

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63471; File No. SR-NYSEArca-2010-108)

December 8, 2010

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Its 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 December 1, 2010, NYSE Arca, Inc. (“NYSE Arca” 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 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 its Fee Schedule (the “Schedule”). While changes to the Schedule pursuant to this proposal will be effective on filing, the changes will become operative on December 1, 2010. The text of the proposed rule change is available at the Exchange’s principal office, on the Commission’s website at www.sec.gov, at the Commission’s Public Reference Room, and the Exchange’s website at 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 specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 purpose of this filing is to amend the Schedule to cap transaction fees for Firm Proprietary trades executed in open outcry (manual trades) at \$75,000 per month. The proposed cap will become operative on December 1, 2010.

The proposed fees will only apply to OTP Holder transactions marked with account origin code "F", and will not include Royalty Fees, which are pass-through fees whose purpose is to cover payments that must be made by the Exchange without respect to any cap, and Strategy Executions, which are subject to a separate daily cap. Execution of orders on behalf of Joint Back Office ("JBO") participants will not be included in the monthly cap on fees because the Exchange is unable to differentiate orders of a JBO participant from orders of its clearing broker-dealer, and is therefore unable to aggregate the JBO participant's orders.³

The proposed fee cap is similar to a monthly cap previously adopted by NASDAQ OMX PHLX, Inc. ("PHLX") that is currently applicable to all firm proprietary orders on that exchange, and which also excludes orders of JBO participants. In a rule filing last year, PHLX increased that cap to \$75,000 per month per firm, which is the same level as the Exchange's proposed cap.⁴

The Exchange believes the proposed cap on Firm transaction fees will help attract participants to direct proprietary orders for execution on the Trading Floor of the Exchange.

³ The proposed exclusion of JBO volumes from the \$75,000 cap is similar to the provision in footnote 11 of the Chicago Board Options Exchange's rate schedule that excludes JBO participants from participating in the benefits associated with certain sliding scale rates.

⁴ See Securities Exchange Act Release No. 59393 (February 11, 2009), 74 FR 7721 (February 19, 2009) (File No. SR-PHLX-2009-12).

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”),⁵ in general, and Section 6(b)(4) of the Act,⁶ 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 proposed change to the Schedule is part of the Exchange’s continued effort to attract and enhance participation on the Exchange by offering competitive rates for certain transactions on the Exchange. The proposed changes to the Schedule are equitable in that they apply uniformly to all similarly situated OTP Holders. The Exchange also believes that the proposed monthly fee cap is equitable, even though it is not available to JBO participants, because the Exchange intends to compete for non-JBO firm business with the CBOE, which excludes JBO participants from its sliding scale for the same reason as the Exchange, which is that each is unable to identify these orders from a billing standpoint to bill them correctly.⁷

In addition, the Exchange believes that the proposed monthly fee cap, which applies only to manual Firm Proprietary trades, is not unfairly discriminatory to other market participants because its purpose is to attract large block order flow to the floor of the Exchange where such orders can be better handled in comparison with electronic orders that are not negotiable. To the extent that this purpose is achieved, all of the Exchange’s market participants should benefit from the improved market liquidity.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ See supra note 4 [sic].

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)⁸ of the Act and subparagraph (f)(2) of Rule 19b-4⁹ thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca on its members.

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. Please include File Number SR-NYSEArca-2010-108 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-NYSEArca-2010-108. 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. 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-NYSEArca-2010-108 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

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).