

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62825; File No. SR-NYSEAmex-2010-90)

September 1, 2010

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC 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 August 30, 2010, NYSE Amex LLC (“NYSE Amex” 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 self-regulatory organization. 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 2010 Price List for equities to modify the fees it charges for all market at-the-close (“MOC”) and limit at-the-close (“LOC”) orders executed in the Exchange’s closing transaction. For securities with a per share price of \$1.00 or more, the fee will increase from \$0.0007 per share executed to \$0.00085 per share executed. For securities with a per share price below \$1.00 per share, the fee will change from (A) the lesser of (i) \$0.0007 per share executed and (ii) 0.25% of the total dollar value of the transaction to (B) the lesser of (i) \$0.00085 per share executed and (ii) 0.25% of the total dollar value of the transaction. The Exchange also proposes to lower the fee for taking liquidity from the Exchange from \$0.0021 per share executed to \$0.0013 per share executed for NASDAQ securities with a

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

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

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

share price of \$1.00 or more that trade on the Exchange pursuant to unlisted trading privileges (“UTP”). The amended pricing will take effect on September 1, 2010. 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 on 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 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 to amend its 2010 Price List for equities to modify the fees it charges for all MOC and LOC orders executed in the Exchange’s closing transaction. For securities with a per share price of \$1.00 or more, the fee will increase from \$0.0007 per share executed to \$0.00085 per share executed. For securities with a per share price below \$1.00 per share, the fee will change from (A) the lesser of (i) \$0.0007 per share executed and (ii) 0.25% of the total dollar value of the transaction to (B) the lesser of (i) \$0.00085 per share executed and (ii) 0.25% of the total dollar value of the transaction. The Exchange notes that The NASDAQ Stock Market LLC (“NASDAQ”) recently made a similar filing increasing the fee that it charges for MOC and LOC orders in its closing cross from \$0.0007 per share executed to \$0.0010 per

share executed.<sup>4</sup>

The Exchange also proposes to lower the fee for taking liquidity from the Exchange from \$0.0021 per share executed to \$0.0013 per share executed for NASDAQ securities with a share price of \$1.00 or more that trade on the Exchange pursuant to UTP. This fee reduction for such transactions in NASDAQ securities will apply to all market participants as well as to Designated Market Makers and Supplemental Liquidity Providers. There will be no changes to the rebates for adding liquidity for trades on the Exchange in NASDAQ securities pursuant to UTP.

Finally, because full implementation has now been achieved of the Exchange's recently approved rule changes providing for incorporation of the receipt and execution of odd-lot interest into the round lot market and decommissioning the use of the odd-lot system,<sup>5</sup> the Exchange is taking this opportunity to delete several obsolete references in its 2010 Price List to separate execution pricing for odd lot interest and the odd lot portions of partial round lots.

These changes are intended to be effective immediately for all transactions beginning September 1, 2010.

## 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>6</sup> in general, and Section 6(b)(4) of the Act,<sup>7</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. The

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<sup>4</sup> See Securities Exchange Act Release No. 62592 (July 29, 2010), 75 FR 47053 (August 4, 2010) (SR-NASDAQ-2010-095).

<sup>5</sup> See Securities Exchange Act Release No. 62578 (July 27, 2010), 75 FR 45185 (August 2, 2010) (SR-NYSEAmex-2010-53).

<sup>6</sup> 15 U.S.C. 78f(b) [sic].

<sup>7</sup> 15 U.S.C. 78f(b)(4).

Exchange believes that the proposal does not constitute an inequitable allocation of fees, as all similarly situated member organizations will be charged the same amount and access to the Exchange's market is offered on fair and non-discriminatory terms. Further, with respect to the proposed fee change for MOC and LOC orders that are executed in the Exchange's closing transaction, a competing exchange also recently implemented a similar fee change for its market participants, as described above.

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>8</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>9</sup> thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

At any time within 60 days of the filing of the 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.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

#### 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-NYSEAmex-2010-90 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-NYSEAmex-2010-90. 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 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 will also 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-NYSEAmex-2010-90 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>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).