

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65943; File No. SR-NYSEAmex-2011-95)

December 13, 2011

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 30, 2011, NYSE Amex LLC (the “Exchange” or “NYSE Amex”) 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 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 the NYSE Amex Options Fee Schedule (“Fee Schedule”) for Qualified Contingent Cross (“QCC”) trades. The proposed change will be operative on December 1, 2011. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, 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 received on the proposed rule change. The text of those

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the Fee Schedule for QCC trades.³

Specifically, the Exchange proposes to exclude Customer-to-Customer QCC trades from the existing Floor Broker Rebate of \$.03 per contract, which the Exchange inadvertently did not do when QCC fees were implemented in September 2011.⁴ The Exchange notes that there is no execution charge for a Customer-to-Customer QCC trade and as such, including such non-revenue generating trades among those that generate a rebate for Floor Brokers is not economic for the Exchange and does not provide an offsetting benefit to other market participants, for example, by bringing additional order flow to the Exchange. The Exchange notes that at least one other exchange similarly excludes free customer-to-customer trades from floor broker rebates, and thus such a practice is not novel.⁵

³ The QCC permits an NYSE Amex ATP Holder to effect a qualified contingent trade ("QCT") in a Regulation NMS stock and cross the options leg of the trade on the Exchange immediately upon entry and without order exposure if the order is for at least 1,000 contracts, is part of a QCT, and is executed at a price at least equal to the NBBO, as long as there are no Customer Orders in the Exchange's Consolidated Book at the same price. See Securities Exchange Act Release No. 65047 (August 5, 2011), 76 FR 49812 (August 11, 2011) (SR-NYSEAmex-2011-56).

⁴ See Securities Exchange Act Release No. 65472 (October 3, 2011), 76 FR 62887 (October 11, 2011) (SR-NYSEAmex-2011-72).

⁵ See Nasdaq PHLX LLC Fee Schedule, Section VII, at 18 (excluding various executions, including Customer-to-Customer trades, from the Options Floor

The proposed changes will be operative on December 1, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)⁶ of the Securities Exchange Act of 1934 (the “Act”), in general, and Section 6(b)(4)⁷ of the Act, 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 proposed change is reasonable, equitable, and not unfairly discriminatory because it will apply uniformly to all Floor Brokers and it is not economic for the Exchange to pay a Floor Broker Rebate for a trade that does not generate trade execution revenues for the Exchange or provide any offsetting benefits to market participants generally, for example, by bringing additional order flow to the Exchange. Under such circumstances, the Exchange believes that it would be unfair to market participants that are not Floor Brokers to continue to pay Floor Brokers the Floor Broker Rebate from the general revenues of the Exchange.

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.

Broker Subsidy), available at <http://www.nasdaqtrader.com/content/marketregulation/membership/phlx/feesched.pdf>.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

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)⁸ of the Act and subparagraph (f)(2) of Rule 19b-4⁹ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange. 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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEAmex-2011-95 on the subject line.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(2).

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-2011-95. 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, NW, Washington, D.C. 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 available

publicly. All submissions should refer to File Number SR-NYSEAmex-2011-95 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.¹⁰

Kevin M. O'Neill
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).