

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60102; File No. SR-NYSEArca-2009-50)

June 11, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, by NYSE Arca, Inc. Implementing Schedule of Fees and Charges for Exchange Services by adding a Ratio Threshold Fee

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on June 1, 2009, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On June 9, 2009, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ 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 Schedule of Fees and Charges for Exchange Services (“Schedule”) by adding a Ratio Threshold Fee. While changes to the Schedule pursuant to this proposal will be effective upon filing, the proposed fee will become operative on June 1, 2009. The text of the proposed rule change is attached as Ex.5 to the 19b-4 form. A copy of this

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ In Amendment No. 1, the Exchange corrected a typographical error that occurred on the cover sheet that accompanied the Exchange’s submission on Form 19b-4. Specifically, the Exchange conformed its categorization of the statutory provision applicable to the proposed rule change (i.e., Section 19(b)(3)(A) instead of Section 19(b)(2) of the Act) to make the cover sheet consistent with the text of the Form 19b-4.

filing is available on the Exchange's Web site at www.nyse.com, at the Exchange's principal office 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 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 adding a Ratio Threshold Fee to its Fee Schedule. The proposed Ratio Threshold Fee will be charged to OTP Holders based on the number of orders entered compared to the number of executions received in a calendar month. The fee will be assessed as follows:

Monthly Order to Execution Ratio:	Monthly Charge:
Between 10,000 and 14,999 to 1	\$5,000
Between 15,000 and 19,999 to 1	\$10,000
Between 20,000 and 24,999 to 1	\$20,000
25,000 to 1 and greater	\$35,000

This fee shall not apply to orders that improve the Exchange's prevailing best bid-offer (BBO) market at the time the orders are received.

OTP Holders with order to execution ratios of 10,000 to 1 or greater have the potential residual effect of exhausting system resources, bandwidth, and capacity. Such order to execution ratios may, in turn, create latency and impact other OTP Holders ability to receive timely executions. Recognizing that orders and executions often occur in large numbers, the purpose of this fee is to focus on activity that is truly disproportionate while fairly allocating costs among members. The proposed fee has multiple thresholds and is greater at higher order to execution ratios because the potential impact on exchange systems, bandwidth and capacity becomes greater with increased order to execution ratios.

The new Ratio Threshold Fee will become effective on June 1, 2009.

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”),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 its facilities. Under this proposal, all similarly situated members of NYSE Arca will be charged the same reasonable dues, fees and other charges.

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.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

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)⁷ of the Act and subparagraph (f)(2) of Rule 19b-4⁸ thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca.

At any time within 60 days of the filing of the 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. Please include File Number SR-NYSEArca-2009-50 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-NYSEArca-2009-50. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(2).

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 10:00 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-NYSEArca-2009-50 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).