

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66136; File No. SR-NYSE-2011-69]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 128, Which Governs Clearly Erroneous Executions, to Extend the Effective Date of The Pilot by Which Portions of Such Rule Operate Until July 31, 2012

January 11, 2012.

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 December 28, 2011, 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 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 amend NYSE Rule 128, which governs clearly erroneous executions, to extend the effective date of the pilot by which portions of such Rule operate until July 31, 2012. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, [www.nyse.com](http://www.nyse.com), and [www.sec.gov](http://www.sec.gov).

#### 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

The Exchange proposes to amend NYSE Rule 128, which governs clearly erroneous executions, to extend the effective date of the pilot by which portions of such Rule operate, until July 31, 2012. The pilot is currently scheduled to expire on January 31, 2012.<sup>4</sup>

On September 10, 2010, the Commission approved, on a pilot basis, market-wide amendments to exchanges’ rules for clearly erroneous executions to set forth clearer standards and curtail discretion with respect to breaking erroneous trades. In connection with this pilot initiative, the Exchange amended NYSE Rule 128(c), (e)(2), (f), and (g). The amendments provide for uniform treatment of clearly erroneous execution reviews (1) in Multi-Stock Events<sup>5</sup> involving twenty or more securities, and (2) in the event transactions occur that result in the issuance of an individual security trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange.<sup>6</sup> The amendments also eliminated appeals of certain rulings made in conjunction with other exchanges with respect to clearly erroneous transactions and limited the Exchange’s discretion to deviate from Numerical Guidelines set forth in the Rule in the event of system disruptions or malfunctions.

If the pilot were not extended, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 128 would be in effect, and the NYSE would have different rules than other exchanges and greater discretion in connection with breaking clearly erroneous transactions. The Exchange proposes to extend the pilot amendments to NYSE Rule 128 until July 31, 2012 in order to maintain

uniform rules across markets and allow the pilot to continue to operate without interruption during the same period that the Rule 80C trading pause rule pilot is also in effect. Extension of the pilot would permit the Exchange, other national securities exchanges and the Commission to further assess the effect of the pilot on the marketplace, including whether additional measures should be added, whether the parameters of the rule should be modified or whether other initiatives should be adopted in lieu of the current pilot.

##### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>7</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5)<sup>8</sup> in particular in that 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, 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. More specifically, the NYSE believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest.

#### 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.

<sup>4</sup> See Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-NYSE-2010-47). See also Securities Exchange Act Release Nos. 63479 (December 9, 2010), 75 FR 78274 (December 15, 2010) (SR-NYSE-2010-80); 64232 (April 7, 2011), 76 FR 20735 (April 13, 2011) (SR-NYSE-2011-17); and 65064 (August 9, 2011), 76 FR 50505 (August 15, 2011) (SR-NYSE-2011-41).

<sup>5</sup> Terms not defined herein are defined in NYSE Rule 128.

<sup>6</sup> Separately, the Exchange has proposed extend the effective date of the trading pause pilot under NYSE Rule 80C, which requires to the Exchange to pause trading in an individual security listed on the Exchange if the price moves by a specified percentage as compared to prices of that security in the preceding five-minute period during a trading day. See SR-NYSE-2011-68.

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

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

<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.

### 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 and Rule 19b-4(f)(6)(iii) thereunder.<sup>11</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NYSE-2011-69 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 No. SR-NYSE-2011-69. This file number should be included on the subject line

if email 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 Web site viewing and printing 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 No. SR-NYSE-2011-69 and should be submitted on or before February 8, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66135; File No. SR-NYSEArca-2011-100]

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Rule 7.10, Which Governs Clearly Erroneous Executions, To Extend the Effective Date of the Pilot by Which Portions of Such Rule Operate Until July 31, 2012**

January 11, 2012.

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 December 28, 2011, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 amend NYSE Arca Rule 7.10, which governs clearly erroneous executions, to extend the effective date of the pilot by which portions of such Rule operate until July 31, 2012. The pilot is currently scheduled to expire on January 31, 2012. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, [www.nyse.com](http://www.nyse.com), and [www.sec.gov](http://www.sec.gov).

#### **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**

The Exchange proposes to amend NYSE Arca Equities Rule 7.10, which governs clearly erroneous executions, to extend the effective date of the pilot by which portions of such Rule operate, until July 31, 2012. The pilot is currently scheduled to expire on January 31, 2012.<sup>4</sup>

On September 10, 2010, the Commission approved, on a pilot basis,

<sup>4</sup> See Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-NYSEArca-2010-58). See also Securities Exchange Act Release Nos. 63482 (December 9, 2010), 75 FR 78331 (December 15, 2010) (SR-NYSEArca-2010-113); 64234 (April 7, 2011), 76 FR 20399 (April 12, 2011) (SR-NYSEArca-2011-15); and 65065 (August 9, 2011), 76 FR 50502 (August 15, 2011) (SR-NYSEArca-2011-56).

<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> 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its 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 this requirement.

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

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

<sup>25</sup> U.S.C. 78a.

<sup>37</sup> 17 CFR 240.19b-4.