

4(f)(6)(iii)¹³ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. NASDAQ has requested that the Commission waive the 30-day operative delay. The Commission notes that NASDAQ's proposal is substantially similar to the rule of another national securities exchange and does not raise any new substantive issues.¹⁴ NASDAQ states that waiving the operative delay will allow NASDAQ to compete more effectively by putting its new functionality in effect without undue delay.¹⁵ For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative upon filing with the Commission.¹⁶

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-NASDAQ-2009-036 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-NASDAQ-2009-036. 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NASDAQ. 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-NASDAQ-2009-036 and should be submitted on or before May 19, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59808; File No. SR-NYSEArca-2009-31]

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

April 21, 2009.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on April 15, 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. NYSE Arca filed the proposal pursuant to Section 19(b)(3)(A)⁴ of the Act and Rule 19b-4(f)(2)⁵ thereunder. 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 15, 2009. A copy of this filing is available on the Exchange's Web site at <http://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 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 revise its Schedule with respect to fees applied to Primary Only Plus ("PO+") orders. The changes, described below, will become operative on April 15, 2009. The Exchange believes that the proposed changes to the Schedule are equitable in that they apply uniformly to our Users.

Tier 1 and Tier 2 Rates

For orders routed outside the Book in Tapes A, B, or C securities to NASDAQ, the Exchange proposes a fee of \$0.003 per share (previously \$0.0029).

Take Tier

For orders routed outside the Book in Tapes A, B, or C securities to NASDAQ, the Exchange proposes a fee of \$0.003 per share (previously \$0.00285).

Commission. NASDAQ has satisfied this requirement.

¹³ *Id.*

¹⁴ See BATS Exchange Rule 11.9(c)(12).

¹⁵ See SR-NASDAQ-2009-036, Item 7.

¹⁶ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(2).

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 proposed 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

- 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-2009-31 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-2009-31. 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 a.m. and 3 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-2009-31 and should be submitted on or before May 19, 2009.

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59806; File No. SR-ISE-2009-19]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness by International Securities Exchange, LLC of a Proposed Rule Change To Amend Exchange Rules Related to Confirmations to Customers

April 21, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 8, 2009, the International Securities Exchange, LLC ("Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which items have been substantially 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 ISE proposes to amend Rule 612—Confirmation to Customers to clarify that written confirmations relating to options transactions do not need to specify the exchange or exchanges on which an option contract is executed.³ The text of the proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposed filing is being done pursuant to an industry-wide initiative under the auspices of the Options Self-Regulatory Council ("OSRC"), which is a committee comprised of representatives from each of the options exchanges functioning pursuant to the OSRC Plan (the "Plan"). See Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983). The Plan is not a National Market System ("NMS") plan under Section 11A of the Act, but rather is a plan to allocate regulatory responsibilities under Rule 17d-2 under the Act. 17 CFR 240.17d-2. As a result of the introduction of multiply listed options and the introduction of the Plan for the Purpose of Creating and Operating an Intermarket Options Market Linkage ("Options Linkage Plan"), the contracts in a customer options order could be executed on more than one options exchange, and the significance of the options exchange, or exchanges, that execute a particular options transaction has diminished significantly. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Furthermore, the OSRC believes that in light of the best execution and disclosure requirements, the usefulness of including on an options confirmation the name of the options exchange, or exchanges, on which the options transaction was effected does not outweigh the operational difficulties of capturing the information given the multiple trading of options and the application of the Options Linkage Plan industry wide.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(2).

⁸ 17 CFR 200.30-3(a)(12).