corresponding increase in quotes and market fragmentation. The Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

In addition, the Commission notes that Phlx has represented that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the newly permitted listings.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Phlx–2010–158) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–441 Filed 1–11–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63660; File No. SR–NYSEArca–2010–124]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending NYSE Arca Options Rule 6.62(h) to Define Stock/Complex Orders, Amending NYSE Arca Options Rule 6.75(g) to Update and Clarify the Priority of Complex Orders, and Amending NYSE Arca Options Rule 6.91 to Establish a Complex Order Auction

January 6, 2011.

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 December 30, 2010, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 NYSE Arca. NYSE Arca has submitted the proposed rule change under Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal 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 amend NYSE Arca Options Rule 6.62(h) to define Stock/Complex Orders, amend NYSE Arca Options Rule 6.75(g) to update and clarify the priority of Complex Orders, and amend NYSE Arca Options Rule 6.91 to establish a Complex Order Auction.

A copy of this filing is available on the Exchange's Internet Web site at *http://www.nyse.com,* on the Commission's Internet Web site at *http://www.sec.gov,* at the Exchange's principal office, and at the Commission.

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 Exchange 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 these statements may be examined at the places specified in Item III below. The Exchange 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 Change

1. Purpose

The purpose of this filing is to update and streamline the rules governing open outcry trading of Complex Orders, including the definition of a Stock/Complex Order, and to adopt new rules to provide for a Complex Order Auction ("COA") in the Electronic Complex Order rules, based on rules recently approved for NYSE Amex LLC ("Amex").[5] The filing also clarifies the minimum trading and quoting increment permissible for Complex Orders.

Stock/Complex Orders

NYSE Arca proposes to amend Rule 6.62(h) to define Stock/Complex Orders as orders for the purchase or sale of a Complex Order 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 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 8 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.

Revision to Complex Order Open Outcry Rules

NYSE Arca proposes to amend Rule 6.75 and Commentary .01 to Rule 6.75. The Exchange proposes to adopt a provision based on NYSE Amex LLC ("Amex") Rule 963NY(d) to describe the priority of Complex Orders in open outcry. The new language does not change the process of executing a Complex Order or alter the priority of quotes and orders; rather, it streamlines and updates the rule text.

Currently, when executing a Complex Order, contra sided complex trading interest in the Trading Crowd has priority over individual orders and quotes in the leg markets at the same net debit or credit price, except when individual Customer orders in the Consolidated Book are present in all of the leg markets. When there are Customer orders present in all legs at the same net debit or credit price, the Complex Order must first trade with the individual Customer orders, and may then trade against complex trading interest in the crowd. Complex Orders trading against contra side complex trading interest in the Trading Crowd must otherwise trade at least one leg at a price that is at least one minimum price variation better than individual Customer orders in the Consolidated Book.[6]

The proposed rule change will not alter these procedures or priorities.

In addition, the Exchange is clarifying that Stock/Complex Orders (involving two or more options legs and a stock leg) may be executed at a net debit or credit price with another OTP Holder

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[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 63558 (December 16, 2010), 75 FR 80553 (December 22, 2010) (Order approving SR–NYSEAmex-2010–100).

[6] Stock/options orders may not trade at the same price as a Customer order in the option leg, unless satisfying the Customer order first, even though the Customer order cannot satisfy all the terms of the Stock/option order.

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 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.

NYSE Arca also proposes to delete Commentary.01 to Rule 6.75. The proposed Rule 6.75 (g) describes priority for all Complex Orders and Stock/Option Orders, while Commentary .01 to Rule 6.75 generally only describes the procedures for executing complex transactions; it does not define or describe any execution priority, obligation, or privilege that was not already described in other rules. Additionally, those procedures did not lay out procedures for all complex transactions; it narrowly described only simple Complex Orders with two option legs. The proposed rule change specifically eliminates the description of a "locked book market" in Commentary .01(f). This provision was a description of a narrow circumstance, and was more appropriate when the Public Customer Book was maintained by an Order Book Official. At that time, the Order Book had priority to trade at a given price if it held an order. Paragraph (f) described a situation where the Order Book had orders at all of the prices where a Complex Order might trade, but the orders in the leg markets could not satisfy the terms of the Complex Order. The proposed new language addresses this and similar circumstances in a more clear manner.

