

trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by allowing the Exchange to have uniform position limit procedures.

#### *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**

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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>11</sup> However, Rule 19b-4(f)(6)(iii)<sup>12</sup> permits the Commission to 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 so that the proposal may become operative immediately upon filing, thereby giving the Exchange a position limit process that can recognize exemptions granted by other exchanges. The Commission believes that waiving the 30-day operative delay is consistent

with the protection of investors and the public interest because such waiver will afford Exchange members the benefit of the proposal—the ability to rely on exemptions granted by other exchanges, when appropriately documented—without unnecessary delay. For this reason, the Commission designates the proposed rule change as operative under upon filing.<sup>13</sup>

At any time within 60 days of the filing of the 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*

- 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-2010-86 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-2010-86. 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 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-2010-86 and should be submitted on or before September 30, 2010.

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

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

[FR Doc. 2010-22443 Filed 9-8-10; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62825; File No. SR-NYSEAmex-2010-90]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC To Amend the Exchange Price List**

September 1, 2010.

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 August 30, 2010, NYSE Amex LLC ("NYSE Amex" or the "Exchange") 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 Substance of the Proposed Rule Change**

The Exchange proposes to amend its 2010 Price List for equities to modify the fees it charges for all market at-the-close ("MOC") and limit at-the-close ("LOC") orders executed in the Exchange's closing transaction. For

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii). 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 date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>12</sup> *Id.*

<sup>13</sup> For the 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).

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

<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.

securities with a per share price of \$1.00 or more, the fee will increase from \$0.0007 per share executed to \$0.00085 per share executed. For securities with a per share price below \$1.00 per share, the fee will change from (A) the lesser of (i) \$0.0007 per share executed and (ii) 0.25% of the total dollar value of the transaction to (B) the lesser of (i) \$0.00085 per share executed and (ii) 0.25% of the total dollar value of the transaction. The Exchange also proposes to lower the fee for taking liquidity from the Exchange from \$0.0021 per share executed to \$0.0013 per share executed for NASDAQ securities with a share price of \$1.00 or more that trade on the Exchange pursuant to unlisted trading privileges ("UTP"). The amended pricing will take effect on September 1, 2010. The text of the proposed rule change is available at the Exchange, at <http://www.nyse.com>, at the Commission's Public Reference Room, and on the Commission's Web site at <http://www.sec.gov>.

## 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 proposes to amend its 2010 Price List for equities to modify the fees it charges for all MOC and LOC orders executed in the Exchange's closing transaction. For securities with a per share price of \$1.00 or more, the fee will increase from \$0.0007 per share executed to \$0.00085 per share executed. For securities with a per share price below \$1.00 per share, the fee will change from (A) the lesser of (i) \$0.0007 per share executed and (ii) 0.25% of the total dollar value of the transaction to (B) the lesser of (i) \$0.00085 per share executed and (ii) 0.25% of the total dollar value of the transaction. The Exchange notes that The NASDAQ Stock Market LLC ("NASDAQ") recently made a similar filing increasing the fee

that it charges for MOC and LOC orders in its closing cross from \$0.0007 per share executed to \$0.0010 per share executed.<sup>4</sup>

The Exchange also proposes to lower the fee for taking liquidity from the Exchange from \$0.0021 per share executed to \$0.0013 per share executed for NASDAQ securities with a share price of \$1.00 or more that trade on the Exchange pursuant to UTP. This fee reduction for such transactions in NASDAQ securities will apply to all market participants as well as to Designated Market Makers and Supplemental Liquidity Providers. There will be no changes to the rebates for adding liquidity for trades on the Exchange in NASDAQ securities pursuant to UTP.

Finally, because full implementation has now been achieved of the Exchange's recently approved rule changes providing for incorporation of the receipt and execution of odd-lot interest into the round lot market and decommissioning the use of the odd-lot system,<sup>5</sup> the Exchange is taking this opportunity to delete several obsolete references in its 2010 Price List to separate execution pricing for odd lot interest and the odd lot portions of partial round lots.

