

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-59483; File No. SR-NYSE-2009-22)

March 2, 2009

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Certain Equity Transaction Fees and Rebates

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 27, 2009, the New York Stock Exchange LLC (“NYSE” 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. 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 make a number of changes to its schedule of equity transaction fees and rebates, with effect from March 1, 2009. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.nyse.com>), at the Exchange’s Office of the Secretary, 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 Exchange 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 these 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 aspects of such statements.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make a number of changes to its schedule of equity transaction fees and rebates, with effect from March 1, 2009.

The following are the proposed changes:

- Currently, the Exchange does not charge any fees to customers adding liquidity to the order book. Customers who execute orders that add liquidity (both displayed and non-displayed) will now receive a rebate of \$0.0010 per share. Transactions in stocks with a per share price less than \$1.00 will not qualify for this rebate, but will continue to be free of charge.<sup>3</sup>
- Currently floor broker orders adding liquidity to the book receive a \$0.0004 per share rebate. This rebate will increase from \$0.0004 per share to \$0.0012 per share.
- Currently the fee per share for customers (except for designated market makers ("DMMs")) taking liquidity from the order book is \$0.0008 per share (subject to a cap of \$120 per transaction). This fee will increase from \$0.0008 per share to \$0.0018 per share. For trades in stocks with a per share price less than \$1.00, the fee will equal the lesser of (i) 0.3% of the total dollar value of the transaction and (ii) \$0.0018 per share.
- The fee for market-at-close and limit-at-close orders (except for DMMs) is currently \$0.0004 per share to both sides. This fee will increase from \$0.0004 per

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<sup>3</sup> See e-mail from John Carey, Chief Counsel – U.S. Equities, NYSE Euronext, to David Liu, Assistant Director, Division of Trading and Markets, Commission, dated March 2, 2009.

share to \$0.0005 per share (subject to a cap of \$120 per transaction). For trades in stocks with a per share price less than \$1.00, the fee will equal the lesser of (i) 0.30% of the total dollar value of the transaction and (ii) \$0.0005 per share.

- The fee for non-electronic agency transactions of less than 10,000 shares between floor brokers in the crowd is currently \$0.0004 per share to both sides. These transactions will now be free of charge.
- Currently the Exchange charges a fee of \$0.0004 per share in all odd lot transactions (including the odd lot portions of partial round lots). This fee will increase from \$0.0004 per share to \$0.0005 per share (subject to a cap of \$120 per transaction). For trades in stocks with a per share price less than \$1.00, the fee will equal the lesser of (i) 0.3% of the total dollar value of the transaction and (ii) \$0.0005 per share.
- DMMs currently pay no fee when taking liquidity from the order book. Going forward, DMMs will be charged \$0.0010 when taking liquidity. This fee will offset the \$0.0010 per share rebate the Exchange will pay the customer providing liquidity on the contra side of the transaction.
- DMMs currently receive a rebate per share of \$0.0004 for executions at the close. This rebate will be increased from \$0.0004 per share to \$0.0005 per share.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6<sup>4</sup> of the Act in general and furthers the objectives of Section 6(b)(4)<sup>5</sup> in particular, in

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<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(4).

that it is designed 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 dues, fees and other charges as it provides the DMMs appropriate incentives to act as liquidity providers and supports them in performing their central function in the Exchange's market model.

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 purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and Rule 19b-4(f)(2) thereunder.<sup>7</sup>

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.

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

#### 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-NYSE-2009-22 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.

All submissions should refer to File Number SR-NYSE-2009-22. 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 inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also 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 No. SR-NYSE-2009-22 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).