

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61850; File No. SR-NSX-2010-03)

April 6, 2010

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change in Order to Amend the NSX Fee and Rebate Schedule and Rule 16.4

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 March 31, 2010, National Stock Exchange, Inc. filed with the Securities and Exchange Commission (“Commission”) the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

National Stock Exchange, Inc. (“NSX[®]” or “Exchange”) is proposing a rule change, operative at commencement of trading on April 1, 2010, which proposes to amend the NSX Fee and Rebate Schedule (the “Fee Schedule”) and Rule 16.4 with respect to the liquidity taking fee in the Automatic Execution mode of order interaction and the rebates payable in the Order Delivery mode of order interaction.

The text of the proposed rule change is available on the Exchange’s website at <http://www.nsx.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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 Exchange 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 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

With this rule change, the Exchange is proposing to modify the Fee Schedule to lower the volume threshold necessary to obtain a lower take fee for securities priced one dollar and higher in the Automatic Execution mode of order interaction (“AutoEx”)³. In addition, the Exchange is proposing to modify the text of Rule 16.4 and the Fee Schedule with respect to displayed orders in securities priced one dollar and above that add liquidity in Order Delivery mode of order interaction (“Order Delivery”)⁴ so as to introduce an additional intermediate rebate tier and raise the eligibility threshold for the highest rebate tier. Finally, in Order Delivery, the proposed rule change modifies the definition used to calculate volume eligibility, and also introduces a rebate for displayed liquidity adding sub-dollar orders.

AutoEx Take Fee For Securities Priced One Dollar and Higher

For orders in securities priced one dollar and above that take liquidity in AutoEx, the proposed rule change lowers the volume threshold necessary to obtain a lower take fee. Prior to

³ The Exchange's two modes of order interaction are described in NSX Rule 11.13(b).

⁴ Id.

the effective date of the proposed rule change, the Fee Schedule provides that an ETP Holder pays a \$0.0028 per share liquidity take fee if such ETP Holder's liquidity adding average daily volume (as fully defined in Endnote 3 of the Fee Schedule, "Liquidity Adding ADV") is at least five million shares. If an ETP Holder's Liquidity Adding ADV is less than five million shares, the ETP Holder pays a liquidity take fee of \$0.0030 per share. The proposed rule change lowers this volume threshold from five million to 50,000 shares, thereby enabling ETP Holders to more easily achieve the lower take fee of \$0.0028 per share.

Order Delivery Rebates

For displayed orders in securities priced one dollar and above that add liquidity in Order Delivery, the proposed rule change creates an additional intermediate rebate tier and raises the eligibility threshold for the highest rebate tier. Prior to the effective date of the proposed rule change, the Fee Schedule provides a rebate of \$0.0008 per share if Liquidity Adding ADV is at least 1 million and less than 5 million ("Tier 1"), and a rebate of \$0.0024 per share plus 50% of attributable market data revenue if Liquidity Adding ADV is at least 5 million shares ("Tier 2"). The proposed rule change modifies Tier 2 such that an ETP Holder achieving a Liquidity Adding ADV of at least 5 million shares, but less than 30 million shares, receives a rebate of \$0.0024 per share plus 35% of attributable market data revenue. Further, a third tier ("Tier 3") is introduced such that ETP Holders with at least 30 million Liquidity Adding ADV receive a rebate of \$0.0024 per share plus 50% of attributable market data revenue. The proposed rule change also excludes securities priced under one dollar from the definition of Liquidity Adding ADV in the context of Order Delivery rebates.

Finally, the proposed rule change introduces a rebate for orders of securities priced under one dollar that add liquidity in Order Delivery in an amount equal to 0.20 percent of the trade

value. Like the equivalent rebate for liquidity adding sub-dollar securities in AutoEx, Zero Display Reserve Orders of sub-dollar securities in Order Delivery are not eligible to receive the liquidity adding rebate.

Rationale

The Exchange has determined that these changes are necessary to create further incentive for ETP Holders to submit increased order volumes in AutoEx and Order Delivery and, ultimately, to increase the revenues of the Exchange for the purpose of continuing to adequately fund its regulatory and general business functions. The Exchange has further determined that the proposed fee adjustments are necessary for competitive reasons. The Exchange believes that these rebate changes will not impair the Exchange's ability to fulfill its regulatory responsibilities.

The proposed modifications are reasonable and equitably allocated to those ETP Holders that opt to submit orders in AutoEx and Order Delivery, and are not discriminatory because ETP Holders are free to elect whether or not to send such orders. The proposed modifications continue to incentivize ETP Holders to submit displayed orders over Zero Display Reserve Orders in Order Delivery. Based upon the information above, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest.

Operative Date and Notice

The Exchange intends to make the proposed modifications, which are effective on filing of this proposed rule, operative for trading on April 1, 2010. Pursuant to Exchange Rule 16.1(c), the Exchange will "provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange" through the issuance of a Regulatory Circular of the changes to the Fee Schedule and will post a copy of the rule filing on the Exchange's website (www.nsx.com).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,⁵ in general, and Section 6(b)(4) of the Act,⁶ 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 the facilities of the Exchange. Moreover, the proposed rule change is not discriminatory in that all ETP Holders are eligible to submit (or not submit) trades and quotes at any price in AutoEx and Order Delivery in all tapes, as either displayed or undisplayed and as liquidity adding or liquidity taking, and may do so at their discretion.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act⁷ and subparagraph (f)(2) of Rule 19b-4⁸ thereunder, because, as provided in (f)(2), it changes “a due, fee or other charge applicable only to a member” (known on the Exchange as an ETP Holder). At any time within sixty (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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240.19b-4.

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. Please include File Number SR-NSX-2010-03 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-NSX-2010-03. 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 10:00 a.m.

and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-NSX-2010-03 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).