that they apply equally to all BOX Participants and customers. This proposal is in response to various 'Payment for Order Flow' programs currently in operation on other options exchanges. The Exchange will monitor the trading of options on these Non-Penny Pilot Classes to ensure that the proposal is operating in a fashion that promotes the interests of investors.

The Exchange also proposes to make a non-substantive change to Section 3 of the Fee Schedule to reflect that the differentiation between Market Maker volume in assigned and unassigned classes is no longer pertinent for billing purposes.[7]

2. Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(4) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. In particular, the proposed change will allow the fees charged on BOX to remain competitive with other exchanges.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act[10] and Rule 19b–4(f)(2) thereunder,[11] because it establishes or changes a due, fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BX–2009–044 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–BX–2009–044. 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 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–BX–2009–044 and should be submitted on or before September 1, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–19146 Filed 8–10–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60429; File No. SR–NYSE–2009–71]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 1000 To Allow Exchange Systems To Access CCS Interest To Partially Fill an Incoming Limit Order

August 4, 2009.

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 July 20, 2009, 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, II, and III 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 NYSE Rule 1000 to allow Exchange systems to access CCS interest to partially fill an incoming limit order. 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,

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[7] *See* Securities Exchange Act Release No. 59865 (May 5, 2009), 74 FR 22198 (May 12, 2009) (SR–BX–2009–022).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

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

[11] 17 CFR 240.19b–4(f)(2).

[12] 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.

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

New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') proposes to amend NYSE Rule 1000 to make available additional liquidity to partially fill an incoming limit order.

The Exchange notes that parallel changes are proposed to be made to the rules of NYSE Amex LLC (formerly the American Stock Exchange).[4]

a. Background

The NYSE implemented sweeping changes to its market rules and execution technology designed to improve execution quality on the Exchange. Among the elements of the enhanced Exchange market model, the NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM. The DMM, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. The NYSE also recognized that in view of the NYSE's electronic execution functionality, the DMM, unlike the specialist, would no longer be deemed the agent for every incoming order. The NYSE also responded to customer demand to create additional undisplayed reserve interest.

In another enhancement to the Exchange's market model, designed to encourage DMMs to add liquidity, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is known as the DMM Capital Commitment Schedule (''CCS'').[5] CCS provides the Display Book®[6] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange BBO. CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

When an order is entered for an amount of shares that exceeds the liquidity available at the Exchange BBO, Exchange systems review all the liquidity available on the Display Book including CCS interest to determine the final price point at which the order can be fully executed (the ''completion price''). Exchange systems determine the completion price by calculating the unfilled volume of the incoming order (*i.e.*, the volume of the incoming order that exceeds the volume available to execute against it that is then present in the Exchange bid or offer) and reviewing the additional displayed and non-displayed interest available in the Display Book, which may be at more than one price point, including the CCS interest submitted by the DMM unit that is available at the completion price if the CCS interest were to participate at the completion price. Exchange systems also review any protected bids or offers on markets other than the Exchange (''away interest'') and determines the price at which the remaining volume of the contra side order can be executed in full.

Exchange systems then review the amount of liquidity offered by CCS to determine if the number of shares provided via the DMM's CCS at the completion price is less than the number of CCS shares provided at the next different price that has interest that is one minimum price variation (''MPV'') (as that term is defined in Exchange Rule 62[7]) or more higher (in the case of an order to sell) or at the next different price that has interest that is one MPV or more lower (in the case of an order to buy) (hereinafter collectively referred to as ''better price'').

Price of order or interest	Minimum price variation
Less Than $1.00	$.0001
$1.00 to 99,999.99	.01
$100,000 or greater	.10

If the volume of CCS interest that would be accessed is the same at the completion price and the better price, Exchange systems access CCS interest at the completion price with CCS interest yielding to any other interest in Exchange systems at the completion price.

