

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60561; File No. SR-NYSEAmex-2009-56)

August 24, 2009

Self-Regulatory Organizations; NYSEAmex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a New Fee for Annual Regulatory Training

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 August 17, 2009, NYSE Amex LLC (“NYSE Amex” or “Exchange”) 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 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 the section of its Schedule of Fees and Charges for Exchange Services (the “Schedule”) in order to adopt a new fee for Annual Regulatory Training. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange’s Web site at [www.nyse.com](http://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

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

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

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

As required by NYSE Amex Rule 50 Commentary .03-.04, ATP Holders and certain qualified floor personnel are required to participate in an Exchange sponsored mandatory regulatory training program. Pursuant to provisions contained in Rule 50 Commentary .03-.04, the Exchange may charge a per program fee, as indicated in the Schedule, for each participant in any training program. The Exchange is proposing to adopt a \$60 per person fee for any ATP Holder or associated person that participates in a regulatory training program.

Beginning in the fourth quarter of 2009, the Exchange will offer regulatory training via a web-based interactive program that participants in the program may access from any internet-capable computer. The purpose of this fee is to cover the Exchange's costs associated with the development and delivery of the regulatory training program.

In determining the \$60 program fee, the Exchange has evaluated the expenses associated with the program and took into consideration the expected number of individuals that will participate in the program. Upon the completion of the annual training program, the Exchange will review the fee to ensure that the fee continues to properly reflect the Exchange's development and delivery costs. Any revenues collected in a given year that exceed that year's actual development and delivery costs will be credited to the projected development and delivery costs for the succeeding year. Similarly, any deficit may be carried over to the next year for

purposes of assessing the fee. If the Exchange determines that further fee changes are necessary, it will submit an appropriate filing with the U.S. Securities and Exchange Commission.<sup>3</sup>

The Exchange also proposes to clarify language contained in the Limit on [sic] Fees on Options Strategy Executions section of the Schedule. The new language states, “The cap applies to all Strategy Executions executed on the same trading day in the same options class.” This proposed language is consistent with the way in which the Exchange currently applies the fee cap, and simply seeks to eliminate any potential confusion caused by the current language.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(4), in particular, in that it provides for the equitable allocation of dues, fees and other charges among its members. Under this proposal, all similarly situated Exchange participants 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.

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<sup>3</sup> The assessment of a fee for Regulatory Training, and the annual evaluation of the program is similar to the program in place at the New York Stock Exchange. See Securities and Exchange Act Release No. 59979 (May 27, 2009) 74 FR 26454 (June 2, 2009) (Notice of Filing and Immediate Effectiveness of SR-NYSE-2009-52).

### 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>4</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>5</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 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAmex-2009-56 on the subject line.

#### Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEAmex-2009-56. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

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<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 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 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 publicly available. All submissions should refer to File Number SR-NYSEAmex-2009-56 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>6</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).