

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61849; File No. SR-NYSEAmex-2010-30)

April 6, 2010

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fee Schedule

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 March 31, 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, II, and III below, which Items have been prepared by the self-regulatory organization. Amex filed the proposal pursuant to Section 19(b)(3)(A)⁴ of the Act and Rule 19b-4(f)(2)⁵ thereunder. 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 revise the manner in which marketing charges are made available to Specialists for Non-Directed orders. The text of the proposed rule change is available on the Commission’s Web site at www.sec.gov. A copy of this 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.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(2).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to introduce a quantitative, performance based measure to be used in the allocation of the pool of monies created from the collection of marketing charges on electronic Non-Directed orders.

Presently, marketing charges are collected by the Exchange on all electronically executed customer orders where a market maker is on the contra side. The Exchange pools the marketing fees and then distributes it to payment accepting firms (order flow providers) at the direction of the Specialist, e-Specialist, or Directed Market Maker.⁶

For those orders that are directed to a specific Specialist, e-Specialist, or market maker (Directed orders), the Exchange pools the marketing fees and then distributes it to payment accepting firms designated by the ATP holder that the order was directed to. Electronically executed customer orders that are not directed to a specific ATP holder (Non-Directed orders) that result in the collection of marketing charges, create a pool of monies made available to the Specialist in that particular option.

⁶ See Securities Exchange Act Release No. 59478 (February 27, 2009) 74 FR 9857 (March 6, 2009) (SR-NYSEALTR-2009-19).

The Exchange recently introduced an e-Specialist program⁷, and seeks to ensure that those ATP holders are recognized for providing competitive quotes and attracting order flow to the Exchange. To do so the Exchange proposes that the pool of monies resulting from the collection of marketing charges on electronic Non-Directed orders be controlled by the Specialist or the e-Specialist with superior volume performance over a trailing quarterly review period for distribution by the Exchange at the direction of such Specialist or e-Specialist to eligible payment accepting firms. In making this determination the Exchange will, on a class by class basis, evaluate Specialist and e-Specialist performance based on the number of electronic contracts executed at NYSE Amex per class. The Specialist/e-Specialist with the most electronic contracts executed on NYSE Amex per class will control the pool of marketing charges collected on the issue for the ensuing quarter. The Exchange may determine in the future to include additional metrics in the performance calculus subject to the submission of a subsequent filing to the Commission and upon notice via Regulatory Bulletin to the participants prior to the next quarterly evaluation period. The calculation used at the beginning of a calendar quarter will remain in effect for the duration of that calendar quarter. Each quarter the calculation will be performed to determine if control of that pool of monies belongs to either the Specialist or e-Specialist. In the event that the better performing party no longer quotes in that issue, control of the pool will default to whoever the assigned Specialist is in the subsequent quarter. If there is no Specialist assigned, but there is an e-Specialist assigned, the e-Specialist shall have control of these monies.

The Exchange believes that this is an appropriate means of allocating control of the pool of monies created by the collection of marketing charges as it rewards those ATP holders who

⁷ See NYSE Amex Rule 927.4NY (e-Specialists).

are providing competitive quotes and attracting order flow to the Exchange. The Exchange further believes that this change benefits customers by incentivizing greater competition amongst specialists and e-specialists to provide tighter spreads and attract greater order flow.

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”),⁸ in general, and Section 6(b)(4) of the Act,⁹ 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)¹⁰ of the Act and subparagraph (f)(2) of Rule 19b-4¹¹ 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

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

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-NYSEAmex-2010-30 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-2010-30. 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 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 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-NYSEAmex-2010-30 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.¹²

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).