

makers are able to update multiple instruments with a single quote change, encouraging market makers to add liquidity to the complex order book through quotations, rather than orders, will require less ISE capacity.<sup>38</sup> For example, ISE notes that ISE market makers currently must enter two separate orders to update a bid and an offer for each complex order instrument.<sup>39</sup> However, market makers will be able to update both the bid and the offer for multiple complex order instruments with one quote change.<sup>40</sup>

In approving the proposed rule change, the Commission has relied on ISE's representation that it has the necessary systems capacity to implement the proposed changes. The Commission expects ISE to continue to monitor the quoting volume associated with market makers' complex order strategy quotations and its effect on ISE's systems.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>41</sup> that the proposed rule change (SR-ISE-2011-39) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>42</sup>

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011-26990 Filed 10-18-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65549; File No. SR-NYSEAmex-2011-77]

### Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Amendments to the NYSE Amex Options Fee Schedule Relating to Electronic Complex Orders

October 13, 2011.

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 October 5, 2011, NYSE Amex LLC (the "Exchange" or "NYSE Amex") 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 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 NYSE Amex Options Fee Schedule ("Fee Schedule") with respect to Electronic Complex Order executions. The proposed change will be operative on October 5, 2011. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### 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 amend the Fee Schedule with respect to Electronic Complex Order<sup>3</sup> executions and to make other technical changes.

The current Fee Schedule sets forth a separate list of charges for Electronic Complex Orders. Under the Fee Schedule, when an Electronic Complex Order trades against another Electronic Complex Order, there is a charge of \$.05 per contract side, including where the same firm represents both sides. Customers (excluding Professional Customers) are not charged. If an Electronic Complex Order trades against an individual order in the Consolidated Book, it is subject to standard trade-related charges in the Fee Schedule. Under endnote 5 of the Fee Schedule,

Specialist, e-Specialist, and Market Maker (both Directed and non-Directed) fees are aggregated and capped at \$350,000 per month plus an incremental service fee of \$.01 per contract for all Specialist, e-Specialist and Market Maker volume executed in excess of 3,500,000 contracts per month. Electronic Complex Order fees currently count toward both the \$350,000 cap and the 3,500,000 thresholds, but are not themselves capped.

The Exchange proposes to eliminate the separate list of charges for Electronic Complex Orders and instead impose the standard per contract fees set forth in the Fee Schedule. Each market participant will pay the applicable rate per contract set forth in the Fee Schedule, ranging from \$.10 to \$.40, that applies for all other transactions; Customers (excluding Professional Customers) will continue to trade for free.<sup>4</sup>

The Exchange also proposes to amend endnote 5 with respect to the fee caps. Under the amendment, Electronic Complex Order fees will be subject to the \$350,000 per month fee cap plus an incremental service fee of \$.05 per contract for all Specialist, e-Specialist and Market Maker volume executed in excess of 3,500,000 contracts per month.<sup>5</sup>

The proposed changes will be operative on October 5, 2011.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)<sup>6</sup> of the Securities Exchange Act of 1934 (the "Act"), in general, and Section 6(b)(4)<sup>7</sup> 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 Exchange believes that adopting the proposed amendments will make its Fee Schedule simpler and easier for market participants to understand. In addition, the Exchange believes that the proposed Electronic Complex Orders

<sup>4</sup> The Exchange notes that a complex order executed as part of a Qualified Contingent Cross ("QCC") trade will never interact with the Electronic Complex Order Book. As such, a complex order executed as part of a QCC will be subject to the fees applicable to QCCs. If a single leg order, complex order, or Strategy Trade is marked QCC, it receives QCC billing treatment.

<sup>5</sup> The Exchange further notes that, like all transactions subject to the standard trade-related charges in the Fee Schedule, Marketing Charges will continue to apply to Electronic Complex Orders. The only transactions to which Marketing Charges do not apply are expressly excluded in endnote 10 of the Fee Schedule.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>38</sup> See ISE Letter, *supra* note 5, at 2.

<sup>39</sup> See *id.*

<sup>40</sup> See *id.*

<sup>41</sup> 15 U.S.C. 78s(b)(2).

<sup>42</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Under NYSE Amex Option Rule 980NY, an "Electronic Complex Order" is any Complex Order as defined in NYSE Amex Options Rule 900.3NY(e) or any Stock/option Order or Stock/Complex Order as defined in NYSE Amex Options Rule 900.3NY(h) that is entered into the NYSE Amex System.

fees are fair and reasonable, equitably allocated, and not unfairly discriminatory because they generally will be the same as the currently applicable standard fee schedule, with the exception of transactions that exceed the fee cap threshold for Specialists, e-Specialists, and Market Makers (both Directed and non-Directed).<sup>8</sup>

The Exchange also believes that with the proposed transition to the standard fee schedule, it is reasonable and not unfairly discriminatory to include Electronic Complex Orders in the fee cap for Specialists, e-Specialists, and Market Makers. These market participants incur permit fees and are obligated to provide liquidity; the Exchange believes that it is appropriate to reduce their fees once they have provided the threshold level of liquidity to the market. The Exchange believes that the fee cap, along with the reduced fee, will encourage these dedicated liquidity providers to continue to provide liquidity on a non-discriminatory basis to all market participants.

The proposal to charge \$.05 per contract for those transactions that exceed the fee cap threshold also is reasonable, equitable and not unfairly discriminatory because it is the same fee that such a participant would pay today under the current Fee Schedule for Electronic Complex Orders. In addition, the Exchange incurred costs to build the Electronic Complex Order book and the marginally higher fee (\$.05 versus \$.01) for transactions in excess of the fee cap will assist the Exchange in recouping such costs from the market participants that derive benefits from the Electronic Complex Order book.

#### *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)<sup>9</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>10</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange. 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAmex-2011-77 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-NYSEAmex-2011-77. 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, NW., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov>. 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 available publicly. All submissions should refer to File Number SR-NYSEAmex-2011-77 and should be submitted on or before November 9, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Elizabeth M. Murphy,**

*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-65550; File No. SR-ISE-2011-65]

### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Rebates for Certain Orders Executed on the Exchange**

October 13, 2011.

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 September 30, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II 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 ISE is proposing to amend fees and rebates for certain complex orders executed on the Exchange. The text of

<sup>8</sup> NYSE Amex notes that at least one other exchange generally applies its standard transaction fees to Electronic Complex Orders too. See Chicago Board Options Exchange, Incorporated Fees Schedule, dated September 1, 2011, available at <http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf>.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

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