general, to protect investors and the public interest.

More specifically, the Exchange believes that, because the proposed rule change will permit the Corporation to consider a broader range of experienced and knowledgeable individuals to serve as directors of the Corporation while also preserving the principle that effective boards of directors exercise independent judgment in carrying out their responsibilities, it will thereby contribute to perfecting the mechanism of a free and open market and a national market system and is also consistent with 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

Because the foregoing 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 for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

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–2009–82 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–2009–82. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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–2009–82 and should be submitted on or before October 8, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–22369 Filed 9–16–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60644; File No. SR–NYSE–2009–83]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Its Initial Listing Fees for Operating Companies

September 10, 2009.

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 26, 2009, 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, 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 its schedule of initial listing fees for operating companies as set forth in Section 902.03 of the Listed Company Manual (the ''Manual''). A copy of this filing is available on the Exchange's Web site at *http://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 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,

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 proposes to amend its initial listing fees for operating companies set forth in Section 902.03 of the Manual, with retroactive application to any initial listing of new classes of securities on or after the date of original submission of this filing.

Currently, companies pay initial listing fees according to the following schedule: $0.0048 per share for up to and including 75 million shares, $0.00375 per share for any additional shares over 75 million shares up to and including 300 million shares, and $0.0019 per share for any additional shares over 300 million shares (the ''Listing Fee Schedule''). The first time that an issuer lists a class of common shares, the issuer is also subject to a one-time special charge of $37,500, in addition to fees calculated according to the Listing Fee Schedule. The minimum and maximum listing fees applicable the first time an issuer lists a class of common shares are $150,000 and $250,000, respectively, which amounts include the one-time special charge of $37,500.

Solely with respect to shares listed at the time a class of common shares is first listed on the Exchange, the Exchange proposes to replace the Listing Fee Schedule with a flat rate initial listing fee of $0.0032 per share.[4] The one-time special charge of $37,500 will be increased to $50,000 and the minimum initial listing fee will be decreased from $150,000 to $125,000.[5] No change is being made to the maximum initial listing fee of $250,000 at this time. The existing Listing Fee Schedule (the ''Listing of Additional Shares Fee Schedule'') will remain in effect for the listing of additional shares of a class of previously listed securities. In establishing at which tier of the Listing of Additional Shares Fee Schedule a company will pay fees with respect to additional shares of a previously listed class, the Exchange will include the shares with respect to which the company paid fees at the time of initial listing of that class in calculating the fees for additional shares.

For example: At the time Company A first lists its common stock on the Exchange, its initial listing application covers 30 million shares of its common stock. Company A must pay initial listing fees of $146,000, i.e., the one-time special charge of $50,000 plus $96,000 (30 million shares multiplied by $0.0032 per share). For comparison, the following is how Company A would be charged for the initial listing application under the current Listing Fee Schedule: $181,500, i.e., the one-time special charge of $37,500 plus $144,000 (30 million shares multiplied by $0.0048 per share).

If Company A subsequently issues an additional 100 million shares, Company A will pay fees under the first tier of the Listing of Additional Shares Fee Schedule for 45 million shares (representing the 75 million shares that are subject to the first tier of fees minus the 30 million shares issued at the time of original listing) and will pay fees under the second tier of the Listing of Additional Shares Fee Schedule for 55 million shares (representing the remainder of the shares listed in the supplemental listing application). Therefore, in connection with the supplemental listing application, Company A must pay listing fees for the listing of additional shares of $422,250, consisting of (i) $216,000 (i.e., 45 million shares multiplied by $0.0048 per share) plus (ii) $206,250 (i.e., 55 million shares multiplied by $0.00375 per share).[6]

The proposed amendments to the Exchange's initial listing fees will reduce the initial listing fees payable by all companies whose fees are not limited by the $250,000 maximum and no company will pay higher initial listing fees as a result of the proposed amendment. These lower initial listing fees will enable the Exchange to compete more effectively on a cost basis with other securities exchanges for listings of companies undertaking initial public offerings. In particular, the Exchange notes that smaller companies than have historically listed on the Exchange now qualify for listing under the recently adopted Assets and Equity Test[7] and many of these companies would benefit from the lower minimum initial listing fee.

The proposed new initial listing fees for the listing of new classes of securities are not inequitable or unfairly discriminatory, as all companies will be subject to the same fee schedule. While companies that are subject to the $250,000 maximum fee under both the current and the proposed fee schedule do not benefit from the reduction in fees, this is appropriate because these companies already benefit from a lower effective listing fee per share than other companies.

The Exchange proposes to apply the listing fees as amended by this filing retroactively to any new classes of common or preferred equity securities listed on or after the date of original submission of this filing. The Exchange believes this approach is appropriate, as it will enable companies to benefit from any applicable reduction in listing fees without having to delay their listing until after Commission approval of the filing solely for the purpose of benefitting from that fee reduction. As noted above, the proposed amendment will lower the initial listing fees payable by all companies whose fees are not limited by the $250,000 maximum and no company will pay higher initial listing fees as a result of the proposed amendment.

The reduction in the Exchange's listing fee revenue as a result of the proposed rule change is not expected to be substantial and the Exchange will continue to have sufficient revenue to continue to adequately fund its regulatory activities.

2. Statutory Basis

The bases under the Act for this proposed rule change are the requirement under Section 6(b)(4)[8] that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, listed companies and other persons using its facilities and the requirement under Section 6(b)(5)[9] that an exchange have rules that are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed new schedule of initial listing fees represents an equitable allocation of fees

[4] Initial listing fees for the following types of listings will also be charged at a rate of $0.0032 per share: (i) At the time it first lists, an issuer lists one or more classes of preferred stock or warrants, whether or not common shares are also listed at that time; and (ii) once listed, an issuer lists a new class of preferred stock or warrants.

[5] The increase in the one-time special charge is intended to offset a portion of the reduction in listing fee revenue attributable to the proposed lower listing fee per share and proposed lower minimum listing fee.

[6] The charge for the supplemental listing application would be the same under both the existing and the proposed listing fee schedule. Some clarifying changes have been made to the Listing of Additional Shares Fee Schedule as presented in Section 902.03, but no substantive changes are being made to the fees charged in connection with the listing of additional shares pursuant to a supplemental listing application.

[7] *See* Securities Exchange Act Release No. 58934 (November 12, 2008), 73 FR 69708 (November 19, 2008) (SR–NYSE–2008–98).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

among its listed companies, as all companies will be subject to the same fee schedule. The proposed new initial listing fees for the listing of new classes of securities are not inequitable or unfairly discriminatory, as all companies will be subject to the same fee schedule. While companies that are subject to the $250,000 maximum fee under both the current and the proposed fee schedule do not benefit from the reduction in fees, this is appropriate because these companies already benefit from a lower effective listing fee per share than other companies.

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

(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–NYSE–2009–83 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–NYSE–2009–83. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also 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–NYSE–2009–83 and should be submitted on or before October 8, 2009.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–22368 Filed 9–16–09; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60641; File No. SR–CBOE–2009–064]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to FLEX Equity Option Opening Transactions

September 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 2, 2009, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') 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 Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 extend the period for its pilot program regarding the minimum value size for an opening transaction in FLEX Equity Option[5] series (''Pilot Program''), which would otherwise expire on September 4, 2009, through February 28, 2010. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Exchange's Office of the Secretary and at the Commission.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] FLEX Equity Options are flexible exchange-traded options contracts which overlie equity securities. FLEX Equity Options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.