

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-65505; File No. SR-NYSEAmex-2011-76)

October 6, 2011

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Options Rule 975NY (Obvious and Catastrophic Errors)

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 September 29, 2011, NYSE Amex LLC (the “Exchange” or “NYSE Amex”) 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 Amex Options Rule 975NY (Obvious and Catastrophic Errors). The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.nyse.com](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

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<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.

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 is proposing to amend NYSE Amex Options Rule 975NY (Obvious and Catastrophic Errors) as described below.

Applicability

The Exchange proposes to amend Rule 975NY to reflect that, unless otherwise stated, the provisions therein are applicable to electronic transactions only.<sup>4</sup>

Erroneous Prints & Quotes in the Underlying Security

The Exchange proposes to make the following changes relating to erroneous prints or quotes in the underlying security:<sup>5</sup>

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<sup>4</sup> Rule 975NY was originally substantially based on Rule 6.87 of NYSE Arca Inc. (“NYSE Arca”) and was adopted in conjunction with new rules for the implementation of a new Exchange trading platform for options. See Securities Exchange Act Release No. 59472 (February 27, 2009), 74 FR 9843 (March 6, 2009) (SR-NYSEALTR-2008-14). Rule 975NY replaced then-existing Exchange Rules 936 and 936C. See Securities Exchange Act Release Nos. 59454 (February 25, 2009), 74 FR 9461 (March 4, 2009) (SR-NYSEALTR-2009-17) and 59660 (March 31, 2009), 74 FR 15802 (April 7, 2009) (SR-NYSEAmex-2009-03). NYSE Arca Rule 6.87 was originally applicable to the NYSE Arca “Auto-Ex” electronic system, not manual or open-outcry trading, and has been amended on an incremental basis over time. See, e.g., Securities Exchange Act Release Nos. 48538 (September 25, 2003), 68 FR 56858 (October 2, 2003) (SR-PCX-2002-01); 50549 (October 15, 2004), 69 FR 62107 (October 22, 2004) (SR-PCX-2004-87); and 53221 (February 3, 2006), 71 FR 6811 (February 9, 2006) (SR-PCX-2005-102).

<sup>5</sup> See Rule 975NY(a)(4) and (5). The changes to these provisions are based on Chicago Board Options Exchange (“CBOE”) Rule 6.25. See Securities Exchange Act Release No. 59981 (May 27, 2009), 74 FR 26447 (June 2, 2009) (SR-CBOE-2009-024).

### 1. Adjustments

Rule 975NY(a)(4) currently provides only for nullifications with respect to erroneous prints, whereas Rule 975NY(a)(5) provides for nullifications and adjustments for erroneous quotes. For consistency, the Exchange proposes to amend Rule 975NY(a)(4) to allow for adjustments and nullifications of erroneous prints in the underlying security.<sup>6</sup> The Exchange also proposes to clarify that such adjustment or nullification would be in the same manner and subject to the same conditions as set forth in Rule 975NY(a)(3) for Obvious Errors.

### 2. Average Quote Width

Rule 975NY(a)(4) and (5) currently provide that the “average quote width” thereunder is determined by adding the quote widths of each separate quote during the two minute time period before and after the erroneous print or erroneous quote. The Exchange proposes to revise the provisions used to determine the average quote width and instead make such a determination by adding the quote widths of sample quotations at regular 15-second intervals during the two minute time period before and after the erroneous quote or print. Such a change would make the administration of Rule 975NY(a)(4) and (5) less time consuming and burdensome, while also aligning the Exchange’s method of calculation with the methods used by other options exchanges.<sup>7</sup>

### 3. Designation of Underlying Security or Market

The erroneous print and quote provisions of Rule 975NY(a)(4) and (5) currently only address the security underlying the particular option. The Exchange proposes to modify these provisions to allow the Exchange to designate the applicable underlying security(ies) or related

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<sup>6</sup> See, e.g., CBOE Rule 6.25(a)(4).

