

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61894; File No. SR-NYSEArca-2010-24)

April 13, 2010

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change, as Modified by Amendment No. 1, 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 April 1, 2010, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) 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 Exchange. On April 9, 2010, NYSE Arca filed Amendment No. 1 to this filing. NYSE Arca has designated this proposal as one establishing or changing a member due, fee, or other charge imposed under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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 Schedule of Fees and Charges for Exchange Services (the “Schedule”). While changes to the Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on April 1, 2010. The amended section of the Schedule is included as Exhibit 5 hereto. A copy of this filing is available on the Exchange’s Web site at www.nyse.com, at the Exchange’s principal office, at the Commission’s Public Reference Room, and on the Commission’s Web site at www.sec.gov.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing changes to certain fees to improve competitiveness and encourage participation and liquidity by Customer, Firms, Broker Dealers, and Market Makers.

Lead Market Maker Rights Fee:

Presently, the Exchange charges Lead Market Makers ("LMMs") a monthly rights fee for each appointed issue. Effective April 1, 2010, the Exchange will reduce the rights fee by 50% in each tier as shown below.

Average National Daily Customer Contracts Per Issue:	Monthly Base Rate:
0 to 2,000	[\$150] <u>\$75</u>
2,001 to 5,000	[\$400] <u>\$200</u>
5,001 to 15,000	[\$750] <u>\$375</u>
15,001 to 100,000	[\$1,500] <u>\$750</u>
Over 100,000	[\$3,000] <u>\$1,500</u>

Transaction Fee Changes:

The Exchange proposes to restructure certain trade related charges for non-electronic trades. These trades are executed in the Firm range (clearance account “F”) and are currently billed either the Firm Facilitation rate or the Broker Dealer & Firm rate. Under the current rate schedule trades by a firm that facilitate a customer, or Firm Facilitation trades, are subject to a \$0.00 rate per contract. Firm transactions not facilitating a customer are subject to a \$0.25 Broker/Dealer & Firm Manual rate. Under the revised rate schedule all manual trades clearing in the Firm range will be subject to a rate of \$0.18 per contract and further capped at \$2,000 per issue per day, per trading participant. Firm Proprietary electronic trades will continue to be charged \$0.50 per contract in non-Penny Pilot issues, \$0.45 per contract for taking liquidity in Penny Pilot issues, and receive a credit of \$0.25 per contract for posting liquidity in Penny Pilot issues, consistent with the current rates, but now a separate line in the Schedule.

The Exchange also proposes to introduce a Premium Tier for electronic transactions in certain Penny Pilot Issues. Electronic executions in options overlying SPY, C, BAC, QQQQ, AAPL, IWM, XLF, GLD, EEM, GE, UNG, FAZ, DIA, GDX, and USO will qualify for the Premium Tier, and will receive an additional \$.05 per contract credit above the stated Post Liquidity credit. This is consistent with similar billing treatment of select symbols currently in place at Nasdaq OMX PHLX.⁵

NYSE Arca also proposes to introduce Tiered Pricing for certain high monthly volume levels in non-Premium Tier Penny Pilot issues. This new tiered pricing structure will replace the current Market Maker Post Liquidity Incentive Credit that provided Market Makers with an additional \$0.01 credit for posting liquidity of greater than 1,000,000 executed contracts per

⁵ See Nasdaq OMX PHLX Fee Schedule dated March 26, 2010.

month and \$0.05 for posting liquidity greater than 5,000,000 executed contracts per month. The Exchange also proposes to delete the accompanying footnote eight in its entirety. For each Electronic Transaction contract in these issues above 999,999 contracts per month up to 1,999,999 per month, the Customer Take Fee will be reduced by \$0.05 per contract, and the Market Maker Credit will be increased by \$0.05 per contract. For each Electronic Transaction contract in these issues above 1,999,999 contracts per month up to 2,999,999 per month, the Customer Take Fee will be reduced by a total of \$0.10 per contract, and the Market Maker Credit will be increased by \$0.10 per contract. For each Electronic Transaction contract in these issues above 2,999,999 contracts per month, the Customer Take Fee will be reduced by a total of \$0.15 per contract, and the Market Maker Credit will be increased by \$0.15 per contract.

Limit of Fees on Strategy Executions

In addition, NYSE Arca also proposes to make permanent the pilot program for a cap on transaction fees for Strategy Executions associated with (a) reversals and conversions, (b) dividend spreads, (c) box spreads, (d) short stock interest spreads, (e) merger spreads, and (f) jelly rolls. The Strategy Fee Cap pilot program expired on March 1, 2010. Under the program, transactions fees were capped at \$750 per transaction, and, in addition, such transaction fees for these strategies are further capped at \$25,000 per month per initiating firm. This proposal is consistent with the Nasdaq OMX PHLX filing to make permanent a similar Strategy fee cap pilot program.⁶ The Exchange proposes to make the pilot permanent, effective upon filing of this proposed rule change.

The Exchange also proposes, effective April 1, 2010, that Manual Broker Dealer and Firm Strategy Trades that do not reach the \$750 cap be billed at a rate of \$0.25 per contract.

⁶ See Securities Exchange Act Release No. 59566 (March 12, 2009), 74 FR 11793 (March 19, 2009) (SR-PHLX-2009-18).

Further, the Exchange proposes to clarify that FLEX Option executions are not considered Strategy executions.

Report Fees

Finally, the Exchange proposes to reduce the fee for User Activity extracts from \$0.0075 per trade to \$0.002 per trade, plus development and set-up costs.

The changes are part of the Exchange's continued effort to attract and enhance participation on the NYSE Arca options marketplace. The Exchange believes these proposed fee changes are reasonable and equitable in that they apply uniformly to all similarly situated participants on the NYSE Arca options marketplace.

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 proposed changes to the Schedule are part of the Exchange's continued effort to attract and enhance participation on the Exchange, by offering attractive rates for removing liquidity and rebates for providing liquidity to the Exchange. The proposed changes to the Schedule are equitable in that they apply uniformly to all similarly situated OTP Holders.

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.

⁷ 15 U.S.C. 78f(b).

⁸ 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)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 Arca on its members.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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-2010-24 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-NYSEArca-2010-24. 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 Web site (<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 Web site 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-NYSEArca-2010-24 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

Florence E. Harmon
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).