

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64195; File No. SR-NYSEAmex-2011-21)

April 5, 2011

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending 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 March 29, 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 (“Price List”) for equities to amend the fees charged for taking liquidity in Nasdaq securities priced at \$1.00 or more and traded pursuant to unlisted trading privileges (“UTP”). The Exchange proposes to create a new tier with a reduced “take” fee of \$0.0019 per share (compared with \$0.0027 currently) for market participants and Designated Market Makers (“DMMs”) that meet certain average daily executed volume requirements in either shares or a combination of shares and contracts traded on the NYSE Amex options market. Market participants and DMMs who meet these executed volume requirements will also qualify for a reduced routing fee of \$0.0019 per share (compared with \$0.0029 currently) for executions on other markets as a result of routing. The Exchange also

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

proposes to eliminate all fees shown in the Price List for Supplemental Liquidity Providers (“SLPs”), regardless of price, for taking liquidity and for routing because those categories are not applicable to SLPs. The amended pricing will become operative on April 1, 2011. The text of the proposed rule change is available at the Exchange, on the Exchange’s website at www.nyse.com, on the Commission’s website at www.sec.gov, and at the Commission’s Public Reference Room.

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 Exchange proposes to amend its Price List for equities to modify the fees charged to market participants and DMMs for taking liquidity in Nasdaq securities traded pursuant to UTP whose share price is \$1.00 or more. The corresponding fees for such securities whose share price is below \$1.00 will remain unchanged from the current formulation regardless of whether the volume requirements described below are met.

Currently, market participants and DMMs are charged a fee of \$0.0027 per share for orders in Nasdaq securities traded pursuant to unlisted trading privileges and priced at \$1.00 or more that take liquidity. Under the proposal, the fee will be reduced to \$0.0019 per share for

orders that take liquidity if either of the following volume requirements is met:

- Execution of an average daily volume (“ADV”) in the current month of greater than three million shares when taking liquidity and routing to other markets for execution (combined); or
- Execution of an ADV in the current month of greater than 1 million shares when taking liquidity and routing to other markets for execution (combined) and execution of an ADV of 130,000 total contracts or more on the NYSE Amex options market.

The second alternative above for meeting the volume requirements is being provided for the purpose of encouraging and rewarding active participation in both of the NYSE Amex markets (equities and options) and to recognize those participants that are active on both markets. A party that does no options business could still obtain the lower charge based solely on its UTP equities business.

Currently, market participants and DMMs are charged a fee of \$0.0029 per share for orders in Nasdaq securities traded pursuant to unlisted trading privileges and priced at \$1.00 or more that are routed to other markets and execute there. Under the proposal, the fee will be reduced to \$0.0019 per share for executions of such routed orders if either of the above volume requirements is met. The corresponding fee for such securities whose share price is below \$1.00 will remain unchanged from the current formulation regardless of whether the volume requirements are met.

The Exchange believes that these reduced fees for taking liquidity and executions from routing will attract more volume to the Exchange and thereby result in a more competitive market in the trading of Nasdaq UTP securities.

Finally, the Exchange proposes to eliminate all fees shown in the Price List for SLPs, regardless of price, for taking liquidity and for routing, because those categories are not applicable to SLPs and should not have been added when the fee and credit structure for trading

Nasdaq listed securities pursuant to UTP was adopted.⁴ As indicated in the Price List for its listed securities, the only prices applicable to SLPs are credits for adding liquidity. The applicable charges for taking liquidity and routing are already covered in that portion of the Price List that relates more generally to fees and credits applicable to market participants for transactions in Nasdaq securities pursuant to UTP, which would include fees for taking liquidity and routing that are charged to the firm with which the SLP is associated.

These changes are intended to become operative for all transactions beginning April 1, 2011.

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 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. The Exchange believes that these reduced fees for taking liquidity and executions from routing will attract more volume to the Exchange and thereby result in a more competitive market in the trading of Nasdaq UTP securities.

⁴ See Securities Exchange Act Release No. 62488 (July 13, 2010), 75 FR 41912 (July 19, 2010) (File No. SR-NYSEAmex-2010-69).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

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)⁷ of the Act and subparagraph (f)(2) of Rule 19b-4⁸ 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 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-2011-21 on the subject line.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 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-2011-21. 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-2011-21 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.⁹

Cathy H. Ahn
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).