

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62843; File No. SR-NYSEArca-2010-81)

September 3, 2010

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fee Schedule

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 Arca, Inc. (“NYSEARCA” 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 the NYSE Arca Equities, Inc. Schedule of Fees and Charges for Exchange Services (the “Schedule”). While changes to the Schedule pursuant to this proposal will be effective on filing, the changes will become operative on September 1, 2010. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.nyse.com](http://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 statements may be examined at the places

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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.

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

Effective September 1, 2010, the Exchange proposes to amend the Schedule to modify the fees it charges for all market at-the-close (“MOC”) and limit at-the-close (“LOC”) orders executed in the NYSE Arca Equities, Inc. closing auction. At each applicable point in the Schedule, the per share fee will increase from \$0.0007 to \$0.0010 for MOC and LOC orders executed in the closing auction. 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>

In addition, for each rate level, there will be an increase in the per share fee from \$0.0007 to \$0.00085 for PO and PO+ Orders that are (a) in the case of Tape A securities, routed to the New York Stock Exchange LLC (“NYSE”) and execute in the opening or closing auction, or (b) in the case of Tape B securities, routed to NYSE Amex and execute in the opening or closing auction. Also, for each rate level, the Exchange proposes to charge a per share fee of \$0.0010 for PO and PO+ Orders in Tape C securities that are routed to NASDAQ and execute in the opening or closing auction.

The Exchange is eliminating from the Schedule the current fee applicable to Tape B securities for orders executed in the Opening or Market Order Auction in NYSE Arca primary listed securities.

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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).

Finally, for both Tape A and Tape C securities under Tier 1 rates, the fee for taking liquidity from the book will be increased from \$0.0029 to \$0.0030 per share, and the same fee increase will be applicable for orders in Tape A and Tape C securities routed to any away market centers other than the NYSE. The Tier 1 rebate for adding liquidity in Tape A and Tape C securities will remain unchanged at \$0.0030 per share, so the foregoing change will represent a move to flat pricing.

## 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>5</sup> in general, and Section 6(b)(4) of the Act,<sup>6</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 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.

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<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 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)<sup>7</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>8</sup> thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Arca.

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.

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-NYSEArca-2010-81 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.

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-NYSEArca-2010-81. 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 the filing also will be available for inspection and copying at the principal office of the Exchange.<sup>9</sup> All comments received will be posted without change; the

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<sup>9</sup> The text of the proposed rule change is available on the Commission's Web site at [www.sec.gov](http://www.sec.gov).

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-NYSEArca-2010-81 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).