

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposed reciprocity provision is similar to reciprocity provisions in place for other option strike price programs,<sup>11</sup> which have been previously approved by the Commission.<sup>12</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>13</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-ISE-2011-02 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-ISE-2011-02. This file number should be included on the subject line if e-mail is used. To help the

to file the proposed rule change, along with a brief description and 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 Commission has waived this requirement in this case.

<sup>11</sup> See Rule 504, Supplementary Material .01 (\$1 Strike Program); Rule 504, Supplementary Material .05 (\$0.50 Strike Program); and Rule 504(g) (\$2.50 Strike Program).

<sup>12</sup> See, e.g., Securities Exchange Act Release No. 60694 (September 18, 2009); 74 FR 49048 (September 25, 2009) (SR-Phlx-2009-65) (approving NASDAQ OMX PHLX's \$0.50 Strike Program, with reciprocity provision).

<sup>13</sup> For 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).

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-ISE-2011-02 and should be submitted on or before February 2, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Elizabeth M. Murphy,  
Secretary.

[FR Doc. 2011-442 Filed 1-11-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63653; File No. SR-ISE-2011-01]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish a \$5 Strike Price Program

January 6, 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 January 4, 2011, the International Securities Exchange, LLC ("ISE" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 ISE Rule 504 to allow the Exchange to list and trade series in intervals of \$5 or greater where the strike price is more than \$200 in up to five option classes on individual stocks. The text of the proposed rule change is available on the Exchange's Web site <http://www.ise.com>, at the principal office of the Exchange, 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

The purpose of this proposed rule change is to adopt Supplementary Material .09 to ISE Rule 504 to allow the Exchange to list and trade series in intervals of \$5 or greater where the strike price is more than \$200 in up to five option classes on individual stocks ("\$5 Strike Price Program") to provide investors and traders additional opportunities and strategies to hedge high priced securities.

Currently, Exchange Rule 504(d) permits strike price intervals of \$10 or greater where the strike price is \$200 or more,<sup>3</sup> except the Exchange may list options classes on individual stocks for which the interval of strike prices will be \$2.50 where the strike price is greater

<sup>14</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> ISE Rule 504(d) also permits strike price intervals of \$5 or greater where the strike price is greater than \$25; and \$2.50 or greater where the strike price is \$25 or less.

than \$25 but less than \$50 (the "\$2.50 Strike Price Program").<sup>4</sup>

The Exchange now proposes to list series in intervals of \$5 or greater where the strike price is more than \$200 in up to five option classes on individual stocks.

The Exchange believes the \$5 Strike Price Program would offer investors a greater selection of strike prices at a lower cost. For example, if an investor wanted to purchase an option with an expiration of approximately one month, a \$5 strike interval could offer a wider choice of strike prices, which may result in reduced outlays in order to purchase the option. By way of illustration, using Google, Inc. ("GOOG") as an example, if GOOG would trade at \$610<sup>5</sup> with approximately one month remaining until expiration, the front month (one month remaining) at-the-money call option (the 610 strike) would trade at approximately \$17.50 and the next highest available strike (the 620 strike) would trade at approximately \$13.00. By offering a 615 strike an investor would be able to trade a GOOG front month call option at approximately \$15.25, thus providing an additional choice at a different price point.

Similarly, if an investor wanted to hedge exposure to an underlying stock position by selling call options, the investor may chose an option term with two months remaining until expiration. An additional \$5 strike interval could offer additional and varying yields to the investor. For example if Apple, Inc. ("AAPL") would trade at \$310<sup>6</sup> with approximately two months remaining until expiration, the second month (two months remaining) at-the-money call option (the 310 strike) would trade at

approximately \$14.50 and the next highest available strike (the 320 strike) would trade at \$9.90. The 310 strike would yield a return of 4.67% and the 320 strike would yield a return of 3.20%. If the 315 strike were available, that series would be priced at approximately \$12.20 (a yield of 3.93%) and would minimize the risk of having the underlying stock called away at expiration.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of classes on individual stocks \$5 Strike Price Program.

The proposed \$5 Strike Price Program would provide investors increased opportunities to improve returns and manage risk in the trading of equity options that overlie high priced stocks. In addition, the proposed \$5 Strike Price Program would allow investors to establish equity options positions that are better tailored to meet their investment, trading and risk management requirements.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> in particular, in that it is designed 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 \$5 Strike Price Program proposal would provide the investing public and other market participants increased opportunities because a \$5 series in high-priced stocks would provide market participants additional opportunities to hedge high-priced securities allowing investors to better manage their risk exposure. Moreover, the Exchange believes the proposed rule change would benefit investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.<sup>11</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>12</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.

