

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59521; File No. SR-NYSEArca-2009-15)

March 5, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Rule Change by NYSE Arca, Inc. Implementing Fee Change

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 February 27, 2009, 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, 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 the section of 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 March 2, 2009. The amended section of the Schedule is included as Exhibit 5 hereto.⁴ A copy of this filing is available on the Exchange’s Web site at www.nyse.com, at the Exchange’s principal office 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ The Commission notes that while provided in Exhibit 5 to the filing, the text of the proposed rule change is not attached to this notice but is available at the Commission’s Public Reference Room and at www.nyse.com.

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 proposes to make multiple changes to its Schedule that will take effect on March 2, 2009. A more detailed description of the proposed changes follows.

Tier 1 Rate Changes:

Tier 1 rates are applied to customers with an average daily share volume per month greater than 90 million shares in Tape A, B and C, including adding liquidity of more than 45 million shares. In Tape A and Tape C securities the Exchange will continue its inverted pricing structure, but proposes a new rebate of \$0.0029 for orders that add liquidity and new fee of \$0.0028 for orders that remove liquidity. Previously in Tape A and Tape C securities the Exchange paid a rebate of \$0.0028 for orders that added liquidity and charged a fee of \$0.0027 for orders that removed liquidity.

Mid-Point Passive Liquidity Orders:

The Exchange proposes a rebate of \$0.0020 per share for resting Mid-point Passive Liquidity ("MPL") Orders⁵ in Tape A and Tape C securities for all customers. Previously the Exchange paid a rebate of \$0.0015 for resting MPL orders in Tape A and Tape C securities. The

⁵ The MPL order is an undisplayed limit order that offers price improvement to customers by executing at the mid-point of the National Best Bid and Offer (NBBO). MPL orders will generally interact with all order types including contra MPLs, but excluding cross or directed orders.

Exchange proposes a rebate of \$0.0010 per share for resting MPL orders in Tape B securities for all customers. Previously the Exchange did not pay a rebate for resting MPL orders in Tape B securities.

Orders Routed to the NYSE in Tape A:

The Exchange proposes a \$0.0018 per share fee for orders in Tape A securities routed outside the Book to the NYSE for customers qualifying for Tier 1, Tier 2 or the Take Tier. Previously the Exchange charged \$0.0008 per share for orders in Tape A securities routed outside the Book to the NYSE in Tier 1, Tier 2, and the Take Tier. The Exchange proposes a \$0.0020 per share fee for orders in Tape A securities routed outside the Book to the NYSE for customers qualifying for Basic Rates.

The following changes apply universally to all tiered pricing and basic rate pricing in Tape A securities. The Exchange proposes a \$0.0016 per share fee for Primary Sweep Orders in Tape A securities routed outside the book to the NYSE. Previously the Exchange charged \$0.0006 per share fee for Primary Sweep Orders in Tape A securities routed outside the book to the NYSE. The Exchange also proposes a \$0.0018 per share fee for Primary Only Plus (“PO+”) Orders routed to the NYSE that remove liquidity. Previously the Exchange charged an \$0.0008 per share fee for Primary Only Plus (“PO+”) Orders routed to the NYSE that removed liquidity. The Exchange will continue to charge no fee for PO and PO+ Orders routed to the NYSE for participation at the open. To compliment the new PO+ fee, the Exchange proposes a \$0.0010 per share credit for PO+ Orders that provide liquidity to the NYSE. Previously the Exchange did not pay a rebate for PO+ Orders providing liquidity to the NYSE. For PO+ Market-On-Close (“MOC”) and Limit-On-Close (“LOC”) Orders routed to the NYSE, the Exchange proposes a

\$0.0005 per share fee. Previously the Exchange charged a \$0.0004 per share fee PO+ MOC and LOC Orders routed to the NYSE.

Basic Rate Changes:

Basic Rates apply to those customers that do not reach one of the volume tiered pricing levels. The Exchange proposes a Basic Rate fee of \$0.0030 for orders that remove liquidity in Tape A and Tape C securities. This fee was previously \$0.0029. The rebate for orders that add liquidity will remain unchanged at \$0.0023.

IOI Tier Changes:

The Exchange also proposes adding an additional IOI Tier. The new Tier 1 will pay a rebate of \$.0012 per share for ETP Holders and Market Makers that send an IOI to the Exchange resulting in an execution with an average daily share volume per month greater than or equal to 10 million shares. The current Tier 1 will become the new Tier 2 and will pay a rebate of \$0.001 per share for ETP Holders and Market Makers that send an IOI to the Exchange resulting in an execution with an average daily share volume per month between 5 million shares and 9,999,999 shares. Finally, the current Tier 2 will become the new Tier 3 and will pay a rebate of \$0.0005 per share for ETP Holders and Market Makers that send an IOI to the Exchange resulting in an execution with an average daily share volume per month between 2.5 million shares and 4,999,999 shares.

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”), in general, and Section 6(b)(4) of the Act, 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 rates are part of the Exchange's continued effort to attract and enhance participation on the Exchange, by offering attractive rebates for liquidity providers and volume-based incentives. The Exchange believes that the proposed changes to the Schedule are equitable in that they apply uniformly to our Users.

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)⁶ of the Act and subparagraph (f)(2) of Rule 19b-4⁷ 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:

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(2).

- 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-2009-15 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-NYSEArca-2009-15. 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, 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 will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-2009-15 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.⁸

Florence E. Harmon
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).