

should be submitted on or before April 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59556; File No. SR-NYSEArca-2009-17]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 6.87—Obvious Errors

March 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 27, 2009, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) 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 the self-regulatory organization. NYSE Arca filed the proposed rule change as a “non-controversial” proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> 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 Rule 6.87—Obvious Errors. 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 Arca proposes to amend Rule 6.87 pertaining to the nullification and adjustment of options transactions. Specifically, the Exchange proposes to adopt a new provision which provides that in the interest of maintaining a fair and orderly market and for the protection of investors, the Chief Executive Officer of NYSE Arca Inc. (“CEO”) or his/her designee (collectively “Exchange officer”),<sup>5</sup> may, on his or her own motion or upon request, determine to review any transaction occurring on the Exchange that is believed to be erroneous.<sup>6</sup> A transaction reviewed pursuant to this new provision may be nullified or adjusted only if it is determined by the Exchange officer that the transaction is erroneous as provided in Rule 6.87(a)(1)–(5) or Commentary .04 thereof. A transaction would be adjusted or nullified in accordance with the provision under which it is deemed an erroneous transaction. The Exchange officer may be assisted by a Trading Official in reviewing a transaction.

The Exchange officer shall act pursuant to this paragraph as soon as possible after receiving notification of the transaction, and ordinarily would be expected to act on the same day as the transaction occurred. However, because a transaction under review may have occurred near the close of trading or due to unusual circumstances, the rule provides that the Exchange officer shall act no later than 9:30 a.m. (ET) on the next trading day following the date of the transaction in question. An OTP Holder affected by a determination to nullify or adjust a transaction pursuant to this new provision may appeal such

determination in accordance with Rule 6.87(a)(6); however, a determination by an Exchange officer not to review a transaction, or a determination not to nullify or adjust a transaction for which a review was requested or conducted, is not appealable. NYSE Arca believes it is appropriate to limit review on appeal to only those situations in which a transaction is actually nullified or adjusted.

This new provision is not intended to replace a party’s obligation to request a review, within the required time periods under Rule 6.87(a)(3), of any transaction that it believes meets the criteria for an obvious error. And, if a transaction is reviewed and a determination has been rendered pursuant to Rules 6.87(a)(1)–(5) or Commentary .04 thereof, no additional relief may be granted under this new provision. Moreover, NYSE Arca does not anticipate exercising this new authority in every situation in which a party fails to make a timely request for review of a transaction pursuant to Rule 6.87(a)(3). NYSE Arca believes this provision will help to protect the integrity of its marketplace by vesting an Exchange officer with the authority to review a transaction that may be erroneous, in those situations where a party failed to make a timely request for a review.

The Exchange also proposes at this time to revise Rule 6.87(a)(3)(A) in order to clarify that the time period in which a Market Maker or other OTP Holder must notify the Exchange, when requesting relief from a possible erroneous transaction, applies to all transactions that are subject to adjustment or nullification, pursuant to Rule 6.87(a)(1)–(5).

##### 2. Statutory Basis

This proposed rule change is designed to allow an Exchange officer to review a transaction in order to provide the opportunity for potential relief to a party affected by an obvious error. The Exchange believes that for these reasons the proposed rule change is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</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. NYSE Arca notes that the

<sup>19</sup> 17 CFR 200.30-3(a)(12).

<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).

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

<sup>5</sup> The Exchange represents that a CEO designee will be an officer of the Exchange, who has also been designated as a Trading Official, such as the Executive Vice President of Trading Operations or the Vice President of Trading Services. Exchange officers are employees of the Exchange, and are not affiliated with OTP Holders or OTP Firms.

<sup>6</sup> In the event a party to a transaction requests that the CEO or his/her designee review a transaction, the Exchange officer nonetheless would need to determine, on his or her own motion, whether to review the transaction.

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

Exchange officer can adjust or nullify a transaction under the authority granted by this new provision only if the transaction meets the objective criteria for an obvious error under NYSE Arca rules.

#### *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 filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>12</sup>

At any time within 60 days of the filing of the 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-NYSEArca-2009-17 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-2009-17. 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-NYSEArca-2009-17 and should be submitted on or before April 7, 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. E9-5716 Filed 3-16-09; 8:45 am]

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### **SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #11643 and #11644]**

#### **Kentucky Disaster Number KY-00019**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 2.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kentucky (FEMA-1818-DR), dated 02/05/2009.

*Incident:* Severe winter storm and flooding.

*Incident Period:* 01/26/2009 through 02/13/2009.

*Effective Date:* 03/09/2009.

*Physical Loan Application Deadline Date:* 04/06/2009.

*Economic Injury (EIDL) Loan Application Deadline Date:* 11/05/2009.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for private non-profit organizations in the State of Kentucky, dated 02/05/2009, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Boone, Casey, Gallatin, Hancock, Henry, Kenton, Simpson, Taylor, Wolfe, Trimble

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

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### **SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #11690 and #11691]**

#### **Texas Disaster Number TX-00334**

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Texas dated: 03/10/2009.

*Incident:* Bastrop County Wildland Fire.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 satisfied the pre-filing requirement.

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