If the number of shares that would be allocated to the CCS interest at the better price is more than the number of shares that would be allocated to the DMM's CCS interest at the completion price, then Exchange systems will access the CCS liquidity available at the better price with CCS interest yielding to any other interest in Exchange systems (both displayed and undisplayed reserve interest) at the better price. Any remaining balance of the incoming order is executed at the completion price against displayable and non-displayable interest pursuant to NYSE Rule 72 (''Priority of Bids and Offers and Allocation of Executions'').[8]

Exchange systems can access CCS interest only once to participate in the execution of an incoming order. As such, CCS interest that may exist at the completion price is inaccessible to Exchange systems to trade with any remaining balance of the incoming order if Exchange systems included the DMM's CCS interest in the execution of any portion of such order at the better price. Moreover, Exchange systems will only access CCS interest to participate in the execution of an incoming order where the incoming order will be executed in full.

b. Proposed Amendment to NYSE Rule 1000

The Exchange proposes to allow Exchange systems to access CCS interest to participate in executions where the incoming order will only be partially executed. The purpose of this change is to provide additional liquidity to the incoming order.

As illustrated in the example below, because Exchange systems are permitted to access CCS interest only where an incoming order would be executed in full, there are times when the incoming order exhausts the displayed and reserve interest on the Display Book at various price points and the remaining

[4] *See* SR–NYSE Amex–2009–46.

[5] The provisions of NYSE Rule 1000 relating to CCS are in effect pursuant to a pilot that commenced on October 2008 and is scheduled to end on October 1, 2009.

[6] The Display Book® system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[7] *See* NYSE Rule 62, Supplementary Material .10, which provides that the minimum price variation (MPV) for quoting and entry of orders in equity securities admitted to dealings on the Exchange shall be as stated in the table above.

[8] Pursuant to NYSE Rule 72 round-lot executions on the Exchange are allocated on an equal basis, *i.e.* parity, among market participants at a price point unless one of the participants has established priority. Priority is established when the participant is the only interest displayed at the price point when such price is or becomes the best bid or offer published by the Exchange. A participant that establishes priority for the displayed portion of his or her order is allocated the first 15% of any execution (a minimum of one round lot). Any DMM non-CCS interest included in the displayed quantity and non-displayed quantity is also executed pursuant to NYSE Rule 72.

shares of the order are quoted. In these instances Exchange systems cannot access the CCS interest available at the price point where the remaining shares of the order will be quoted to partially fill the incoming limit order.

Example of Current CCS Operation

The Exchange Market is 200 shares bid at the price of $20.05 and 200 shares offered at a price of $20.10. At the price points of $20.04, $20.03, $20.02, $20.01 and $20.00 there are 100 shares bid. The CCS interest file is willing to provide 200 shares of additional bid liquidity at each of those price points as well. A customer sends the Exchange a sell order for 1200 shares with a limit price of $20.00. Given the current operation of CCS, the order will execute against the 200 shares at the Exchange bid price of $20.05 and all the shares indicated in *italic* typeface at each price point down to the orders limit price of $20.00 will be executed against the order for a total execution of 700 shares. The remaining 500 shares of the order will be filed in Display Book at its limit price of $20.00.

CCS Interest	Shares bid	Bid price	Offer price	Shares offered	CCS interest
	....	....	$20.10	200	200
200	200	$20.05			
200	*100*	20.04			
200	*100*	20.03			
200	*100*	20.02			
200	*100*	20.01			
200	*100*	20.00			

The Exchange proposes to modify the operation of CCS interest to allow Exchange systems to access and execute CCS interest designated to partially fill an incoming limit order. This will create an additional processing action for Exchange systems. Exchange systems will continue to review all the liquidity available on the Display Book and any away market centers; however, once it determines that the order cannot be executed in full, it will also review the DMM CCS interest file to determine if any of the liquidity is eligible to partially fill the incoming limit order at the price where any remaining shares of the order would be quoted.

In order for the DMM CCS interest to participate in a partial execution of an incoming limit order that exceeds the liquidity available at the Exchange BBO the DMM must designate interest available in the CCS interest file eligible for partial execution by including a ''PF'' indicator on the shares provided at the price point. All liquidity provided in the CCS interest file will continue to be eligible to participate in executions of incoming limit orders in full. Only DMM CCS interest containing the PF indicator will be available to participate in an execution to provide a partial execution of an incoming limit order that exceeds the liquidity available at the Exchange BBO. In this way incoming limit orders will have another opportunity to receive fuller executions prior to quoting.

