

*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-CBOE-2008-88. 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 Web site 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-CBOE-2008-88 and should be submitted on or before June 18, 2010.

**IV. Conclusion**

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>174</sup> that the proposed rule change (SR-CBOE-2008-88), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

By the Commission.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2010-12936 Filed 5-27-10; 8:45 am]

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<sup>174</sup> 15 U.S.C. 78s(b)(2).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62157; File No. SR-NYSEArca-2010-28]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Amending Its Schedule of Fees**

May 24, 2010.

On April 12, 2010, NYSE Arca, Inc. ("NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to extend a pilot program capping transaction fees for strategy executions. Under this pilot program, strategy executions are capped at \$750 per transaction, and \$25,000 per month per initiating firm. This proposed rule change retroactively extended the duration of this pilot program from March 1, 2010 through April 1, 2010. The proposed rule change was published for comment in the **Federal Register** on April 19, 2010.<sup>3</sup> The Commission received no comments regarding the proposal.

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>4</sup> and, in particular, Section 6(b)(5) of the Act,<sup>5</sup> which requires that an exchange have rules designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the proposed rule change allows the pilot program to continue without interruption from March 1, 2010 through April 1, 2010.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSEArca-2010-28) be, and it hereby is, approved.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 61895 (April 13, 2010), 75 FR 20417.

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-12874 Filed 5-27-10; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62152; File No. SR-ISE-2010-41]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Professional Customer Fees**

May 21, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 5, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 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 ISE is proposing to amend its Schedule of Fees. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.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 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.

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

1. Purpose

ISE proposes to amend its Schedule of Fees. Specifically, the Exchange proposes to adopt a \$0.18 per contract execution fee for "professional customers" who execute orders as a result of taking liquidity from ISE's order book.

ISE rules distinguish between Priority Customer Orders and Professional Orders.<sup>3</sup> A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A Professional Order is defined in ISE Rule 100(a)(37C) as an order that is for the account of a person or entity that is not a Priority Customer. For purpose of this discussion, "professional customers" are non-broker/dealer participants who enter at least 390 orders per day on average during a calendar month for their own beneficial account(s). The level of trading activity by professional customers more resembles that of market makers and proprietary traders on the Exchange than it does of other customers.

Currently, the primary distinction between the two types of customers is that Priority Customers are given priority on the order book over professional customers. Professional customers are on parity with market makers and broker/dealers. However, professional customers, until recently, did not pay transaction fees and currently do so on a limited basis. Market makers and broker/dealers on the other hand have always paid transaction fees to the Exchange. Specifically, for market makers, the Exchange currently applies a sliding scale, between \$0.01 and \$0.18 per contract side, based on the number of contracts an ISE market maker trades in a month. Broker/dealer orders currently pay a flat execution fee of \$0.20 per traded contract.<sup>4</sup>

Earlier this year, the Exchange adopted a \$0.20 per contract execution fee for professional customers who

execute orders as a result of posting liquidity to ISE's order book.<sup>5</sup> This "maker" fee applies only to professional customer orders, i.e., non-broker/dealer customer orders; it does not apply to market maker and broker/dealer orders who already pay transaction fees under the Exchange's current fee schedule.

The Exchange now proposes to adopt a \$0.18 per contract execution fee for professional customers who execute orders as a result of taking liquidity from ISE's order book.<sup>6</sup> The Exchange currently has a fee cap for large-size foreign currency ("FX") options orders where ISE waives the transaction fee on incremental volume above 5,000 contracts for single-sided FX options orders of at least 5,000 contracts. This fee waiver will also apply to professional customer orders. The Exchange believes that the proposed fees for professional customers will allow the Exchange to remain competitive with other options exchanges who apply fees to professional customers.<sup>7</sup>

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Exchange Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>9</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed rule change will help equalize fees among market makers, proprietary traders and professional customers on the Exchange.

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

The proposed rule change does not 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*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The

Exchange has not received any unsolicited written comments from members or other interested parties.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act<sup>10</sup> and Rule 19b-4(f)(2)<sup>11</sup> thereunder. At any time within 60 days of the filing of such 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.

**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-ISE-2010-41 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-ISE-2010-41. 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,<sup>12</sup> 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

<sup>5</sup> See Securities Exchange Act Release No. 61434 (January 27, 2010), 75 FR 5826 (February 4, 2010).

<sup>6</sup> Fees charged by the Exchange for professional customer orders are always equal to or less than those charged for broker/dealer orders.

<sup>7</sup> The fees proposed herein do not apply to professional customer orders in a select number of options classes that are a part of the modified maker/taker pricing program recently adopted by the Exchange. See *supra* note 2.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> The text of the proposed rule change is available on ISE's Web site at <http://www.ise.com>, on the Commission's Web site at <http://www.sec.gov>, at ISE, and at the Commission's Public Reference Room.

<sup>3</sup> See Securities Exchange Act Release No. 59287 (Jan. 23, 2009), 74 FR 5694 (Jan. 30, 2009).