These changes are intended to be effective immediately for all transactions beginning September 1, 2010.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the "Act"),<sup>6</sup> in general, and Section 6(b)(4) of the Act,<sup>7</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. The Exchange believes that the proposal does not constitute an inequitable allocation of fees, as all similarly situated member organizations will be charged the same amount and access to the Exchange's market is offered on fair and non-discriminatory terms. Further, with respect to the proposed fee change for MOC and LOC orders that are executed in the Exchange's closing transaction, a competing exchange also recently implemented a similar fee

<sup>4</sup> See Securities Exchange Act Release No. 62592 (July 29, 2010), 75 FR 47053 (August 4, 2010) (SR-NASDAQ-2010-095).

<sup>5</sup> See Securities Exchange Act Release No. 62578 (July 27, 2010), 75 FR 45185 (August 2, 2010) (SR-NYSEAmex-2010-53).

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

<sup>7</sup> 15 U.S.C. 78f(b)(4).

change for its market participants, as described above.

### 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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>8</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>9</sup> thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

At any time within 60 days of the filing of the 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

- 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-NYSEAmex-2010-90 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-NYSEAmex-2010-90. This file number should be included on the

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

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

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 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 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 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-NYSEAmex-2010-90 and should be submitted on or before September 30, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62826; File No. SR-NYSE-2010-63]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC To Amend the Exchange Price List

September 1, 2010.

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 August 30, 2010, 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 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 Substance of the Proposed Rule Change

The Exchange proposes to amend its 2010 Price List to modify the fees it charges for all market-at-the-close ("MOC") and limit-at-the-close ("LOC") orders executed in the NYSE Closing Auction. For stocks with a per share stock price of \$1.00 or more, the fee will increase from \$0.0007 per share executed to \$0.00085 per share executed. For stocks with a per share stock price less than \$1.00 per share, the fee will change from (A) the lesser of (i) 0.3% of the total dollar value of the transaction and (ii) \$0.0007 per share executed to (B) the lesser of (i) 0.3% of the total dollar value of the transaction and (ii) \$0.00085 per share executed. The amended pricing will take effect on September 1, 2010. The text of the proposed rule change is available at the Exchange, at <http://www.nyse.com>, at the Commission's Public Reference Room, and on the Commission's Web site at <http://www.sec.gov>.

#### 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 proposes to amend its 2010 Price List to modify the fees it charges for all MOC and LOC orders executed in the NYSE Closing Auction. For stocks with a per share stock price of \$1.00 or more, the fee will increase from \$0.0007 per share executed to \$0.00085 per share executed. For stocks with a per share stock price less than

\$1.00 per share, the fee will change from (A) the lesser of (i) 0.3% of the total dollar value of the transaction and (ii) \$0.0007 per share executed to (B) the lesser of (i) 0.3% of the total dollar value of the transaction and (ii) \$0.00085 per share executed. The Exchange notes that The NASDAQ Stock Market LLC recently made a similar filing increasing the fee that it charges for MOC and LOC orders in its closing cross from \$0.0007 per share executed to \$0.0010 per share executed.<sup>4</sup>

These changes are intended to be effective immediately for all transactions beginning September 1, 2010.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the "Act"),<sup>5</sup> in general, and Section 6(b)(4) of the Act,<sup>6</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. The Exchange believes that the proposal does not constitute an inequitable allocation of fees, as all similarly situated member organizations will be charged the same amount and access to the Exchange's market is offered on fair and non-discriminatory terms. Further, a competing exchange also recently implemented a similar fee change for its market participants, as described above.

##### 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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>7</sup> of the Act and

<sup>4</sup> See Securities Exchange Act Release No. 62592 (July 29, 2010), 75 FR 47053 (August 4, 2010) (SR-NASDAQ-2010-095).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<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.