

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67728; File No. SR-NYSEArca-2012-96)

August 24, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Rule 6.47, “Crossing” Orders – OX

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 August 20, 2012, 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, 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 NYSE Arca Rule 6.47, “Crossing” Orders - OX. The text of the proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, 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 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.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Rule 6.47 to adopt a new procedure that provides for the execution of Customer-to-Customer Crosses on the Trading Floor. The proposal is based on a nearly identical customer-to-customer cross functionality provided in NYSE Amex Rule 934NY(a).⁴

NYSE Arca Options Rule 6.47 currently provides procedures for executing four different cross order types: (i) Non-Facilitation Cross (Regular way Cross); (ii) Facilitation Cross; (iii) Solicited Order Cross; and (iv) Mid-Point Cross.⁵ Each of the existing methods to cross orders is designed to provide a useful order execution functionality to market participants. The Exchange now proposes to add a new cross order type, the Customer-to-Customer Cross, in order to provide customers with a new method to get executions on the Trading Floor while allowing them to benefit from price improvement from the Trading Crowd quotes.

Currently, if a Floor Broker intends to cross customer orders, to buy and sell the same option contract, the orders are executed pursuant to the Non-Facilitation Cross procedures.⁶ When utilizing these procedures, a Floor Broker must request bids and offers for the option series involved and make the trading crowd and the Trading Official aware of the request for a market via open outcry. Then, after providing an opportunity for such bids and offers to be made, the Floor Broker must bid above the highest bid in the crowd, or offer below the lowest offer in the crowd, by at least the MPV. If such higher bid or lower offer is not taken by

⁴ See Securities Exchange Act Release No. 59472 (February 27, 2009), 74 FR 9843 (March 6, 2009) (SR-NYSEAlternext-2008-14).

⁵ See NYSE Arca Options Rule 6.47.

⁶ See NYSE Arca Options Rule 6.47(a).

members of the trading crowd, the Floor Broker may cross the orders at such higher bid or lower offer by announcing by open outcry that he is crossing the orders and giving the quantity and price. The crossing of the orders is contingent on the requirements that: (i) the execution price must be equal to or better than the NBBO; and (ii) the Floor Broker may not trade through any bids or offers on the Consolidated Book that are priced equal to or better than the proposed execution price. If there are bids or offers on the Consolidated Book at or better than the proposed execution price, the Floor Broker must trade against such bids or offers in the Consolidated Book on behalf of the customer order(s). Once bids or offers in the Consolidated Book are satisfied, the Floor Broker may cross the remaining balance of the orders, if any. The orders will be cancelled or posted in the Consolidated Book if an execution would take place at a price that is inferior to the NBBO.⁷

The Exchange proposes to make available a new crossing procedure for Customer orders in situations when a Floor Broker who holds a Customer order to buy and a Customer order to sell the same option contract.⁸ Under the proposal, to conduct a Customer-to-Customer Cross, a Floor Broker would be required to request bids and offers for the option series involved and make the Trading Crowd and the Trading Official aware of the request for a market via open outcry and provide opportunity for such bids and offers to be made, in a manner similar to the

⁷ The Floor Broker, at the direction of the Customer, will cancel or post the order to the Consolidated Book.

⁸ “Customer” for purposes of the proposed Customer-to-Customer Order type is defined in NYSE Arca Options Rule 6.1A(a)(4). NYSE Arca Options Rule 6.1A(a)(4) provides that the term “Customer” shall not include a broker or dealer. See NYSE Arca Options Rule 6.1A(a)(4). NYSE Amex uses a nearly identical definition of customer for purposes of its customer-to-customer cross order. NYSE Amex Options Rule 900.2NY(18) provides that “[t]he term “Customer” means an individual or organization that is not a Broker/Dealer; when not capitalized, “customer” refers to any individual or organization whose order is being represented, including a Broker/Dealer.” See NYSE Amex Options Rule 900.2NY(18).

current Non-Facilitation Cross procedures. Once the best bids and offers are established in the trading crowd, the Floor Broker would be required to bid above the highest bid in the crowd, and offer below the lowest offer in the crowd.⁹ Upon doing so, a Floor Broker could cross the orders at such higher bid and lower offer by announcing he is crossing orders on behalf of Customers, provided that: (i) the execution price is equal to or better than the NBBO; and (ii) the execution price does not trade through any equal or better priced bids or offers in the Consolidated Book. Thus, the Customers that are party to the order would benefit from price improvement over bids/offers in the Trading Crowd, yet still respect the priority of orders resting in the Consolidated Book. Finally, similar to the Non-Facilitation Cross procedures, Customer-to-Customer cross orders will be cancelled or posted in the Consolidated Book if an execution would take place at a price that is inferior to the NBBO.

The Exchange notes that the Customer-to-Customer Cross procedure is almost identical to the existing Non-Facilitation Cross; except that in contrast to the procedures for executing a Non-Facilitation Cross as detailed above, when a Customer-to-Customer Cross is properly announced, and after the execution price is established, the Customer orders will have priority over equal priced bids/offers in the Trading Crowd and would be executed against each other.¹⁰

The Exchange believes that Customers will benefit by have [sic] another method to execute their transactions on the Trading Floor, while allowing them to benefit from price improvement from the Trading Crowds quotes. While the Exchange currently has four crossing procedures to meet the execution needs of its market participants, the Exchange does not have one that is narrowly tailored to Customer only transactions that other competing options market

⁹ If the Floor Broker is unable to bid above the highest bid or below the lowest offer in the crowd, then the cross will not be able to be executed.

¹⁰ See NYSE Arca Options Rule 6.47(a) and Proposed NYSE Arca Options Rule 6.47(e).

have. The Exchange believes that having the ability to offer similar functionality on the Exchange will help the Exchange compete for Customer orders and facilitate transitions on the Exchange in the competitive marketplace for order flow. In addition, the Exchange believes that all market participants will benefit from the enhanced liquidity from facilitating the execution of these transactions on the Exchange. The Exchange notes that this proposal raises no novel issues and that several other options exchanges have similar crossing functionality.¹¹

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹² in general, and furthers the objectives of Section 6(b)(5),¹³ 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.

The new Customer-to-Customer Cross procedure will provide a new method for Customers to get executions on the Trading Floor, while allowing them to benefit from price improvement from the Trading Crowd’s quotes in a manner designed to promote just and equitable principles of trade on the Exchange. The Customer-to-Customer Cross will allow Customers an additional opportunity to trade their orders in situations where they do not want the risk of their order being broken-up and thus facilitate additional transactions on the Exchange and boost liquidity for all market participants.

B. Self-Regulatory Organization’s Statement on Burden on Competition

¹¹ See NYSE Amex Options Rule 934NY(a) and Phlx Rule 1064(a).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

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 Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ 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)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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.

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

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-2012-96 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-2012-96. 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 Number SR-NYSEArca-2012-96 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Kevin M. O'Neill
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12).