

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59440; File No. SR-NYSEArca-2009-11)

February 24, 2009

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Arca, Inc.
Amending Rule 6.69 - Reporting Duties

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 February 13, 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, II, and III 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 amend Exchange Rule 6.69 - Reporting Duties. The text of the proposed rule change is attached as Exhibit 5.⁴ A copy of this filing is available on the Exchange’s Web site at 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ The Commission notes that while provided in Exhibit 5 to the filing, the text of the proposed rule change is not attached to this notice but is available at the Exchange, the Commission’s Public Reference Room, and at www.nyse.com.

received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The purpose of the proposed rule change is to revise the procedures for reporting open outcry trades that occur on the options trading floor.

All option transactions that occur on the options trading floor must be immediately reported to the Exchange, in a form and manner prescribed by the Exchange, for dissemination to the Options Price Reporting Authority ("OPRA").⁵ This requirement applies to all OTP Holders who are required to report trades either directly to OPRA or to another party who is responsible for reporting trades to OPRA.

All option transactions have two parties to a trade, a buyer and a seller. Pursuant to Rule 6.69(b), the responsible party for reporting a transaction is the party that participates on the transaction as the seller. The Exchange now proposes to revise this rule so that whenever a Floor Broker is participating on one side of a transaction, they become the responsible party for reporting the trade, regardless of whether they are the buyer or seller. The Exchange is proposing this change in order to provide a more efficient mechanism for reporting transactions.

All orders on the Exchange are required to be in an electronic format prior to representation on the trading floor. Typically, an order is sent via a wire or phone line to a Floor Broker's booth located on the trading floor, and a representative of the brokerage firm will enter

⁵ For transactions executed on the Exchange's electronic trading platform, NYSE Arca will report the trade directly to OPRA.

the terms of the order in to the Electronic Order Capture System (“EOC”)⁶. It is at this time that the Floor Broker is able to represent the order in the trading crowd. This procedure applies regardless of whether the Floor Broker is the buyer or seller on the trade. Upon execution of the order, the Broker is able to complete fill in the requisite trade information, including the contra side of the trade, and electronically report the transaction to the Exchange for processing and dissemination to OPRA. In most cases, the contra-side to a trade that has been represented by a Floor Broker will be an NYSE Arca Market Maker. Market Makers trade for their own proprietary accounts, are not required to electronically systemize their orders prior to responding to a call from a Floor Broker. Once a trade is consummated, in order for a Market Maker acting a seller, to report the transaction, he has to re-enter all the order information that the Floor Broker already has in their EOC system and then send the information to the Exchange for processing. In the event there are multiple Market Makers, acting as seller and comprising the contra-side to a transaction, each Market Maker would have to re-enter all the trade information individually. The Exchange believes that requiring a Market Maker to report a transaction, when trading with a Floor Broker, is a practice that may serve to delay the reporting of transactions that occur on the options floor.

The Exchange does not feel that requiring a Floor Broker to report every transaction that they are a party to will create any undue hardship or unnecessary burden of the Floor Broker. In the vast majority of situations, the Floor Broker already possesses the order information in an

⁶ The EOC system is the Exchange's electronic audit trail and order tracking system that provides an accurate time-sequenced record of all orders and transactions on the Exchange.

electronic format,⁷ it is actually more efficient for the Floor Broker to send the trade information directly to the Exchange after executing the order, than it is to re-enter the same information and have the Market Maker report the trade.

In the event that there is a Floor Broker participating on both sides of a transaction, the Floor Broker participating as the seller must report the transaction to the Exchange. For transactions occurring on the Exchange between two Market Makers, the Market Maker participating as the seller must report the transaction to the Exchange. These reporting obligations are consistent with the terms of Rule 6.69, as it reads presently.

In order to offer further clarity to the rules regarding reporting duties, the Exchange proposes a new provision regarding Complex Orders. A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account. Since each party to the transaction could be both buying and selling different series that make up order, there may be no clearly defined seller. The Exchange now proposes that for Complex Order transactions between two Floor Brokers or two Market Makers, the party responsible for reporting the transaction shall be the OTP Holder that first initiated the transaction. This provision does not affect the obligation that a Floor Broker has to report transactions pursuant to proposed Rule 6.69(b)(i), but will have bearing when a Complex Order is executed between two Floor Brokers or between two Market Makers.

The Exchange also proposes to eliminate Rule 6.69 Commentary .04 which relates to an obsolete and outdate practice. “Hard cards”, which refer to the cardboard backing of a paper trade ticket, are no longer in use on the trading floor.

⁷ Certain order types, such as FLEX Orders and Cabinet Orders are exempt from the EOC electronic order format requirements.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ 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. The Exchange believes that the proposed rule change can lead to faster and more efficient reporting of transactions that occur on the options trading floor.

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

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

- (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. 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-NYSEArca-2009-11 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-2009-11. 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 on official

business days between the hours of 10:00 a.m. and 3:00 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-NYSEArca-2009-11 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).