principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by Section 22(a). Rule 22c–1 under the Act prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

8. Applicants state that it is possible that someone might view JNL New York's recapture of the Contract Enhancements as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the JNLNY Separate Account. Applicants contend, however, that the recapture of the Contract Enhancement does not violate Rule 22c–1. The recapture of some or all of the Contract Enhancement does not involve either of the evils that Section 22(c) and Rule 22c–1 were intended to eliminate or reduce as far as reasonably practicable, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices. To effect a recapture of a Contract Enhancement, JNL New York will redeem interests in a Contract owner's contract value at a price determined on the basis of the current net asset value of the JNLNY Separate Account. The amount recaptured will be less than or equal to the amount of the Contract Enhancement that JNL New York paid out of its general account assets. Although Contract owners will be entitled to retain any investment gains attributable to the Contract Enhancement and to bear any investment losses attributable to the Contract Enhancement, the amount of such gains or losses will be determined on the basis of the current net asset values of the JNLNY Separate Account. Thus, no dilution will occur upon the recapture of the Contract Enhancement. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely, speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Contract Enhancement. Because neither of the harms that Rule 22c-1 was meant to address is found in the recapture of the Contract Enhancement, Rule 22c–1 should not apply to any Contract Enhancement. However, to avoid any uncertainty as to full compliance with Rule 22c-1, Applicants request an order granting an exemption from the provisions of Rule 22c–1 to the extent deemed necessary to permit them to recapture the Contract Enhancement under the Contracts.

9. Applicants submit that extending the requested relief to encompass Future Contracts and Other Accounts is appropriate in the public interest because it promotes competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications prior to introducing new variable annuity contracts. Investors would receive no benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issues under the Act not already addressed in the application.

10. Applicants submit, for the reasons stated herein, that their exemptive request meets the standards set out in Section 6(c) of the Act, namely, that the exemptions requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2010–11543 Filed 5–13–10; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–62054; File No. SR–NYSEArca–2010–34]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Commentary .02 to Rule 5.32, Terms of FLEX Options, to Establish a Pilot Program To Permit FLEX Options to Trade With no Minimum Size Requirement

May 6, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 [2] thereunder, notice is hereby given that on April 29, 2010, 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 adopt Commentary .02 to Rule 5.32, Terms of FLEX Options, to establish a Pilot Program to permit FLEX Options to trade with no minimum size requirement. 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, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

### 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

The purpose of the filing is to adopt rules to establish a Pilot Program to eliminate minimum value sizes for both FLEX Equity options and FLEX Index options similar to a pilot approved for the Chicago Board Options Exchange ("CBOE").[3]

Presently, the Exchange minimum value size requirements for an opening FLEX Equity transaction in any FLEX series in which there is no open interest

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 34–61439 (January 28, 2010) 75 FR 5831 (February 4, 2010).

at the time the Request for Quote is submitted is the lesser of 250 contracts or the number of contracts overlying $1 million in underlying securities. An opening FLEX Index transaction in a FLEX series in which there is no open interest requires a minimum size of $10 million Underlying Equivalent Value. The Exchange proposes to adopt a fourteen month pilot program that eliminates the minimum value size requirements for both FLEX Equity and FLEX Index options. If, in the future, the Exchange proposes an extension of the minimum value size Pilot Program, or should the Exchange propose to make the new Program permanent, the Exchange will submit, along with any filing proposing such amendments to the Program, a Pilot Program report that would provide an analysis of the Pilot covering the period during which the Program was in effect. This minimum value size report would include: (i) Data and analysis on the open interest and trading volume in (a) FLEX Equity Options with opening transaction with a minimum size of 0 to 249 contracts and less than $1 million in underlying value; (b) FLEX Index Options with opening transaction with a minimum opening size of less than $10 million in underlying equivalent value; and (ii) analysis on the types of investors that initiated opening FLEX Equity and Index Options transactions (*i.e.,* institutional, high net worth, or retail). The report would be submitted to the Commission at least two months prior to the expiration date of the Pilot Program and would be provided on a confidential basis.

The Exchange notes that any positions established under this Pilot would not be affected by the expiration of the Pilot. For example, a 10-contract FLEX Equity Option opening position that overlies less than $1 million in the underlying security and expires in January 2015 could be established during the 14-month Pilot. If the Pilot Program were not extended, the position would continue to exist and any further trading in the series would be subject to the minimum value size requirements for continued trading in that series. The proposed minimum opening transaction size elimination is based on a similar pilot approved for use on CBOE.[4]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[5] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)[6] in particular in that it is 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 by eliminating a minimum size for FLEX transactions, which the Exchange believes will provide greater opportunities for investors to manage risk through the use of FLEX options.