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

<sup>10</sup> 17 CFR 240.19b-4(f)(6). 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 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 this requirement.

<sup>11</sup> See Securities Exchange Act Release No. 63654 (January 6, 2011) (SR-Phlx-2010-158) (order approving establishment of a \$5 Strike Price Program).

<sup>12</sup> For 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).

<sup>4</sup> Initially adopted in 1995 as a pilot program, the pilot \$2.50 Strike Price Program allowed options exchanges to list options with \$ 2.50 strike price intervals for options trading at strike prices greater than \$ 25 but less than \$ 50 on a total of up to 100 option classes. See Securities Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (approving File Nos. SR-Phlx-95-08, SR-Amex-95-12, SR-PSE-95-07, SR-CBOE-95-19, and SR-NYSE-95-12). In 1998, the pilot program was permanently approved and expanded to allow the options exchanges to select up to 200 option classes for the \$2.50 Strike Price Program. See Securities Exchange Act Release No. 40662 (November 12, 1998), 63 FR 64297 (November 19, 1998) (approving File Nos. SR-Amex-98-21, SR-CBOE-98-29, SR-PCX-98-31, and SR-Phlx-98-26). The Exchange lists options with \$2.50 strike price intervals on those classes selected by the other options exchanges and does not select any class for inclusion in the \$2.50 Strike Price Program. See Securities Exchange Act Release No. 52960 (December 15, 2005), 70 FR 76090 (December 22, 2005) (SR-ISE-2005-59).

<sup>5</sup> The prices listed in this example are assumptions and not based on actual prices. The assumptions are made for illustrative purposes only using the stock price as a hypothetical.

<sup>6</sup> *Id.*

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

#### 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-ISE-2011-01 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-ISE-2011-01. 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-ISE-2011-01 and should be submitted on or before February 2, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2011-440 Filed 1-11-11; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63649; File No. SR-NYSEArca-2010-122]

#### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services

January 5, 2011.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on December 28, 2010, 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 and II below, which Items have been prepared by the self-regulatory organization. NYSE Arca filed the proposal pursuant to Section 19(b)(3)(A)<sup>4</sup> of the Act and Rule 19b-4(f)(2)<sup>5</sup> 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 the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the "Schedule") to modify the fees that it charges for routing orders to the New York Stock Exchange LLC and NYSE Amex LLC for execution on those markets. 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Effective January 1, 2011, the Exchange proposes to amend the Schedule to modify the fees that it charges for routing orders to the New York Stock Exchange LLC ("NYSE") and NYSE Amex LLC ("NYSE Amex") for execution on those markets. In two recent rule filings,<sup>6</sup> both NYSE and NYSE Amex have modified their fee structures for equities transactions, including changes to the rates for taking liquidity and adding liquidity, to become effective at the beginning of January 2011. The Exchange's current fees for routing orders to those exchanges are closely related to those exchanges' fees for taking and adding liquidity, and the Exchange is proposing an adjustment to its routing fees to maintain the existing relationship to the new fees in place at the NYSE and NYSE Amex.

The NYSE Fee Filing increased the NYSE's charge for execution of customer orders that take liquidity from the NYSE from \$0.0021 per share to \$0.0023 per share, and increased the rebate for execution of customer orders that add liquidity to the NYSE from \$0.0013 per share to \$0.0015 per share. Currently, for NYSE Arca Tier 1 and Tier 2 customers, the fee for routing orders in Tape A securities to the NYSE outside the book is equal to the NYSE "take" rate of \$0.0021 per share, and the fee for routing such orders to the NYSE for non-tier customers is slightly higher at \$0.0023 per share. Consequently, the Exchange is proposing to increase each of those fees by \$0.0002 to \$0.0023 per share and \$0.0025 per share, respectively, in line with the \$0.0002 increase in the NYSE "take" rate.

In addition, the Exchange currently charges \$0.0019 per share for Primary Sweep Orders in Tape A securities that are routed outside the book to the NYSE for execution. This charge applies to Tier 1, Tier 2 and non-tier customers. In order to maintain the existing relationship to the other Exchange

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

<sup>6</sup> See SR-NYSE-2010-87 (the "NYSE Fee Filing") and SR-NYSEAmex-2010-125 (the "NYSE Amex Fee Filing").