

information as may be reasonably necessary to make an informed determination of whether the Plan should be continued or continued after amendment;

(b) Will determine whether continuation, or continuation after amendment, of the Plan is consistent with the Fund's investment objective(s) and policies and in the best interests of the Fund and its shareholders, after considering the information in condition V.B.1(a) above; including, without limitation:

(1) Whether the Plan is accomplishing its purpose(s);

(2) The reasonably foreseeable material effects of the Plan on the Fund's long-term total return in relation to the market price and NAV of the Fund's common shares; and

(3) The Fund's current distribution rate, as described in condition V.B above, compared with the Fund's average annual taxable income or total return over the 2-year period, as described in condition V.B, or such longer period as the Board deems appropriate; and

(c) Based upon that determination, will approve or disapprove the continuation, or continuation after amendment, of the Plan; and

2. The Board will record the information considered by it, including its consideration of the factors listed in condition V.B.1(b) above, and the basis for its approval or disapproval of the continuation, or continuation after amendment, of the Plan in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place.

## VI. Public Offerings

A Fund will not make a public offering of the Fund's common shares other than:

A. A rights offering below NAV to holders of the Fund's common shares;

B. An offering in connection with a dividend reinvestment plan, merger, consolidation, acquisition, spin-off or reorganization of the Fund; or

C. An offering other than an offering described in conditions VI.A and VI.B above, provided that, with respect to such other offering:

1. The Fund's annualized distribution rate for the six months ending on the last day of the month ended immediately prior to the most recent distribution record date,<sup>5</sup> expressed as a

<sup>5</sup> If the Fund has been in operation fewer than six months, the measured period will be immediately following the Fund's first public offering.

percentage of NAV per share as of such date, is no more than 1 percentage point greater than the Fund's average annual total return for the 5-year period ending on such date;<sup>6</sup> and

2. The transmittal letter accompanying any registration statement filed with the Commission in connection with such offering discloses that the Fund has received an order under section 19(b) to permit it to make periodic distributions of long-term capital gains with respect to its common stock as frequently as twelve times each year, and as frequently as distributions are specified in accordance with the terms of any outstanding preferred stock as such Fund may issue.

## VII. Amendments to Rule 19b-1

The requested relief will expire on the effective date of any amendment to rule 19b-1 that provides relief permitting certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common stock as frequently as twelve times each year.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-17140 Filed 7-17-09; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, July 22, 2009 at 2 p.m., in the Auditorium, Room L-002.

*The subject matter of the Open Meeting will be:*

The Commission will consider whether to propose a rule to address "pay to play" practices by investment advisers. The proposal is designed, among other things, to prohibit advisers from seeking to influence the award of advisory contracts by public entities through political contributions to or for those officials who are in a position to influence the awards.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

<sup>6</sup> If the Fund has been in operation fewer than five years, the measured period will be immediately following the Fund's first public offering.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551-5400.

Dated: July 15, 2009.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9-17234 Filed 7-17-09; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60295; File No. SR-CBOE-2009-049]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Market-Maker Guidelines

July 13, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 9, 2009, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 is proposing to amend Rule 8.7, *Obligations of Market-Makers*, to: (i) Eliminate the provision providing for bids (offers) to be no more than \$1 lower (higher) than the last preceding transaction plus or minus the aggregate change in the last sale price of the underlying, and (ii) amend the provision pertaining to trades that are more than \$0.25 below parity. 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 and at the Commission.

<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)(iii).

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

## 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

Rule 8.7, in part, provides that Market-Makers are expected ordinarily, except in unusual market conditions, not to bid more than \$1 lower or offer more than \$1 higher than the last preceding transaction price for the particular option contract plus or minus the aggregate change in the last sale price of the underlying security since the time of the last preceding transaction for the particular option contract (the "one point" rule). In addition, Market-Makers are expected ordinarily, except in usual market conditions, to refrain from purchasing a call option or a put option at a price more than \$0.25 below parity. In the case of calls, parity is measured by the bid in the underlying security, and in the case of puts, parity is measured by the offer in the underlying security (the "parity" rule).

First, the Exchange is proposing to eliminate the one point rule. The one point rule was originally adopted as a guideline in 1987.<sup>5</sup> Since that time, various market changes have rendered the rule obsolete and unnecessary. For example, Market-Makers now stream electronic quotes and are subject to various electronic quotation requirements, including bid/ask quote width requirements contained elsewhere in Rule 8.7. In addition, the options intermarket linkage plan was adopted and contains trade-through and locked/crossed market requirements (e.g., Rules 6.83 and 6.84). The Exchange has also adopted an obvious error rule that contains provisions on erroneous pricing errors (e.g., Rule 6.25) and has in place certain price check

parameters that will not permit the automatic execution of certain orders if the execution would take place outside an acceptable price range (e.g., Rule 6.13(b)(v)).

