

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62792; File No. SR-NYSEAmex-2010-85]

### Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 107B—NYSE Amex Equities To Revise the Quoting Requirement

August 30, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 26, 2010, NYSE Amex LLC (the “Exchange” or “NYSE Amex”) 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 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 Rule 107B—NYSE Amex Equities (“Supplemental Liquidity Providers”) (“SLPs”), which is a pilot program, to revise the quoting requirement. The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nyse.com>, at the Exchange’s principal office, at the Commission’s Public Reference Room, and on the Commission’s Web site at <http://www.sec.gov>.

#### 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend Rule 107B—NYSE Amex Equities, which is a pilot program, to eliminate the ability for an SLP to earn a rebate if it maintains a quote at the National Best Bid (“NBB”) or National Best Offer (“NBO”) an average of 3% in an assigned SLP security. Instead, an SLP would be eligible to earn a rebate only if it meets the 5% quoting requirement currently set forth in the rule. The Exchange also proposes to clarify which mnemonics that a member organization may use for the SLP trading activity to enable a member organization to use the same mnemonic for non-SLP trading activity.

Rule 107B provides for a class of market participants referred to as Supplemental Liquidity Providers or “SLPs.”<sup>3</sup> Approved Exchange member organizations are eligible to be an SLP. SLPs supplement the liquidity provided by Designated Market Makers (“DMMs”). SLPs have monthly quoting requirements that may qualify them to receive SLP rebates, which are larger than the general rebate available to non-SLP market participants.

The goal of the SLP program is to encourage participants to quote more often and to add displayed liquidity to the market. Thus, Rule 107B(a) requires that an SLP maintain a bid and/or an offer at the NBB or NBO averaging at least 5% of the trading day for each assigned security. Notwithstanding the 5% quoting requirement, an SLP can earn a financial rebate if it maintains a quote an average of 3% in an assigned SLP security.

If an SLP fails to meet a 3% average quoting requirement in its assigned securities, the SLP is not eligible for SLP rebates on executions for that month. Further, if an SLP fails to meet its 5% average quoting requirement in its assigned securities for three (3) consecutive months (not including the first month of SLP operation), the SLP Liaison Committee may, in its discretion, impose the following non-regulatory penalties: (1) Revocation of the affected security(ies); (2) each time a security(ies) is revoked for failure to meet the quoting requirement for a particular security, revocation of an additional unaffected security; and/or (3) disqualification from the SLP program.

The Exchange proposes to eliminate the ability of an SLP to earn a rebate if it maintains a quote in assigned SLP securities at the NBB or NBO at least 3%, up to, but not including 5% of the time. Instead, to align the rebate with the 5% quoting requirement set forth in Rule 107B(a), as proposed, an SLP would not be able to earn a rebate unless it maintained a quote at the NBB or NBO an average of 5% of the trading day. The Exchange proposes to make conforming amendments to Rule 107B(i)(1)(A) and (B) by deleting the last sentence of each paragraph as no longer necessary. The Exchange believes that this proposed change strengthens the SLP program by ensuring that rebates are paid only if the SLP meets the minimum quoting requirement of an SLP.

The Exchange also proposes to amend the operational pre-qualifications for an SLP. Among other things, the Exchange requires pursuant to Rule 107B(c)(1) that an SLP use a unique mnemonic for its SLP business, which enables the Exchange to identify SLP transactions for billing and regulatory purposes. The Exchange proposes to revise this requirement to clarify that the member organization must identify to the Exchange mnemonics that identify the SLP trading activity in assigned SLP securities. As proposed, because all order flow in an assigned SLP security using that mnemonic will be treated as SLP volume, a member organization may not use such identified mnemonics for trading activity at the Exchange in assigned SLP securities that is not SLP trading activity. However, to enable the member organization to use the same mnemonic for both SLP and non-SLP trading activity in different securities, an SLP may use mnemonics used for SLP trading for trading activity in securities not assigned to the SLP. As further proposed, the rule would specify that if the member organization does not identify such mnemonics to the Exchange, the member organization will not receive credit for such SLP trading. The Exchange proposes to make a conforming amendment to Rule 107B(f)(2).

In addition to the above proposed changes, the Exchange proposes to make clarifying amendments to Rule 107B. First, because FINRA now conducts all market regulation functions on behalf of the Exchange, the Exchange proposes to delete references to the “Division of Market Surveillance,” and replace it with a reference to FINRA (see Section (e) of the Rule). Second, the Exchange proposes to revise section (g)(2)(A) of the rule, to provide that a DMM unit shall not also act as an SLP in the same

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

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

<sup>3</sup> The pilot is currently scheduled to end on September 30, 2010.

securities in which it is registered as a DMM. The Exchange does not need to spell out the term “designated market maker” as it, and the term DMM unit, are defined terms in Rule 2.

The Exchange proposes to implement these changes on October 1, 2010.<sup>4</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes the proposed Rule is consistent with these principles in that it seeks to increase the trading performance of SLPs, which will benefit all market participants.

### *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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent

with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>10</sup>

At any time within 60 days of the filing of the 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-2010-85 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-2010-85. 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 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-NYSEAmex-2010-85 and should be submitted on or before September 28, 2010.

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

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62793; File No. SR-CBOE-2010-076]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Fees Schedule

August 30, 2010.

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 August 17, 2010, Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“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 Exchange proposes to amend its Fees Schedule relating to routing charges. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/legal>), at

<sup>4</sup> As noted above, the SLP program is a pilot program currently set to expire on September 30, 2010. The Exchange intends to file to make the program permanent or extend the pilot program so that it can continue past September 30, 2010.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement.

<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.