<sup>4</sup> The Exchange recently adopted a modified maker/taker pricing program applicable to a select number of options classes under which professional customer orders and broker/dealer orders are treated equally. See Securities Exchange Act Release No. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the ISE. 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-ISE-2010-41 and should be submitted on or before June 18, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-12872 Filed 5-27-10; 8:45 am]

**BILLING CODE 8010-01-P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR-2010-0015]

### Notice and Request for Comments: Canada—Compliance With Softwood Lumber Agreement

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice and request for public comment.

**SUMMARY:** Under the 2006 Softwood Lumber Agreement (SLA), Canada agreed to impose export measures on Canadian exports of softwood lumber products to the United States. At the request of the United States, an arbitral tribunal established under the SLA determined in March 2008 that Canada had breached certain SLA obligations. In February 2009, the tribunal issued a remedy award requiring Canada to collect an additional 10 percent *ad valorem* export charge on softwood lumber shipments from Ontario, Quebec, Manitoba, and Saskatchewan, until an entire amount of CDN \$ 68 million has been collected. Canada did not begin collecting the additional export charge. In April 2009, the United States Trade Representative ("Trade Representative") initiated an investigation under Section 302 of the Trade Act of 1974, as amended ("Trade Act"). In that investigation, the Trade

Representative determined that Canada's failure to implement the tribunal's remedy award had the effect of denying U.S. rights under the SLA; and, pursuant to Section 301 of the Trade Act, the Trade Representative imposed 10 percent *ad valorem* duties on imports of softwood lumber products subject to the SLA from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan (the April 2009 action). Under the April 2009 action, the duties are to remain in place until such time as the United States collects \$54.8 million, the U.S. dollar equivalent of CDN \$ 68 million at the time. The Government of Canada, however, is now taking steps toward adopting its own measure to address Canada's breach of the SLA, in the form of legislation requiring the collection of an additional 10 percent charge on exports from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan. In the event that the proposed bill becomes law by receiving royal assent, and if the Trade Representative finds that the law satisfactorily grants the rights of the United States under the SLA, the Trade Representative may modify or terminate the April 2009 action. Interested persons are invited to submit comments on the possible modification or termination of the April 2009 action.

**DATES:** To be assured of consideration, comments should be submitted by no later than 5 p.m. on June 14, 2010, although USTR will continue to accept comments after that date.

**ADDRESSES:** Non-confidential comments (as explained below) should be submitted electronically via the Internet at <http://www.regulations.gov>, docket number USTR-2010-0015. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below) the comments contain confidential information, the person wishing to submit such comments should contact Sandy McKinzy at (202) 395-9483.

**FOR FURTHER INFORMATION CONTACT:** John Melle, Deputy Assistant USTR for the Americas, (202) 395-3412, or Suzanne Garner, Assistant General Counsel, (202) 395-3581, for questions concerning the enforcement of U.S. rights under the SLA; William Busis, Associate General Counsel and Chair of the Section 301 Committee, (202) 395-3150, for questions concerning procedures under Section 301; or Gwendolyn Diggs, Staff Assistant to the Section 301 Committee, (202) 395-5830, for questions

concerning procedures for filing submissions in response to this notice.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Enforcement of U.S. Rights Under the SLA**

For further information concerning U.S. rights under the SLA and the April 2009 action, see *Initiation of Section 302 Investigation, Determination of Action Under Section 301, and Request for Comments: Canada—Compliance With Softwood Lumber Agreement*, 74 FR 16,436 (April 10, 2009) (notice); 74 FR 17,276 (April 14, 2009) (annex).

##### **B. Canada's Steps Toward Addressing the Breach of the SLA**

On March 4, 2010, the Canadian Parliament introduced as part of the Federal budget an amendment to the Softwood Lumber Products Export Charge Act, 2006. The amendment provides for the collection of an additional export charge of 10 percent on softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan. The amendment might become law as soon as mid-June 2010.

##### **C. Possible Modification or Termination of April 2009 Action**

The Trade Act authorizes the Trade Representative to modify or terminate an action taken under Section 301 if, among other things, "the foreign country is taking satisfactory measures to grant the rights of the United States under a trade agreement." Sections 301(a)(2)(B)(i) and 307(1)(A). If the proposed amendment becomes law, the Trade Representative may consider whether Canada is taking satisfactory measures to grant the rights of the United States under the SLA, and if so, may decide on an appropriate modification or termination of the April 2009 action.

Pursuant to Section 306(a) of the Trade Act, if the Trade Representative finds that the additional 10 percent export charge is a satisfactory measure, the Trade Representative will continue to monitor the implementation of such measure. Pursuant to Section 306(b), if the Trade Representative considers that Canada is not satisfactorily implementing the measure, the Trade Representative will determine what further action to take under Section 301.

##### **D. Request for Public Comment**

The Section 301 Committee invites comments from interested persons with respect to the possible modification or termination of the April 2009 action in the event the Government of Canada adopts a law imposing an additional 10

<sup>13</sup> 17 CFR 200.30-3(a)(12).