<sup>7</sup> See, e.g., CBOE Rule 6.25(a)(4)(ii) and CBOE Rule 6.25(a)(5)(ii).

instruments for any option.<sup>8</sup>

Under the revised rule, the Exchange would identify the particular underlying security – or with respect to ETF(s), HOLDRS(s), and index options the related instrument(s) that would be used to determine an erroneous print or quote – and would also identify the relevant market(s) trading the underlying security or related instrument to which the Exchange would look for purposes of applying the obvious error analysis. The “related instrument(s)” may include related ETF(s), HOLDRS(s), and/or index value(s),<sup>9</sup> and/or related futures product(s),<sup>10</sup> and the “relevant market(s)” may include one or more markets. The underlying security or related instrument(s) and relevant market(s) would be designated by the Exchange and announced via Regulatory Bulletin. For a particular ETF, HOLDRS, index value and/or futures product to qualify for consideration as a “related instrument,” the revised rule would require that the option class and related instrument be derived from or designed to track the same underlying index.

Thus, as an example for illustrative purposes only, for options on the Powershares QQQ Trust, Series 1 (the “Nasdaq 100 ETF”), the Exchange may determine to designate the underlying ETF (ETF symbol “QQQ”) and the primary market where it trades, as well as a related futures product overlying the Nasdaq 100 Index and the primary market where that futures product trades, as the instruments that would be considered by the Exchange in determining whether an erroneous print or an erroneous quote has occurred that would form the

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<sup>8</sup> See, e.g., CBOE Rule 6.25(a)(4) and CBOE Rule 6.25(a)(5).

<sup>9</sup> An “index value” is the value of an index as calculated and reported by the index’s reporting authority. Use of an index value would only be applicable for purposes of identifying an erroneous print in the underlying security (and not an erroneous quote).

<sup>10</sup> The Exchange is only proposing that it may designate underlying or related ETF(s), HOLDRS(s), and/or index value(s), and/or related futures product(s). The Exchange is not proposing to designate any of the individual underlying stocks (or related options or futures on any of the individual underlying stocks) that comprise a particular ETF, HOLDR or index. Any such proposal would be the subject of a separate rule filing.

basis for an adjustment or nullification of a transaction in the related options.<sup>11</sup> As another example for illustrative purposes only, for the Exchange's class of options on International Business Machines Corporation, the underlying security would be its common stock, which trades under the symbol IBM. The Exchange may determine to designate one or more underlying stock exchanges as the "relevant market(s)," such as the New York Stock Exchange LLC ("NYSE") and the NYSE Arca, Inc. ("NYSE Arca").<sup>12</sup> The proposed change is intended to

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<sup>11</sup> Using this example, under the revised rule, the designated instruments and markets would be announced by Regulatory Bulletin. Thereafter, for a transaction in the QQQ options class to be adjusted or nullified due to an erroneous print in an underlying security or related instrument that is later cancelled or corrected, the trade must be the result of (i) an erroneous print in the underlying Nasdaq 100 ETF that is higher or lower than the average trade in the underlying Nasdaq 100 ETF on the designated relevant market during a two-minute period before and after the erroneous print by an amount at least five times greater than the average quote width for the ETF during the same period, or (ii) an erroneous print in the designated futures product overlying the Nasdaq 100 Index that is higher or lower than the average trade in the designated futures product on the designated relevant market during a two-minute period before and after the erroneous print by an amount at least five times greater than the average quote width for the futures product during the same period. For an options transaction to be adjusted or nullified due to an erroneous quote in an underlying or related instrument, an erroneous quote would occur when (i) the underlying Nasdaq 100 ETF has a width of at least \$1.00 and has a width at least five times greater than the average quote width for such ETF on the designated relevant market during the time period encompassing two minutes before and after the dissemination of such quote, or (ii) the designated futures product overlying the Nasdaq 100 Index has a width of at least \$1.00 and has a width at least five times greater than the average quote width for such futures product on the designated relevant market during the period encompassing two minutes before and after the dissemination of such quote.

