

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-64111; File No. SR-NYSEArca-2011-10)

March 23, 2011

Self-Regulatory Organizations; NYSE Arca Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Option Trading Rules to Extend the Operation of its Pilot Program regarding Minimum Value Sizes for Flexible Exchange Options

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 March 11, 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 the Substance of the Proposed Rule Change

The Exchange proposes [sic] its option trading rules to extend the operation of its pilot program (“Pilot Program”) regarding minimum value sizes for flexible exchange options (“FLEX Options”), currently scheduled to expire on March 28, 2011, until March 30, 2012. The text of the proposed rule change is available at the Exchange’s website at [www.nyse.com](http://www.nyse.com), on the Commission’s Web site at <http://www.sec.gov>, at the Exchange’s principal office, and at the Commission’s Public Reference Room.

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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.

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

The Exchange hereby proposes to amend its option trading rules to extend the operation of its Pilot Program regarding minimum value sizes for FLEX Options, currently scheduled to expire on March 28, 2011,<sup>4</sup> until March 30, 2012. This filing does not propose any substantive changes to the Pilot Program and contemplates that all other terms of FLEX Options will remain the same. The Exchange believes that extending the Pilot Program will benefit public customers and other market participants who will be able to use FLEX Options to manage risk for smaller portfolios.

In support of the proposed extension of the Pilot Program, and as required by the terms of the Pilot Program's implementation,<sup>5</sup> the Exchange has submitted to the Securities and Exchange Commission ("SEC" or "Commission") a Pilot Program Report that provides an analysis of the Pilot Program covering the period during which the Pilot Program has been in effect. This Pilot Program Report includes (i) data and analysis on the open interest and trading volume in (a)

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<sup>4</sup> See Securities Exchange Act Release No. 62054 (May 6, 2010), 75 FR 27381 (May 14, 2010) (SR-NYSEArca-2010-34).

<sup>5</sup> Id.

FLEX Equity Options that have opening transactions with a minimum size of 0 to 249 contracts and less than \$1 million in underlying value; (b) FLEX Index Options that have opening transactions with a minimum opening size of less than \$10 million in underlying equivalent value; and (ii) analysis on the types of investors that initiated opening FLEX Equity and Index Options transactions (i.e., institutional, high net worth, or retail). The report has been submitted to the Commission on a confidential basis.

The Exchange believes that there is sufficient investor interest and demand in the Pilot Program to warrant extension for an additional year. The Exchange believes that the Pilot Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. The Exchange has not experienced any adverse market effects with respect to the Pilot Program.

If, in the future, the Exchange proposes an additional extension of the Pilot Program, or should the Exchange propose to make the Pilot Program permanent, the Exchange will submit, along with any filing proposing such amendments to the Pilot Program, an additional Pilot Program Report covering the period during which the Pilot Program was in effect and including the details referenced above, along with the nominal dollar value of the underlying security of each trade. The Pilot Program Report would be submitted to the Commission at least two months prior to the expiration date of the Pilot Program and would be provided on a confidential basis.

The Exchange notes that any positions established under this Pilot Program would not be impacted by the expiration of the Pilot Program. For example, a 10-contract FLEX Equity Option opening position that overlies less than \$1 million in the underlying security and expires in January 2015 could be established during the Pilot Program. If the Pilot Program were not

extended, the position would continue to exist and any further trading in the series would be subject to the minimum value size requirements for continued trading in that series.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>7</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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that the proposed extension of the Pilot Program, which eliminates the minimum value size applicable to FLEX Options, would provide greater opportunities for investors to manage risk through the use of FLEX Options. Further, the Exchange notes that it has not experienced any adverse effects from the operation of the Pilot Program.

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.

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

### 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>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</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.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>10</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>11</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay to permit the current pilot to continue uninterrupted.

The Commission finds that waiver of the operative delay is consistent with the protection of investors and the public interest. The Commission notes in waiving the 30-day operative delay that the Exchange's original pilot was published for comment in the Federal Register and

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to 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 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.

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

the Commission did not receive any comments.<sup>12</sup> Further, the Exchange is proposing to extend the existing Pilot Program on the same terms and conditions as they were originally approved by the Commission. This includes, as described in more detail above, a representation that the Exchange will continue to monitor the Pilot Program and submit certain interim reports during the extended Pilot Program period, as well as a final report covering the Pilot Program period should the Exchange decide to extend or file for permanent approval of the Pilot Program. Finally, the Commission notes that the Exchange has represented that it has not experienced any adverse market effects with respect to the Pilot Program. Based on the above, the Commission finds that it is consistent with investor protection and the public interest to waive the 30-day operative delay in accordance with 19b-4(f)(6)(iii) so that the Pilot Program can continue on an uninterrupted basis, and therefore designates the proposal operative upon filing.<sup>13</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:

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<sup>12</sup> See supra note 4.

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- 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-2011-10 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-2011-10. 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 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-NYSEArca-2011-10 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Cathy H. Ahn  
Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).