Complex Order Auction

Additionally, the Exchange proposes to adopt rules establishing an Electronic Complex Order Auction, based on rules approved for use by NYSE Amex LLC. Amex Rule 980NY(e) describes the process for a Complex Order Request for Responses ("RFR") Auction. NYSE Arca proposes a similar auction under Rule 6.91.

Proposed paragraph (c) of Rule 6.91 will describe the COA process. The proposed rule change will give the Exchange the authority to determine, on a class by class basis, which incoming orders are eligible for a COA based on marketability (defined as a number of ticks from the current market), size, and Complex Order type ("COA-eligible orders").[7]

Upon receiving a COA-eligible order and a request by the OTP Holder representing the order that it be COA'd, the Exchange will send an RFR message to OTP Holders with an interface connection to NYSE Arca that have elected to receive such RFR messages. This RFR message will identify the component series, the size of the COA-eligible order and any contingencies, if applicable. However, the RFR will not identify the side of the market (*i.e.,* whether the COA-eligible order is to buy or sell).

Market Makers with an appointment in the relevant options class, and OTP Holders acting as agent for orders resting at the top of the Consolidated Book in the relevant options series, may electronically submit responses ("RFR Responses"), and modify, but not withdraw, the RFR response at anytime during the request response time interval (the "Response Time Interval"). RFR responses must be in a permissible ratio, and may be expressed on a net price basis in a one cent increment. In addition, RFR Responses will be visible to those who have subscribed to RFRs. The applicable Response Time Interval will be determined by the Exchange on a class by class basis, and, in any event, will not exceed one second. Proposed Rule 6.91(c)(3) also clarifies that the obligations of Rule 6.47A, Order Exposure Requirements—OX, are separate from the duration of the Response Time Interval.

When the Response Time Interval expires, the COA-eligible order will be executed and allocated to the extent it is marketable, or route to the Consolidated Book to the extent it is not marketable. If executed, the rules of trading priority will provide that the COA-eligible order be executed based first on net price, and, at the same price:

(i) *Pre-existing interest in the leg markets:* individual orders and quotes in the leg markets resting in the Consolidated Book prior to the initiation of a COA will have first priority to trade against a COA-eligible order;

(ii) *Customer Complex interest received during the Auction:* Customer Electronic Complex Orders resting in the Consolidated Book before or that are received during, the Response Time Interval and Customer RFR Responses shall, collectively have second priority to trade against a COA-eligible order. The allocation of a COA-eligible order against the Customer Electronic Complex Orders resting in the Consolidated Book shall be on a Size Pro Rata basis;

(iii) *Non-Customer Complex trading interest:* Non-Customer interest, comprised of Electronic Complex Orders resting in the Consolidated Book, Electronic Complex Orders placed in the Consolidated Book during the Response Time Interval, and RFR Responses, will collectively have third priority. The allocation of COA-eligible orders against these contra sided orders will be on a Size Pro Rata basis;

(iv) *Trading Interest that improves the derived Complex Best Bid/Offer:* Individual orders and quotes in the leg markets that cause the derived Complex Best Bid/Offer to be improved during the COA, and which match the best RFR Response and/or Complex Orders received during the Response Time Interval, will be filled after Complex Orders and RFR Responses at the same net price.[8] Allocations within the first category above (individual orders and quotes in the leg markets in the Consolidated Book) shall be in time, with Customer orders having priority ahead of non-customer orders and quotes at the same price. Allocations within the second category above (Customer Electronic Complex Orders resting in the Consolidated Book and Customer RFR responses) shall be based on a Size Pro Rata basis when multiple Customer Complex Orders or RFR responses exist at the same price. Allocations within the third category (non-Customer Electronic Complex Orders in the Consolidated Book and non-Customer RFR responses) shall be based on a Size Pro Rata basis when multiple non-Customer interests exist at the same price. Allocations among the fourth category (individual orders or quotes in the leg markets that cause the derived BBO to be improved) shall be filled on a Customer order/size pro rata basis.

The following is an example of a COA: assume the Exchange's derived complex market, based on individual series orders and quotes in the Consolidated Book, is offered at $1.15 for 20 contracts. In addition, assume a Customer Electronic Complex Order resting in the Consolidated Book is offered at $1.15 for five contracts and two non-Customer orders resting in the Consolidated Book are offered at $1.15 for five contracts each (for a total of 10 contracts). A COA-eligible order is then received to buy the complex strategy 100 times paying $1.15. COA will auction the order. An RFR message is

[7] For example, the Exchange could determine that a complex order with two option legs are eligible for a COA to the extent they are less than two ticks away from the "top of the book," which would be the best price considering the net prices available among Complex Orders in the Consolidated Book and the individual component legs in the Consolidated Book. All pronouncements, including changes hereto, regarding COA eligibility and Response Time Intervals will be announced to OTP Holders via Regulatory Circular.

