

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62082; File No. SR-NYSE-2010-34)

May 11, 2010

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

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 April 30, 2010, New York Stock Exchange LLC (the “NYSE” 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 Exchange.<sup>4</sup> 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 certain of the fees and credits set forth in its 2010 Price List. The amended pricing will take effect on May 1, 2010. The text of the proposed rule change is available on the Exchange's Web site (<http://www.nyse.com>), on the Commission’s Web site at <http://www.sec.gov>, at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

<sup>2</sup> 15 U.S.C. 78a *et seq.*

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Email from John Carey, Chief Counsel, U.S. Equities, NYSE Euronext, to David Liu, Assistant Director, Nathan Saunders, Special Counsel, and Daniel Gien, Attorney, Division of Trading and Markets, Commission, dated May 6, 2010 (clarifying the language of note 6 below and making other minor technical changes to conform the description of the changes to the text of the proposed rule text).

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 NYSE 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

The Exchange proposes to make the following changes to its 2010 Price List with effect from May 1, 2010:

- The rebate paid for executions in which the customer adds liquidity to the Exchange will increase from \$0.0010 to \$0.0013 per share.
- The rebate paid for executions of orders sent to the floor broker for representation on the NYSE when adding liquidity to the Exchange will increase from \$0.0012 to \$0.0015 per share.
- The equity per share charge when taking liquidity from the Exchange will increase from \$0.0018 to \$0.0021 per share.
- The equity per share charge (charged to both sides) for all odd lot transactions (including odd lot portions of partial round lots) will increase from \$0.0018 to \$0.0021 per share. A parallel change will be made to the odd lot transaction charges for securities with a per share trading price less than \$1.00, which will now be subject to a fee equal to the lesser of (i) 0.3% of the transaction value or (ii) \$0.0021 per share
- Currently, the Exchange charges \$0.0006 per share for all market at-the-close ("MOC") and limit at-the-close ("LOC") orders for all executions of orders from any member organization executing an average daily trading volume ("ADV") on the NYSE in that month of at least 130 million shares, including (i) adding liquidity in an ADV of at least 30 million shares and (ii) an ADV of at least 15 million shares total in MOC and LOC orders. The Exchange is eliminating this separate pricing tier and will now charge \$0.0007 per share for all MOC and LOC

transactions, which is the price currently charged for all such transactions that do not qualify for the \$0.0006 per share tier described in the previous sentence. A parallel change will be made to the transaction charges for MOC and LOC orders in securities with a per share stock price less than \$1.00. All such transactions will now be subject to a fee equal to the lesser of (i) 0.3% of the transaction value or (ii) \$0.0007 per share.

- Currently, the Exchange charges \$0.0017 per share for executions of orders from any member organization executing an average daily trading volume (“ADV”) on the NYSE in that month of at least 130 million shares, including (i) adding liquidity in an ADV of at least 30 million shares and (ii) an ADV of at least 15 million shares total in MOC and LOC orders. The Exchange is eliminating this separate pricing tier and will now charge the regular transaction fee for these transactions that applies to executions taking liquidity from the Exchange. Therefore, all transactions taking liquidity from the NYSE in securities with a per share stock price of \$1.00 or more will be subject to a fee of \$0.0021 per share and all such transactions in securities with a per share stock price less than \$1.00 will be subject to a fee equal to the lesser of (i) 0.3% of the transaction value or (ii) \$0.0021 per share.<sup>5</sup>
- The equity per share charge for designated market makers (“DMMs”) for transactions taking liquidity from the NYSE will be increased from \$0.0010 per share to \$0.0013 per share.
- The Exchange is modifying its schedule of liquidity rebates for supplemental liquidity providers (“SLPs”).<sup>6</sup> SLPs will receive a credit of \$0.0020 per share

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<sup>5</sup> Some superfluous language is also removed from this entry in the Price List and the same language is removed from the entry specifying the fee paid by DMMs when taking liquidity.

<sup>6</sup> The Exchange currently has a three tier structure of rebates paid only to SLPs when the SLP provides liquidity to the NYSE and meets the requirements to benefit for the specific tier. The highest tier pays a credit of \$0.0017 per share to SLPs when they add liquidity to the NYSE in securities with a per share price of \$1.00 or more, and the SLP (i) meets the Quoting Requirement and (ii) adds liquidity of an ADV of more than 250 million shares in the applicable month. The second-highest tier pays a credit of \$0.0016 per share to SLPs and applies to SLPs when they add liquidity to the NYSE in securities with a per share price of \$1.00 or more, and the SLP (i) meets the Quoting Requirement and (ii) adds liquidity of an ADV of more than 100 million shares in the applicable month. The third-highest tier pays a credit of \$0.0015 per share to SLPs and applies to SLPs when they add liquidity to the NYSE in securities with a per share price of \$1.00 or more, and the SLP (i) meets the Quoting Requirement and (ii) adds liquidity of an ADV of more than 10 million shares in the applicable month. SLPs adding liquidity in securities with a per share price of \$1.00 or more, if the SLP does not qualify for any of the foregoing rebates, receive the same rebates as other market participants.

when they add liquidity to the NYSE in securities with a per share price of \$1.00 or more, and the SLP (i) meets the 3% average or more quoting requirement in an assigned security pursuant to Rule 107B (the “Quoting Requirement”) and (ii) adds liquidity of an ADV of more than 10 million shares in the applicable month. For all other transactions adding liquidity to the NYSE, SLPs will receive a rebate of \$0.0013 per share.

- SLPs currently receive a rebate of \$0.0005 per share for executions of securities with a per share price of \$1.00 or more at the close. This rebate will no longer be paid, although these transactions will continue to be free of charge.
- The Exchange is instituting a new \$0.0001 per share fee for executions in Crossing Session II. This fee will be subject to a \$50,000 per month cap per member organization.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6<sup>7</sup> of the Act in general and furthers the objectives of Section 6(b)(4)<sup>8</sup> in particular, in that it is designed 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 dues, fees and other charges, as all similarly situated member organizations will be charged the same schedule of fees and be entitled to receive the same rebates.

### 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 purpose 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.

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<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 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)<sup>9</sup> of the Act and Rule 19b-4(f)(2)<sup>10</sup> thereunder. 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, as amended, 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2010-34 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-NYSE-2010-34. 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

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

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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 such filing also will 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-NYSE-2010-34 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.<sup>11</sup>

Elizabeth M. Murphy  
Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).