<sup>12</sup> Using this example, under the revised rule, the relevant market(s) would be announced by Regulatory Bulletin. Thereafter, for a transaction in the IBM options class to be adjusted or nullified due to an erroneous print in an underlying security that is later cancelled or corrected, the trade must be the result of an erroneous report of the underlying IBM stock value on NYSE or NYSE Arca that is higher or lower than the average price in the stock on the NYSE or NYSE Arca market, as applicable, during a two minute period before and after the erroneous report by an amount at least five times higher or lower than the difference between the highest and lowest index values during the same period. To be adjusted or nullified due to an erroneous quote in the underlying security, an erroneous quote would occur when the IBM quote on the NYSE or NYSE Arca market, as applicable, has a width of at least \$1.00 and has a width at least five times greater than

provide relief in those scenarios where an erroneous option transaction may occur as the result of an erroneous print or erroneous quote in markets other than the primary market for the underlying security.

The Exchange believes the proposed change recognizes that market participants trading in the equity, index, ETF and HOLDRS options may base their option prices on trading in various products and markets, while maintaining reasonable and objective criteria for these types of obvious error reviews.

#### No Bid Series

As discussed below, the Exchange proposes to renumber Commentary .04 to Rule 975NY as Rule 975NY(a)(6), which provides that a buyer of an option with a zero bid may request that such execution be busted. This would include certain proposed substantive changes, including with respect to the circumstances under which such an execution could be busted by specifying that certain bids and offers will not be included within such a determination, and explaining the treatment of different groups of series in an option with non-standard deliverables being treated as a separate options class for purposes of the rule.<sup>13</sup> These changes would benefit buyers of an option with a zero bid by adding greater specificity to the circumstances under which such a buyer may request that such execution be busted.

#### Catastrophic Error Theoretical Price

For purposes of determining whether a Catastrophic Error has occurred on the Exchange, the Theoretical Price of an option currently is (A) if the series is traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer

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the average quote width for IBM on the relevant market during the time period encompassing two minutes before and after the dissemination of such quote.

<sup>13</sup> See, e.g., CBOE Rule 6.25(a)(2).

price with respect to an erroneous buy transaction, just prior to the trade, that comprise the National Best Bid or Offer (“NBBO”), as disseminated by the Options Price Reporting Authority (“OPRA”) or (B) if there are not quotes for comparison purposes, as determined by a designated Trading Official.<sup>14</sup> The Exchange proposes that a designated Trading Official also determine the Theoretical Price in circumstances where the bid/ask differential of the NBBO for the affected series just prior to the erroneous transactions was at least two times the permitted bid/ask differential pursuant to Rule 925NY(b)(4). This proposed change would align the determination of what constitutes the Theoretical Price for both Catastrophic and Obvious Errors and is consistent with the methods used by other options exchanges.<sup>15</sup>

#### Technical and Clarifying Changes

The Exchange proposes the following technical and clarifying changes to the existing text of Rule 975NY:<sup>16</sup>

- First, the introductory text of Rule 975NY(a) would be amended to clarify that an ATP Holder or person associated therewith may have a trade adjusted or nullified if, in addition to satisfying the procedural requirements of Rule 975NY(b), the conditions of Rule 975NY(a)(3) – Obvious Errors, Rule 975NY(a)(4) – Erroneous Print in Underlying, Rule 975NY(a)(5) – Erroneous Quote in Underlying, or Rule 975NY(a)(6) – No Bid Series are satisfied.
- Second, Rule 975NY(a)(3)(A) and (B) would be renumbered as Rule 975NY(b)(1) and (3), respectively. Rule 975NY(b)(2) would be added to clarify that once a party to a transaction has applied for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Rule 975NY(a)(3)(C) would be renumbered as Rule 975NY(a)(3).

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<sup>14</sup> See Rule 975NY(b), which, as proposed below, would be renumbered as Rule 975NY(d).

<sup>15</sup> See, e.g., CBOE Rule 6.25(a)(1)(iv), which is applicable for both Obvious and Catastrophic Errors on CBOE.