[8] *See* Securities Exchange Act Release No. 58361 (August 14, 2008), 73 FR 49529 (August 21, 2008) (approving SR–Phlx–2008–50).

sent to subscribers indicating the Complex Order series and the size of 100 contracts (but not the side of the market). The Response Time Interval for submitting RFR Responses will be for no more than one second. Before the conclusion of the Response Time Interval, the following RFR Responses on the other side are received: Customer RFR Responses to sell five at $1.14 and five at $1.15; and non-Customer RFR Responses to sell 15 at a price of $1.13, 35 at a price of $1.14, and 100 at a price of $1.15. The execution of the COA-eligible order will proceed as follows:

• 15 contracts get filled at $1.13 (against non-Customer RFR Responses);

• 40 contracts get filled at $1.14 (five contracts against Customer RFR Responses, then 35 contracts against non-Customer RFR Responses); and

• 45 contracts get filled at $1.15 (20 contracts against the individual series legs in the Consolidated Book, then 10 contracts against Customer Electronic Complex Orders in the Consolidated Book and Customer RFR Responses allocated on a Size Pro Rata basis. The non-Customer interest is allocated on a Size Pro Rata basis as follows: 1 contract ((5/110) x 15) for each of the non-Customer Electronic Complex Orders resting in the Consolidated Book before the COA began, and 13 contracts ((100/110) x 15) against the non-Customer RFR Response).

The proposed rule change also describes the handing of unrelated incoming Electronic Complex Orders that may be received prior to the expiration of the COA. Specifically, the proposed rule change provides the following:

• An incoming Electronic Complex Order received prior to the expiration of the Response Time Interval for a pending COA (the "original COA") that is on the opposite side of the original COA-eligible order and is marketable against the starting price of the original COA-eligible order will be ranked in price time with RFR Responses by account type. The original COA-eligible order will be executed and allocated as described in proposed subparagraph (c)(6) of Rule 6.91. Any remaining balance of either the initiating COA-eligible order or the incoming Electronic Complex order will be placed in the Consolidated Book and ranked as described in subparagraph (a)(1) of Rule 6.91.

• Incoming COA-eligible orders that are received prior to the expiration of the Response Time Interval for the original COA that are on the same side of the market, that are price [sic] equal to the original COA-eligible order will join the COA. A message with the updated size will be published. The new order will be ranked and executed with the initiating COA-eligible order in price time order. Any remaining balance of either the initiating COA-eligible order and/or the incoming Electronic Complex order will be placed in the Consolidated Book and ranked as described in subparagraph (a)(1) of Rule 6.91.

• Incoming COA-eligible orders received during the Response Time Interval for the original COA-eligible order that are on the same side of the market, and that are priced worse than the initiating order, will join the COA. The new order(s) will be ranked and executed with the initiating COA-eligible order in price time order. Any remaining balance of either the initiating COA-eligible order and/or the incoming Electronic Complex order(s) will be placed in the Consolidated Book and ranked as described in subparagraph (a)(1) of Rule 6.91.

• An incoming COA-eligible order that is received prior to the expiration of the Response Time Interval for the original COA that is on the same side of the market and at a better price than the original COA-eligible order will cause the auction to end. The initiating COA-eligible order will be executed in accordance with subparagraph (c)(6). The COA-eligible order that caused the auction to end will then be executed in accordance with subparagraph (c)(6), and any unexecuted portion will either be (i) placed in the Consolidated Book, or (ii) if marketable, initiate another COA.

The Exchange is proposing to amend Commentary .02 to Rule 6.91 to clarify that if the class has been designated as eligible for Complex Order Auctions then at least one leg of the order must trade at a price that is better than the corresponding price of the customer bids or offers in the Consolidated Book for the same series, by at least one cent ($.01).