Second, at this time the Exchange is proposing to retain the parity rule (which was also adopted in 1987)<sup>6</sup> as a guideline but to modify it to provide that an amount larger than \$0.25 may be appropriate considering the particular market conditions (not just unusual market conditions as the rule currently states). The text is also being revised to provide that the \$0.25 guideline may be increased, or the parity rule waived, by the Exchange on a series-by-series basis. The Exchange believes that revising the \$0.25 parity rule in this manner modernizes the guideline to reflect market changes (including those discussed above) and will provide more flexibility to take into consideration the particular trading in a security, including but not limited to the underlying market price, market conditions, and applicable minimum bid/ask width requirements for a given options series.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act<sup>7</sup> and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> 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, because it will eliminate the outdated one point rule and update the parity rule to incorporate more flexibility and recognize changing market conditions.

### 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

The Exchange neither solicited nor received comments on the proposal.

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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, provided that the self-regulatory organization has given the Commission written notice of its intent to file 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,<sup>10</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup> 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 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-CBOE-2009-049 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.

<sup>5</sup> See Securities Exchange Act Release No. 24040 (January 30, 1987), 52 FR 4070 (February 9, 1987) (SR-CBOE-86-34).

<sup>6</sup> *Id.*

<sup>7</sup> 15 U.S.C. 78s(b)(1).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> The Exchange has fulfilled this requirement.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

All submissions should refer to File Number SR-CBOE-2009-049. 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 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 the 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 Number SR-CBOE-2009-049 and should be submitted on or before August 10, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-17134 Filed 7-17-09; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60296; File No. SR-NYSEAmex-2009-37]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Adopting Rule 968NY-Cabinet Trades

July 13, 2009.

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 June 30,

2009, NYSE Amex ("NYSE Amex" 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders it 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 adopt Rule 968NY-Cabinet Trades. 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 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

NYSE Amex proposes to adopt new Rule 968NY which will govern cabinet trading.<sup>6</sup> The proposed rule is substantially similar to NYSE Arca Rule 6.80.

On March 2, 2009 NYSE Amex (f/k/a NYSE Alternext US LLC, f/k/a The American Stock Exchange LLC (collectively "Amex")) adopted a new rule set governing the trading of options.<sup>7</sup> Much of the new rule set was

based on the rules of NYSE Arca Inc. ("NYSE Arca"). In conjunction with the filing of the new rule set, the Exchange filed a separate proposal deleting many out-of-date and/or obsolete rules.<sup>8</sup> Included as part of this filing was the deletion of former Amex Rule 959-Accommodation [sic] Transactions, which contained provisions governing both cabinet trading and position transfers. However, when filing the new rule set the Exchange inadvertently failed to include new rules governing cabinet trading.

The Exchange now proposes to add a new rule governing the trading of cabinet orders.<sup>9</sup> A brief description of the rules change is shown below.

###### Cabinet Trading

A cabinet order is a limit order in a non-Penny Pilot issue, which has been priced at \$1.00.<sup>10</sup> Cabinet orders serve as a way for market participants to liquidate a worthless, or near worthless position, at a minimal cost.

Prior to the adoption of the present NYSE Amex trading system, all cabinet trading on the Amex was done on a manual basis. Therefore, previous Rule Amex 959(a) dealt only with cabinet trading in open outcry. The Exchange now proposes to adopt new Rule 968NY which will govern both manual and electronic cabinet trading. This proposed rule is similar in all material respects to NYSE Arca Rule 6.80, which also governs both manual and electronic cabinet trading.

###### 2. Statutory Basis

The Exchange believes that for these reasons the proposed rule change is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</sup> in particular, because 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. This proposal adds a new rule governing the

<sup>8</sup> See Securities Exchange Act Release No. 59454 (February 25, 2009), 74 FR 9461 (March 4, 2009) (notice of filing and immediate effectiveness of NYSEALTR-2009-17).

<sup>9</sup> NYSE Amex proposes to adopt new rules related to the transfer of options positions as part of a separate rule filing.

<sup>10</sup> Certain option issues on NYSE Amex are traded pursuant to a Penny Pilot Program scheduled to run through July 3, 2009.

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> A Cabinet Trade is also known as an Accommodation Transaction.

<sup>7</sup> See Securities Exchange Act Release No. 59472 (February 27, 2009), 74 FR 9843 (March 6, 2009) (order approving NYSEALTR-2008-14, as amended).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<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.