<sup>16</sup> The Exchange is reformatting Rule 975NY to make it more consistent with CBOE Rule 6.25.

- Third, Rule 975NY(a)(6) would be renumbered as Rule 975NY(c) and re-titled “Obvious Error Panel” to clarify the content of the text therein. This change would also include text clarifying the applicability to a “party to a determination,” as rendered by the Exchange, instead of a “party to an Obvious Error,” as the current text reads.
- Fourth, Rule 975NY(b), which pertains to Catastrophic Errors on the Exchange, would be renumbered as Rule 975NY(d) and include certain other minor changes.
- Lastly, the text of Commentary .04 to Rule 975NY would be deleted and Commentary .04 would be “reserved,” because, as discussed above, the circumstances where a buyer of an option with a zero bid may request that such execution be busted would be moved to Rule 975NY(a)(6).

The aforementioned technical changes require that cross-references to various subsections throughout Rule 975NY be updated, as proposed herein. Additional updates to cross-references within Rule 975NY, including the subsections pertaining to erroneous prints or quotes in the underlying and pertaining to the applicable bid/ask differential under Rule 925NY,<sup>17</sup> are necessary for clarification purposes.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>19</sup> in particular, because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

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<sup>17</sup> A previous rule change filed by the Exchange with the Commission inadvertently added a reference within Rule 945NY(a)(2)(B) to the bid/ask differentials of Rule 925NY(b)(4)-(5) when instead only a reference to 925NY(b)(4) should have been added. See Securities Exchange Act Release No. 61394 (January 21, 2010), 75 FR 4435 (January 27, 2010) (SR-NYSEAmex-2010-02). The bid/ask differentials of Rule 925NY(b)(5) are not applicable to the reference within Rule 945NY(a)(2)(B).

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

The Exchange understands that, in approving proposals of other exchanges related to adjusting and nullifying option trades involving obvious errors, the Commission has focused on the need for specificity and objectivity with respect to exchange determinations and processes for reviewing such determinations.<sup>20</sup> In this regard, the Exchange believes that the proposed rule change would clarify the content of the Exchange's rule for adjusting and nullifying trades, including obvious errors, while also simplifying the administration of the rule in order to more efficiently render such determinations. The Exchange further believes that the proposed rule change would benefit investors and be in the public's interest because it would provide increased clarity and specificity concerning the objective standards used by the Exchange when making trade nullification and adjustment determinations.

The Exchange also believes that the increased specificity resulting from the proposed rule change would benefit investors and market participants that are members of multiple exchanges by more closely aligning the Exchange's rules with respect to obvious errors with those of other exchanges, including text to reflect that, unless otherwise stated, the provisions of Rule 975NY are applicable to electronic transactions only. In this respect, the proposed rule change helps foster certainty for market participants trading on multiple exchanges.

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<sup>20</sup> See, e.g., supra note 5. See also Securities Exchange Act Release No. 63692 (January 11, 2011), 76 FR 2940 (January 18, 2011) (Order Granting Approval of SR-Phlx-2010-163).

Accordingly, the Exchange believes that the increased specificity resulting from the proposed rule change, combined with the continued objective nature of the Exchange's process for rendering and reviewing trade nullification and adjustment determinations, is consistent with prior guidance from the Commission, is consistent with the Act and is consistent with the maintenance of a fair and orderly market and 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.

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>21</sup> and Rule 19b-4(f)(6) thereunder.<sup>22</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>23</sup>

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<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> 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 Commission notes that the Exchange has satisfied this requirement.

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAmex-2011-76 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-NYSEAmex-2011-76. 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 website (<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 website 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the Exchange's principal office, and on its website at [www.nyse.com](http://www.nyse.com). The text of the proposed rule change is available on the Commission's website at <http://www.sec.gov>. 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-NYSEAmex-2011-76 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.<sup>24</sup>

Elizabeth M. Murphy  
Secretary

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<sup>24</sup> 17 CFR 200.30-3(a)(12).