New Commentary .03 to Rule 6.91 is also proposed to clarify the priority of Stock/Option Orders and Stock/Complex Orders to (a) confirm that the execution of the stock component must be executed consistent with the rules of the stock execution venue; (b) clarify the priority of the option component of a stock option order over bids and offers in the Consolidated Book, but not over Customer orders at the same price in the Consolidated Book; (c) clarify that Stock/Option Orders and Stock/Complex Orders submitted to the Complex Matching Engine will trade first against other Stock/Option or Stock/Complex Orders resting in the Consolidated Book, then against individual orders and quotes on the Exchange, and lastly against orders and quotes subsequently entered by Market Participants; and (d) clarify the priority of the option components of a Stock/Complex Order over bids and offers in the Consolidated Book, unless there are Customer bids and offers in the Consolidated Book on each of the component leg markets.

Proposed Commentary .04 states 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. Dissemination of information related to COA-eligible orders to third parties will also be deemed as conduct inconsistent with just and equitable principles of trade.

Finally, NYSE Arca is proposing the RFR Responses can be modified but not withdrawn at any time before the end of the Response Time Interval. RFR Responses are firm only with respect to COA-eligible orders and RFR Responses received during the Response Time Interval. Any RFR response not accepted to trade either in whole or in a permissible ratio, would expire at the end of the Response Time Interval and would not be eligible to trade with the Consolidated Book.

Complex Order Minimum Increments

NYSE Arca is proposing to revise and clarify the minimum increments that are permissible for bids and offers on Complex Orders. The Exchange believes these changes will facilitate the orderly execution of Complex Orders in open outcry and via the Consolidated Book and the COA mechanism. With respect to minimum increments, currently Rules 6.75 and 6.91 provide that the Complex Orders may generally be expressed in any increments regardless of the minimum increment otherwise appropriate to the individual legs of the order. Thus, for example, a Complex Order could be entered at a net debit or credit price of $1.03 even though the standard minimum increment for the individual series is generally $0.05 or $0.10. The Exchange is proposing to clarify in Rule 6.75 and 6.91 that Complex Orders entered onto the Exchange, and/or resting in the Consolidated Book may be expressed on a net price basis in a multiple of the minimum increment (*i.e.,* $0.01, $0.05, or $0.10, as applicable) or in a one-cent increment as determined by the Exchange on a class-by class basis.

NYSE Arca represents that any Customer Electronic Complex Orders entered to the NYSE Arca System must comply with the order exposure requirements of Rule 6.47A, which prohibits a User from executing as principal against an order it represents as agent, unless the agency order is first exposed on the Exchange for at least one (1) second, or the User has been bidding or offering on the Exchange for at least one (1) second, prior to receiving an agency order that is excutable against such bid or offer.

NYSE Arca notes that all components of a Complex Order, a Stock/Option Order, or a Stock/Complex Order must be entered into the NYSE Arca System and displayed at a total or net debit or credit, and that all components of a Complex Order, a Stock/Option Order, or a Stock/Complex Order, including the stock component of a Stock/Option Order or Stock/Complex Order, must be traded as a complete package.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act[9] in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, investors will have greater opportunities to manage risk with the Exchange defining Stock/Complex Orders, by the Exchange revising the coverage under Rule 6.75(g) to clarify its applicability, and with the removal of ambiguity by deleting obsolete text in Commentary .01 to Rule 6.75. The proposed adoption of rules governing a Complex Order Auction will facilitate the execution of Complex Orders while providing opportunities for price improvement.

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

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

NYSE Arca has requested that the Commission waive the 30-day operative delay. Because the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, the Commission grants NYSE Arca's request.[12] As noted above, the proposal is based on Amex rules that the Commission recently approved.[13] The Commission received no comments regarding the Amex's proposal. In addition, the Commission believes that the proposal could enhance competition for Complex Orders on the Exchange by establishing an electronic COA for Complex Orders.

At any time within 60 days of the filing of the 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.* Please include File Number SR–NYSEArca–2010–124 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–NYSEArca–2010–124. 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 NYSE's principal office and on its Internet Web site at *http://www.nyse.com.* 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 publicly available. All submissions should refer to File Number SR–NYSEArca–2010–124 and should be submitted on or before February 2, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–446 Filed 1–11–11; 8:45 am]

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[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6)(iii) also requires an exchange to provide the Commission with 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 the proposed rule change or such shorter time as the Commission may designate. The Exchange satisfied this requirement.

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] *See* note 5, *supra.*

[14] 17 CFR 200.30–3(a)(12).