

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-64997; File No. SR-NYSE-2011-37)

August 1, 2011

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees Charged for the Floor Member Continuing Education Program for Qualified Floor Members Pursuant to NYSE Rule 103A, From a Fixed Flat Fee of \$80 Per Training Module to a Fixed Flat Fee of \$150 Per Qualified Member Per Bi-Annual Session for a Total Cost Per Member Per Year of \$300

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 July 21, 2011, New York Stock Exchange LLC (the “Exchange” or “NYSE”) 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. 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, effective immediately, the fees charged for the Floor Member Continuing Education Program for qualified Floor members pursuant to NYSE Rule 103A, from a fixed flat fee of \$80 per training module to a fixed flat fee of \$150 per qualified member per bi-annual session for a total cost per member per year of \$300. The text of the proposed rule change is available at the Exchange, at [www.nyse.com](http://www.nyse.com), at the Commission’s Public Reference Room, and at the Commission’s website at [www.sec.gov](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

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

<sup>2</sup> 17 CFR 240.19b-4.

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

As required by NYSE Rule 103A, the Exchange provides Floor members with mandatory continuing education program, known as the Floor Member Continuing Education Program (“FMCE Program”). Since June 14, 2010, the Financial Industry Regulatory Authority (“FINRA”) has been developing and administering the FMCE Program on the Exchange’s behalf pursuant to a regulatory services agreement.

The Exchange proposes to amend, effective immediately, the fees charged for the FMCE Program. Currently, members pay a fee of \$80 per training module. Because the number of modules that the Exchange administers per year can vary (ranging from four to six modules per year), Floor members are currently faced with a level of uncertainty of the amount of fees that they may be charged in connection with the FMCE program. In addition, because modules can be issued throughout the year, Floor members face additional uncertainty as to when such fees will be charged.

To eliminate this uncertainty, the Exchange proposes to delete the per module fee and instead charge a flat \$150 fee per session per member per year, with two sessions a year amounting to a total of \$300 total charges per year for the FMCE Program. Consistent with Rule 103A and current practice, each session will include two to three modules of education programming, for a total of four to six modules per year. Accordingly, this proposed fee change

will not impact the quantity or quality of educational training that will be issued to Floor members. Rather, the same level of training will be provided via the same delivery method, except with more certainty both as to when the FMCE Program will be delivered and the total cost.

In the past, the Exchange has sought to assess the FMCE Program fee to recoup development and delivery costs, crediting revenues exceeding a year's actual development and delivery costs to the succeeding year's budgeted costs. Now that FINRA develops and administers the FMCE Program on the Exchange's behalf, the FINRA costs are subsumed in the larger fee paid to FINRA for the provision of regulatory services. The Exchange continues to incur costs related to configuration, maintenance and hosting associated with FMCE delivery and billing. In balancing the costs to the Exchange, the Exchange also weighs the increasing burden on Floor members to absorb those costs. At the time the fee was last assessed in 2009, the number of qualified members subject to the FMCE Program requirement was 524. That number is now 467. In view of these declining membership numbers, the Exchange believes that the full costs associated with the FMCE Program should not be shifted to the Floor members. The Exchange believes that the proposed \$300 annual fee strikes the appropriate balance between recouping certain costs associated with the FMCE Program from Floor members, without burdening a shrinking population with the full costs.

## 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>3</sup> in general, and Section 6(b)(4) of

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<sup>3</sup> 15 U.S.C. 78f(b).

the Act,<sup>4</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.

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>5</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>6</sup> thereunder, because it establishes a due, fee, or other charge imposed by the NYSE.

At any time within 60 days of the filing of such 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

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2011-37 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-2011-37. 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 website (<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 10:00 a.m. and 3:00 p.m. Copies of the 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-2011-37 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>7</sup>

Elizabeth M. Murphy  
Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(12).