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 NYSE's principal office and on its Internet Web site at *http://www.nyse.com*. 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–2009–134 and should be submitted on or before January 29, 2010.

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61254; File No. SR–OCC–2009–20]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares

December 29, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on December 14, 2009, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. 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 proposed rule change would clarify that the term "fund share" includes any option or any futures contracts on ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify the jurisdictional status of options or security futures on ETFS Physical Swiss Gold Shares or ETFS Physical Silver Shares. OCC proposes to amend the interpretation following the definition of "fund share" in Article I, Section 1, of OCC's By-Laws.[2] Under this proposed rule change, OCC would (i) clear and treat as securities options any option contracts on ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares that are traded on securities exchanges and (ii) clear and treat as security futures any futures contracts on ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares.

In its capacity as a "derivatives clearing organization" registered as such with the Commodities Futures Trading Commission ("CFTC"), OCC is filing this proposed rule change for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act ("CEA") in order to foreclose any potential liability under the CEA based on an argument that OCC's clearing of such options as securities options or the clearing of such futures as security futures constitutes a violation of the CEA. The products for which approval is requested are essentially the same as the options and security futures on SPDR Gold Shares, iShares COMEX Gold Shares, and iShares Silver Shares that OCC currently clears pursuant to the rule changes referred to above and exemptions issued by the CFTC.[3] OCC believes that this filing raises no new regulatory or policy issues.

OCC believes that the proposed interpretation of OCC's By-Laws is consistent with the purposes and requirements of Section 17A of the Act[4] because it is designed to promote the prompt and accurate clearance and settlement of transactions in securities options and security futures, to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. It accomplishes these purposes by reducing the likelihood of a dispute as to the Commission's jurisdiction or shared jurisdiction in the case of security futures over derivatives based on ETFS Physical Swiss Gold Shares or ETFS Physical Silver Shares. OCC also states that the proposed rule change is not inconsistent with OCC's By-Laws and Rules.

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

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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

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[18] 17 CFR 200.30–3(a)(12).

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

[2] Securities Exchange Act Release No. 57895 (May 30, 2008), 73 FR 32066 (June 5, 2008), and CFTC Order Exempting the Trading and Clearing of Certain Products Related to SPDR Gold Trust Shares, 73 FR 31981 (June 5, 2008) (orders approving a proposed rule change clarifying that options and securities futures on SPDR Gold Shares are included in the definition of "fund share" in OCC's rules); Securities Exchange Act Release No. 59054 (Dec. 4, 2008), 73 FR 75159 (Dec. 10, 2008) and CFTC Order Exempting the Trading and Clearing of Certain Products Related to iShares COMEX Gold Trust Shares and iShares Silver Trust Shares, 73 FR 79830 (Dec. 3, 2008) (orders approving proposed rule change adding options and security futures on iShares COMEX Gold Shares and iShares Silver Shares to OCC's interpretation of "fund share").

[3] *Supra* note 2.

[4] 15 U.S.C. 78q–1.

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 No. SR–OCC–2009–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–OCC–2009–20. 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 such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jspU.* 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 submission should refer to File No. SR–OCC–2009–20 and should be submitted on or before January 29, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

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[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61265; File No. SR–NYSEAmex–2009–96)

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Equities Rule 123C(8)(a)(1) To Extend the Operation of the Extreme Order Imbalances Pilot

December 31, 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 December 24, 2009, 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 Exchange. 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 Equities Rule 123C(8)(a)(1) to extend the operation of the pilot to temporarily suspend certain NYSE Amex Equities Rule requirements relating to the closing of securities on the Exchange until the earlier of Securities and Exchange Commission approval to make such pilot permanent or March 1, 2010. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

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

[2] 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex Equities Rule 123C(8)(a)(1) allows the Exchange to temporarily suspend certain rule requirements at the close when extreme order imbalances may cause significant dislocation to the closing price. The rule has operated on a pilot basis since April 2009 ("Extreme Order Imbalances Pilot" or "Pilot").[3] Through this filing, NYSE Amex proposes to extend the Pilot until the earlier of Securities and Exchange Commission approval to make such Pilot permanent or March 1, 2010.[4]

Background

Pursuant to NYSE Amex Equities Rule 123C(8)(a)(1), the Exchange may suspend NYSE Amex Equities Rules 52 (Hours of Operation) to resolve an extreme order imbalance that may result in a closing price dislocation at the close as a result of an order entered into Exchange systems, or represented to a DMM orally at or near the close. The provisions of NYSE Amex Equities Rule 123C(8)(a)(1) operate as the Extreme Order Imbalance Pilot.

As a condition of the approval to operate the Pilot, the Exchange committed to provide the Commission with information regarding: (i) How often a Rule 52 temporary suspension pursuant to the Pilot was invoked during the six months following its approval; and (ii) the Exchange's determination as to how to proceed with technical modifications to reconfigure Exchange systems to accept orders electronically after 4 p.m.

[3] *See* Securities Exchange Act Release No. 59755 (April 13, 2009), 74 FR 18009 (April 20, 2009) (SR–NYSEALTR–2009–15).

[4] The Exchange notes that parallel changes are proposed to be made to the rules of New York Stock Exchange LLC. *See* SR–NYSE–2009–131.