Example of Proposed CCS Partial Fill at the Price the Remaining Shares Will Be Quoted

The Exchange Market is 200 shares bid at the price of $20.05 and 200 shares offered at a price of $20.10. At the price points of $20.04, $20.03, $20.02, $20.01 and $20.00 there are 100 shares bid. The CCS interest file is willing to provide 200 shares of additional bid liquidity at each of those price points as well. The CCS interest at $20.00 is designated for partial fill. A customer sends the Exchange a sell order for 1200 shares with a limit price of $20.00. Enabling Exchange systems to access CCS interest to partially fill the order, the incoming limit order will execute against the 200 shares at the Exchange bid price of $20.05. The order would then execute against all the shares bid, indicated in *italic* typeface at each price point down to the orders limit price of $20.00, Exchange systems would execute an additional 200 shares of the order against the CCS interest at $20.00 designated for partial fill. The incoming limit order receives a total execution of 900 shares and the remaining 300 shares of the order will be filed in the Display Book at its limit price of $20.00.

CCS Interest	Shares bid	Bid price	Offer price	Shares offered	CCS interest
	....	....	$20.10	200	200
200	200	$20.05			
200	*100*	20.04			
200	*100*	20.03			
200	*100*	20.02			
200	*100*	20.01			
200^{PF}	*100*	20.00			

When Exchange systems access the CCS interest in order to provide a partial execution of an incoming order, CCS interest will participate at the price point where the remaining shares will be quoted as illustrated in the example above. If, however, the incoming order reaches a Liquidity Replenishment Point (''LRP'') [9] prior to being executed in full, then Exchange systems will execute the CCS interest at the LRP price, as illustrated in the example below, and the remaining shares of the order will be quoted thereafter at its limit price. In the case of a market order it will be quoted at the LRP price.

Example of Proposed CCS Partial Fill at the LRP Price

CCS Partial Fill at the LRP #1

The Exchange Market is 200 shares bid at the price of $20.10 and 200 shares offered at a price of $20.15. The price

[9] LRPs are pre-determined price points that temporarily convert the automatic Exchange market to an auction market in order to dampen volatility when the market is experiencing a large price movement based on a security's typical trading characteristics or market conditions over short periods of time during the trading day. LRPs allow the DMM to solicit additional liquidity.

point of $20.05 is a designated LRP. At the price points of $20.09 down to $20.05 there are 100 shares bid. The CCS interest file is willing to provide 200 shares of additional bid liquidity at the price points of $20.09 down to $20.05.[10] In addition, the CCS interest file indicates that the interest at the prices $20.08, $20.07 and $20.05 is available to provide a partial fill. A customer sends the Exchange a sell order for 1200 shares with a limit price of $20.00. Enabling Exchange systems to access CCS interest to partially fill the order, the incoming limit order would execute against the 200 shares at the Exchange bid price of $20.10. The order would then execute against all the shares bid (indicated in *italic* typeface) at each price point down to the LRP price of $20.05. Exchange systems would execute an additional 200 shares of the order against the CCS interest at the LRP price of $20.05 for a total 900 shares of the incoming limit order executed. The original order will execute a total of 900 shares above its limit price before the remaining 300 shares of the order is posted on the Display Book at its limit price of $20.00.

CCS Interest	Shares bid	Bid price	Offer price	Shares offered	CCS Interest
	....	....	*$20.15*	*200*	200
200	*200*	$20.10			
200	*100*	20.09			
200 [PF]	*100*	20.08			
200 [PF]	*100*	20.07			
200	*100*	20.06			
200 [PF]	*100*	20.05 [LRP]			
0	0	20.04			
0	0	20.03			
0	0	20.02			
0	0	20.01			
0	0	20.00			

CCS Partial Fill at the LRP # 2

The Exchange Market is 200 shares bid at the price of $20.10 and 200 shares offered at a price of $20.15. The price point of $20.05 is a designated LRP. At the price points of $20.09 and $20.08 there are 100 shares bid. The CCS interest file is willing to provide 200 shares of additional bid liquidity at the price points of $20.09 down to $20.05. In addition, the CCS interest file indicates that the interest at the prices $20.08, $20.07 and $20.05 is available to provide a partial fill. A customer sends the Exchange a sell order for 700 [11] shares with a limit price of $20.00. Enabling Exchange systems to access CCS interest to partially fill the order, the incoming limit order would execute against the 200 shares at the Exchange bid price of $20.10. The order would then execute 100 shares against the shares bid at $20.09 and $20.08. Exchange systems would execute an additional 200 shares of the order against the CCS interest at the LRP price of $20.05 for a total 600 shares of the incoming limit order executed. The remaining 100 shares of the order will be posted on the Display Book at its limit price of $20.00.

