

with Section 6(b)(4) of the Act<sup>5</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

#### *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*

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

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

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange.

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-NYSE-2007-105 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission,

100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2007-105. 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 NYSE. 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-2007-105 and should be submitted on or before December 27, 2007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56858; File No. SR-NYSE-2007-103]

#### **Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Rule 124 (Odd-Lot Orders)**

November 28, 2007.

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 November 14, 2007, the New York Stock Exchange LLC ("NYSE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the NYSE. The Exchange has filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(5) 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 Exchange Rule 124 (Odd-Lot Orders) to clarify the manner in which Exchange systems price and execute odd-lot orders<sup>5</sup> at the opening and at the re-opening after a halt in trading on the Exchange. The text of the proposed rule change is available on the Exchange's Web site (<http://www.nyse.com>), at the Exchange's Office of the Secretary, 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, NYSE 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 IV 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

This filing is submitted to amend Exchange Rule 124 in order to clarify that for the opening transaction in a subject security, odd-lot market orders and all odd-lot limit orders that are eligible to receive an execution based on

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

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

<sup>5</sup> Odd-lot orders are orders for a size less than the standard unit (roundlot) of trading, which is 100 shares for most stocks, although some stocks trade in 10 share units.

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</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.

the price of the opening transaction<sup>6</sup> shall be executed at the price of the opening transaction. Similarly, in the event of a halt in trading on the Exchange in the subject security, odd-lot market orders and all odd-lot limit orders eligible to receive an execution based on the re-opening price that are accepted by Exchange systems prior to the halt in trading or are received during the halt in trading shall be executed at the price of the re-opening transaction.

On September 6, 2007, the Exchange amended Exchange Rule 124 to modify the way in which Exchange systems priced and executed odd-lot orders (the "Odd-lot Filing").<sup>7</sup> As it pertains to openings and halts in trading, the Odd-lot Filing was intended to provide that odd-lot orders entered into the Exchange systems before the opening transaction of the subject security that would be eligible for execution based on the price of the opening transaction would be executed at the price of the opening transaction.<sup>8</sup> With respect to halts in trading on the Exchange, the Odd-lot Filing was also to provide that odd-lot orders accepted by Exchange systems prior to, or during, a halt in trading that are subsequently eligible to receive an execution based on the re-opening price would be executed at the price of the re-opening transaction.<sup>9</sup>

Currently, Exchange systems handle odd-lot orders at the opening and re-opening after a halt in trading as intended and as described above. However, the Exchange states that the use of the word "marketable"<sup>10</sup> in the rule text of subsections (c)(vi) and (c)(vii) is not accurate. Specifically as it pertains to the open, an order is neither marketable or non-marketable until the specialist determines the opening price. As such, the rule text of subsection (c)(vi) and (c)(vii) should not include

<sup>6</sup> Pursuant to Exchange Rule 124(b), an odd-lot limit order is considered marketable when its limit price is at or higher than the current National best offer (in the case of an odd-lot limit to buy) and when its limit price is at or lower than the current National best bid (in the case of an odd-lot limit to sell).

<sup>7</sup> See Securities Exchange Act Release No. 56551 (September 27, 2007), 72 FR 56415 (October 3, 2007) (SR-NYSE-2007-82).

<sup>8</sup> See Exchange Rule 124 subsections (c)(vi) (relating to openings) and (c)(vii) (relating to trading halts).

<sup>9</sup> The Commission made minor clarifications to this paragraph pursuant to a telephone call with the Exchange. See telephone call among Jennifer Dodd, Special Counsel, Division of Trading and Markets, Commission, Rahman Harrison, Special Counsel, Division of Trading and Markets, Commission, and Gillian Rowe, Principal Rule Counsel, NYSE, on November 19, 2007.

<sup>10</sup> See Exchange Rule 124(c) which defines "marketable odd-lot orders" as odd-lot market orders and odd-lot limit orders that are marketable upon receipt.

the word marketable. Moreover, the use of the term marketable in (c)(vii) technically excludes non-marketable odd-lot limit orders accepted by Exchange systems prior to a halt in trading that are subsequently eligible to receive an execution based on the re-opening price from receiving an execution.<sup>11</sup> This would occur because the definition of marketable in the rule requires the odd-lot limit order to have been marketable "upon receipt by the system."

