estimated Number of Responses:* 350,000 annually
- *Average Hours per Response:* 45 minutes
- *Total Estimated Burden:* 262,500 hours
- *Frequency:* On occasion
- *Obligation To Respond:* Required to Obtain or Retain a Benefit

**DATES:** Submit comments to the Office of Management and Budget (OMB) for up to 30 days from May 3, 2011.

**ADDRESSES:** Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail:* [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

- *Fax:* 202-395-5806. *Attention:* Desk Officer for Department of State.

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>19</sup> For the purposes only of waiving the 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).