

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63935; File No. SR-NYSEAMEX-2011-07)

February 18, 2011

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

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 February 14, 2011, 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. 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 2011 Price List for equities (“Price List”) by revising the description of the Risk Management Gateway (“RMG”) fee to clarify that the charge is determined on the basis of the capacity of the end user’s connection in inbound messages per second, rather than the actual number of inbound messages. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, www.sec.gov, and www.nyse.com.

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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Exchange proposes to amend its Price List for equities by revising the description of the RMG fee to clarify that the charge is determined on the basis of the capacity of the end user's connection in inbound messages per second, rather than the actual number of inbound messages.

On February 12, 2009, the Exchange filed a proposed rule change with the Commission that established the fee for its RMG service to facilitate the ability of Sponsoring Member Organizations to monitor and oversee the sponsored access activity of their Sponsored Participants.⁴ In the Original RMG Fee Filing, the Exchange established a fee of \$3,000 per month for the first "Connection" plus \$1,000 per month for each additional "Connection." A "Connection" was defined as up to 1,000 messages per second inbound, regardless of the connection's actual capacity.⁵ Consequently, if a particular end user's connection has the capacity to support 3,000 messages per second inbound, that end user's connection will be deemed to be three (3) Connections and the charge will be \$5,000 per month.

Although it is clear from the Original RMG Fee Filing that the key variable in determining an end user's RMG fee is the capacity in messages per second inbound that the end user's connection will support (i.e., the number of Connections), the descriptive language that

⁴ See Securities Exchange Act Release No. 59429 (February 20, 2009), 74 FR 9016 (February 27, 2009) (File No. SR-NYSEALTR-2009-12) (the "Original RMG Fee Filing").

⁵ Id.

was added to the Price List at that time was inartfully worded and could be misinterpreted as basing the monthly RMG fee on the actual number of inbound messages. Consequently, the Exchange is proposing to modify the descriptive language for the RMG fee in the Price List to clarify that the fee is based on message capacity. There will be no change to the pricing itself or the basis on which it is currently calculated.

The Exchange notes that NYSE Arca, Inc. (“NYSE Arca”), in a rule filing with the Commission on September 4, 2009,⁶ established a fee for its RMG service that is exactly the same as the Exchange’s RMG fee, including the computation of the fee based on message capacity. In the NYSE Arca RMG Fee Filing, the descriptive language that was added to the NYSE Arca Fee Schedule describes much more clearly and unambiguously the basis on which the RMG fee is calculated, and the Exchange proposes to replace the current descriptive language in its Price List with the corresponding language from the NYSE Arca Fee Schedule.

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”),⁷ in general, and Section 6(b)(4) of the Act,⁸ 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 Exchange believes that the proposal does not constitute an inequitable allocation of fees, since there will be no change to the current RMG fee which has been in effect since February 2009, or

⁶ See Securities Exchange Act Release No. 60664 (September 14, 2009), 74 FR 48110 (September 21, 2009) (File No. SR-NYSEArca-2009-81) (the “NYSE Arca RMG Fee Filing”).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

how it is calculated, only to the description of the fee for the purposes of adding clarity regarding the basis and calculation of the fee.

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)⁹ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁰ thereunder, because it establishes a due, fee, or other charge imposed by NYSE Amex.

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

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEAmex-2011-07 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-2011-07. 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 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-2011-07 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.¹¹

Cathy H. Ahn
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).