Accordingly, the Exchange proposes in this filing to amend subsection (c)(vi) of Exchange Rule 124 to clarify that odd-lot orders entered into the Exchange systems before the opening transaction of the subject security that would be eligible for execution based on the price of the opening transaction shall be executed at the price of the opening transaction. The Exchange further proposes to amend subsection (c)(vii) to clarify that, in the event of a halt in trading on the Exchange, odd-lot orders accepted by Exchange systems prior to, or during, a halt in trading that are subsequently eligible to receive an execution based on the re-opening price shall be executed at the price of the re-opening transaction.

The Exchange believes these amendments will accurately align the rule text with the operation of Exchange systems in the handling of odd-lot orders under these specific circumstances. However, the Exchange will continue to monitor the recent changes to the processing of odd-lots and confer with our constituents in order to evaluate whether further change is necessary.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b) of the Act,<sup>12</sup> in general, and with section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is 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 Exchange also states that the proposed rule change also is designed to support the principles of section 11A(a)(1)<sup>14</sup> in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute

investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer.

## 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

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

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

Because the foregoing proposed rule change effects a change in an existing order-entry or trading system of a self-regulatory organization that does not (1) Significantly affect the protection of investors of the public interest, (2) impose any significant burden on competition, and (3) have the effect of limiting the access to or availability of the system, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and Rule 19b-4(f)(5) thereunder.<sup>16</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-NYSE-2007-103 on the subject line.

<sup>11</sup> Exchange Rule 124(d) governs the execution and pricing of odd-lot limit orders that are non-marketable upon receipt that become marketable.

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

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78k-1(a)(1).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(5).

*Paper Comments*

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

All submissions should refer to File Number SR-NYSE-2007-103. 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 NYSE. 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-2007-103 and should be submitted on or before December 27, 2007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56856; File No. SR-OCC-2007-13]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Delayed Start Options

November 28, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 9, 2007, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant approval of the proposal.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would permit OCC to clear and settle delayed start options ("DSOs") by the Chicago Board Options Exchange ("CBOE").

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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 IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change—Purpose of Rule Change

The purpose of the proposed rule change is to accommodate the introduction of DSOs by the CBOE. Initially CBOE proposes to list DSOs only on indexes.<sup>3</sup>

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>3</sup> File No. SR-CBOE-2007-26. The Commission recently issued an order granting approval of SR-CBOE-2007-26 that allows CBOE to list and trade DSOs. Securities Exchange Act Release No. 56855 (November 28, 2007).

#### Description of Product

As described by CBOE, a DSO is identical to existing standardized options with one exception: at the commencement of trading in a series, DSOs of that series will not have a set exercise price. Instead, a DSO will commence trading with a preestablished formula that the listing exchange will use to fix the exercise price for the DSO on a specified date prior to the DSO's expiration date ("exercise price setting date"). The CBOE is currently proposing that an "at-the-money" DSO on an index will be assigned an exercise price equal to the closing value of the underlying index on the exercise price setting date, rounded to the increment established by CBOE at the time the DSO commences trading. CBOE has also indicated that it may introduce in- or out-of-the-money DSOs. Those DSOs would, according to CBOE, have the same terms as at-the-money DSOs except that the exercise price would be set at a specified percentage either in- or out-of-the-money on the exercise price setting date (e.g., 5% in-the-money or 5% out-of-the-money).

The listing exchange will specify the exercise price setting date prior to the opening of each series of DSOs. According to CBOE, the exercise price setting date for each series of DSOs traded on CBOE will initially be three months prior to the DSO's expiration date. In other words, each series of DSOs will trade without an exercise price until three months prior to expiration. From the exercise price setting date forward, all options terms will be fixed, and DSOs will be fungible with any other option on the same underlying interest having the same terms such as exercise price, expiration date, etc. An exchange may determine to issue series of DSOs with more or less than three months between the exercise price setting date and the expiration date.

A DSO will not have an exercise price until the exercise price setting date, and it will not be exercisable until after that date. Thus, an "American-style" DSO would be exercisable only between the exercise price setting date and the expiration date. A "European-style" DSO, like any other European-style option, would be exercised only on or near the expiration date.

#### Proposed Changes to OCC's By-Laws and Rules

In order to issue and clear DSOs, OCC needs to make several definitional changes in its By-Laws. A definition of DSO would be added to Article I of the By-Laws. OCC is also proposing to

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