CCS interest	Shares bid	Bid price	Offer rice	Shares offered	CCS interest
	....	....	*20.15*	*200*	200
200	*200*	*$20.10*	....	....	....
200	*100*	20.09	....	....	....
200 [PF]	*100*	20.08	....	....	....
200 [PF]	0	20.07	....	....	....
200	0	20.06	....	....	....
200 [PF]	0	20.05 [LRP]	....	....	....
0	0	20.04	....	....	....
0	0	20.03	....	....	....
0	0	20.02	....	....	....
0	0	20.01	....	....	....
0	0	20.00	....	....	....

When accessing CCS interest to partially execute an order, Exchange systems will not review the liquidity available at one minimum price variation better than the execution price to determine if the number of shares that CCS interest is willing to provide at the better price is greater than the number of shares at the price point where the order would execute and then post. The order will be executed against the CCS interest where the remaining shares of the order will ultimately be quoted or in the event an LRP is reached, at the LRP price.[12]

Whether the order is executed at the price where the remaining shares will be quoted or at the LRP price, Exchange systems will not access CCS interest designated PF until all other interest on

[10] A DMM cannot provide CCS interest past the LRPs because that interest will not be executed. Pursuant to current NYSE Rules, once an LRP is reached interest may not trade through the price point.

[11] If the order were for 600 shares Exchange systems would have executed 200 shares at the bid price of $20.10, 100 shares at the price of $20.09. The Exchange will execute the remaining 300 shares at the price of $20.08 against the 100 shares of "Shares Bid" and CCS interest at the price point. However, because the 700 share order could not be completely filled at the price of $20.08 including CCS interest, it is executed based on the rules governing partial executions and will thus be executed as illustrated in the example.

[12] If the DMM did not designate the CCS interest eligible for partial fill, then the CCS interest would not participate in the execution and the remaining shares of the order would be quoted.

the Display Book up to the price point is executed in full. CCS interest therefore, remains the interest of last resort because Exchange systems will access CCS interest to provide a partial execution to an incoming limit order only after all it has satisfied protected interest on away market centers and all other interest on the Display Book eligible to be executed against the order is executed in full. In all instances where Exchange systems access CCS to provide a partial execution of an order, the customer order is afforded the ability for price improvement within the parameters of the rule.

The Exchange therefore proposes to amend NYSE Rule 1000, to allow Exchange systems to access available CCS interest in order to provide an incoming order with a fuller execution. The Exchange proposes to amend NYSE Rule 1000(e)(iii)(A)(4) to include this provision and renumber former subparagraph (e)(iii)(A)(4) to (e)(iii)(A)(5).

The Exchange believes that the instant proposal to maximize an order's partial execution by allowing Exchange systems to access CCS interest removes the current impediment from a limit order accessing all the liquidity available on the Display Book. The proposed modification increases the opportunities for executing a greater number of shares of the incoming order and exposes it to additional opportunity for price improvement. The Exchange believes that the proposal therefore contributes to perfect the mechanism of a free and open market and ultimately protects investors and the public interest.

Administrative Amendments to NYSE Rule 1000

The Exchange further proposes to delete legacy references to ''ITS Plan'' contained in NYSE Rule 1000 subparagraphs (e)(ii) and (e)(iii) and replace the concept of ITS commitments with appropriate language consistent with the current practice of routing orders to away market centers.

The Exchange also proposes to include references to its Do Not Ship Order [13] in NYSE Rule 1000 subparagraphs (e)(ii)(C) and (e)(iii)(A)(5) to illustrate the additional order type that requires the same execution handling as Reg. NMS-compliant IOC. NYSE Rule 1000 subparagraph (e)(ii)(D) is proposed for deletion because it restates the information contained in subparagraph (e)(ii) above it.