*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: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) 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[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[9] However, Rule 19b–4(f)(6)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. NYSE Arca has requested that the Commission waive the 30-day operative delay.

The Commission has considered NYSE Arca's request to waive the 30-day operative delay. Because, however, the Commission does not believe, practically speaking, that a pilot should retroactively commence, the Commission is only waiving the operative delay as of the date of this notice for the reasons discussed below.

The Commission believes that shortening the 30-day operative delay to allow the commencement of the pilot as of the date of this notice is consistent with the protection of investors and the public interest. The Commission notes that the proposed rule change is substantially similar to a pilot that was previously approved by the Commission and is currently in existence for CBOE.[11] The Commission also notes that the corresponding CBOE pilot was subject to full notice and comment in the **Federal Register**, and that the Commission only received comments that supported that proposal.[12] Moreover, waiving the operative date as of the date of this notice is consistent with approval of CBOE's pilot, which allowed implementation as of the date of the Commission's approval order. For these reasons, the Commission designates the proposal to be operative upon the date of issuance of this notice.[13]

At any time within 60 days of the filing of such 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 the 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:

[4] *See* Note 3 above.

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

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). When filing a proposed rule change pursuant to Rule 19b–4(f)(6) under the Act, an Exchange is required to give 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 met this requirement.

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] *Id.*

[11] *See* CBOE Rule 24A.4 Interpretations and Policies .01(b); *see also* Securities Exchange Act Release No. 61439 (January 28, 2010) 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087).

[12] *See* Securities Exchange Act Release No. 61439 (January 28, 2010) 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087).

[13] For the purposes only of waiving the operative date 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).

*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–2010–34 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–2010–34. 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 the 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–NYSEArca–2010–34 and should be submitted on or before June 4, 2010.

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

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2010–11542 Filed 5–13–10; 8:45 am]

**BILLING CODE 8010–01–P**

[14] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF STATE

**[Public Notice 7003]**

### Culturally Significant Objects Imported for Exhibition Determinations: "A Gift From the Desert: The Art, History and Culture of the Arabian Horse"

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "A Gift from the Desert: The Art, History and Culture of the Arabian Horse," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the International Museum of the Horse, from on or about May 29, 2010, until on or about October 15, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 10, 2010.

**Maura M. Pally,**

*Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2010–11604 Filed 5–13–10; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 7002]**

### Waiver of Restriction on Assistance To the Central Government of the Kyrgyz Republic

Pursuant to section 7088(c)(2) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (Division H, Pub. L. 111–8) ("the Act"), and Department of State Delegation of Authority Number 245–1, I hereby determine that it is important to the national interest of the United States to waive the requirements of section 7088(c)(1) of the Act with respect to the Government of the Kyrgyz Republic, and I hereby waive such restriction.

This determination shall be reported to the Congress, and published in the **Federal Register**.

Dated: May 5, 2010.

**Jacob J. Lew,**

*Deputy Secretary of State for Management and Resources, Department of State.*

[FR Doc. 2010–11597 Filed 5–13–10; 8:45 am]

**BILLING CODE 4710–46–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. AB 55 (Sub-No. 702X)]**

### CSX Transportation, Inc.—Abandonment Exemption—in Marion County, IN.

On April 26, 2010, CSX Transportation, Inc. (CSXT) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 0.82-mile line of railroad in its Northern Region, Great Lakes Division, Indianapolis Terminal Subdivision, between milepost QSZ 3.60 and milepost QSZ 4.42, known as the Speedway Running Track, in Indianapolis, Marion County, Ind. The line traverses United States Postal Service Zip Code 46222 and includes no stations.

In addition to an exemption from the prior approval requirements of 49 U.S.C. 10903, CSXT seeks exemption from 49 U.S.C. 10904 [offer of financial assistance (OFA) procedures]. In support, CSXT states that it intends to reclassify the track as excepted track and sell or lease it to Heritage-Crystal Clean (HCC), the only shipper on the line. According to CSXT, the line is no longer needed for common carrier service, and HCC wants to acquire and maintain the line to allow for expanded intra-plant operations and rail use without incurring a common carrier obligation. This request will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.