

6(b)(4) of the Act,<sup>8</sup> which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and with Section 6(b)(5) of the Act,<sup>9</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposed tiered fees for co-location and related services are reasonable and equitably allocated insofar as they are applied on the same terms to similarly situated market participants. In addition, the Commission believes that the connectivity options described in the proposed rule change are not unfairly discriminatory because Amex makes the co-location services uniformly available to all Users who voluntarily request them and pay the fees as detailed in the proposal. As represented by Amex, these fees are uniform for all such customers and may vary from User to User due to each User's choice of service package. Finally, the Commission believes that the proposal will further the protection of investors and the public interest because it will provide greater transparency regarding the connectivity options available to market participants.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-NYSEAmex-2010-80) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62953; File No. SR-FINRA-2010-049]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to Quotation Requirements on the Alternative Display Facility

September 20, 2010.

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> notice is hereby given that on September 17, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA Rule 6272 to enhance quotation requirements on the Alternative Display Facility ("ADF").

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA, 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, FINRA 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. FINRA 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

###### 1. Purpose

In 2002, FINRA created the ADF to ensure that any FINRA member, including alternative trading systems, seeking to display quotations for NMS

stocks in the over-the-counter ("OTC") market, rather than through an exchange platform, has an alternative venue through which to post its OTC quotations and report trades.<sup>3</sup>

FINRA and numerous exchanges are filing proposed rule changes to enhance the minimum quotation requirements for market makers by requiring market makers for each stock in which they are registered to continuously maintain two-sided quotations within a designated percentage of the National Best Bid and National Best Offer (or if there is not a National Best Bid or Offer, the last reported sale). These proposed rule changes are intended to eliminate trade executions against market maker "placeholder" quotations that are priced far away from the inside market, commonly known as "stub quotes." Under these proposed rules, limitations on permissible quotations are determined by the individual character of the security, the time of day in which the quote is entered, and any applicable stock trading pause triggers.

In order to ensure consistency in quotation requirements across markets, FINRA is proposing to amend Rule 6272 to impose the same limitations on a Registered Reporting ADF Market Maker's quotations on the ADF that will apply to market makers on national securities exchanges. The proposed rule change would thus require all Registered Reporting ADF Market Makers to have systems in place to ensure that any quotations displayed on the ADF met the requirements of Rule 6272.

FINRA will announce the implementation date on its Web site.

###### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>4</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will ensure consistent treatment of quotations across markets and could prevent the execution of numerous transactions at

<sup>3</sup> Initially, the ADF was limited to quotations and trade reports in Nasdaq securities. See Securities Exchange Act Release No. 46249 (July 24, 2002), 67 FR 49822 (July 31, 2002). In 2006, the ADF was expanded to include all NMS stocks. See Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006).

<sup>4</sup> 15 U.S.C. 78o-3(b)(6).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</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.

stub quote prices, such as those on May 6, 2010.

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

FINRA does not believe that the proposed rule change will result in 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*

Written comments were neither solicited nor received.

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

Within 45 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 or disapprove such 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2010-049 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 Number SR-FINRA-2010-049. 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 the principal office of FINRA. 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 publicly available. All submissions should refer to File Number SR-FINRA-2010-049 and should be submitted on or before October 18, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>5</sup>

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

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-62964; File No. SR-NYSE-2010-53]**

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 36**

September 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 September 14, 2010, the 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 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 Rule 36 ("Communications Between Exchange and Members' Offices") to incorporate the provisions of its current Wireless Policy. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

### **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 proposes to amend NYSE Rule 36 ("Communications Between Exchange and Members' Offices") to incorporate the provisions of its current Wireless Policy into Supplementary Material .70 of the Rule.<sup>3</sup> The Wireless Policy was previously approved by the Commission.<sup>4</sup>

#### *Background*

Current NYSE rules permit a Floor broker to communicate information to a customer using a wired telephone line,<sup>5</sup> NYSE approved portable telephones,<sup>6</sup> or through a written electronic communication from the Floor brokers' hand-held device as permitted by the NYSE's "Wireless Data Communications Initiatives." Wireless communications

<sup>3</sup> The Exchange notes that parallel changes are proposed to the rules of its affiliate, NYSE Amex LLC. See SR-NYSEAmex-2010-71.

<sup>4</sup> See Securities Exchange Act Release No. 36156 (August 25, 1995), 60 FR 45756 (September 1, 1995) (SR-NYSE-95-22). The Wireless Policy was attached as an exhibit to the proposed rule change that most recently amended the Wireless Policy. See Securities Exchange Act Release No. 59626 (March 25, 2009), 74 FR 14831 (April 1, 2009) (SR-NYSE-2009-33).

<sup>5</sup> NYSE Rule 36.20.

<sup>6</sup> NYSE Rule 36.21.

<sup>5</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.