Finally, the Exchange proposes to delete the rule language of NYSE Rule 1000 Supplementary Material .10 that is no longer applicable, as it relates to a former pilot operated by the Exchange between May 12, 2006 and October 31, 2006. The Exchange proposes to reserve this rule section.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') [14] for these proposed rule changes is the requirement under Section 6(b)(5) [15] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change supports these principles in that it seeks to protect the investor and the public interest by allowing an incoming limit order to execute against all the liquidity available on the Exchange.

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

Within 35 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 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. In addition, the Commission seeks comment on whether the proposed handling of incoming orders receiving partial fills that include CCS interest is consistent with the Act and, in particular, whether the proposed rule changes are designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

Specifically, in certain situations, the Exchange's proposal would allow the DMM's CCS interest to participate in partial fills at the best possible price (from the DMM's perspective), even when this price is inferior to all the non-CCS interest participating in the same execution. Currently, NYSE's rules allow for CCS participation only when the incoming order will be completely filled, and the DMM's CCS interest may not participate in an execution at a price inferior to the completion price.

The Commission notes the fact pattern presented above under the heading ''CCS Partial Fill at the LRP #2'' where, under NYSE's current rules, an incoming order of 600 shares would be completed at \$20.08 (200, 100, and 100 shares of non-CCS interest at \$20.10, \$20.09, and \$20.08 respectively, and 200 shares of CCS interest also at \$20.08).[16] In contrast, under the proposal, an incoming order of 700 shares that outsizes the available non-CCS interest would be partially completed by CCS interest at the LRP price, and thus would receive an execution of 200 shares against CCS interest at \$20.05, rather than \$20.08, before the system quotes the residual 100 shares at \$20.05, the LRP.[17]

Absent the proposed rule change, a 700-share incoming order would result in a partial fill without any CCS participation, with 300 shares unexecuted and quoting at the LRP. Thus, the Commission notes that the proposal may benefit the incoming order by immediately and automatically executing additional shares at the order's limit price or at the LRP price, as applicable. However, the Commission is interested in commenters' views on the proposed expansion of DMMs' CCS capabilities for partial fills and, in particular, on the proposed execution of CCS interest at the limit price of the order or the LRP price, as the case may be, even when no other interest resides at that price. To illustrate, in the ''CCS Partial Fill at the LRP #2'' example above, the proposal would result in a CCS interest execution at \$20.05 (*i.e.,* the LRP price). Is another price more

[13] *See* NYSE Rule 13.

[14] 15 U.S.C. 78a.

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

[16] *See supra* note 11.

[17] *See supra* text accompanying note 11.

appropriate? For example, should such CCS interest be executed at $20.08 (the last price at which there is non-CCS interest)? Another price? Why or why not?

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–NYSE–2009–71 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–71. 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 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–NYSE–2009–71 and should be submitted on or before September 1, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–19145 Filed 8–10–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60433; File No. SR–NYSEArca–2009–69]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.31(oo)

August 5, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on July 17, 2009, 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 modify NYSE Arca Equities Rule 7.31(oo) governing the Primary Until 9:45 Order. 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

The Exchange proposes to modify NYSE Arca Equities Rule 7.31(oo) pertaining to the Primary Until 9:45 Order.

The Primary Until 9:45 Order permits NYSE Arca Users to submit an order that will be routed directly to the primary listing market until 9:45 am (Eastern Time). If the order is not executed on the primary market by 9:45 am (Eastern Time), the order will be cancelled from the primary market and a new order will be entered on the Arca Book for execution during the remainder of the Exchange's Core Trading Session.

Currently, a Primary Until 9:45 Order may be marked with a Time in Force of Day, Good Till Cancelled ("GTC"), or Good Till Date ("GTD"). However, potential confusion arises in that the Primary Until 9:45 Order is not designed to re-route to the primary if not executed on its initial day of entry. The Exchange proposes to eliminate the option to mark a Primary Until 9:45 Order as GTC or GTD. This change eliminates that potential confusion by allowing the Primary Until 9:45 Order to be marked as Day only.

The Exchange plans to implement this change on July 20, 2009 in conjunction with the implementation of the Primary Until 9:45 Order.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[3] of the Securities Exchange Act of 1934 (the "Exchange Act"), in general, and furthers the objectives of Section 6(b)(5)[4] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule changes are designed to accomplish these ends by eliminating order types from its rulebook which it can not currently support.

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[18] 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. 78f(b).

[4] 15 U.S.C. 78f(b)(5).