

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66450; File No. SR-NYSEAmex-2012-14]

### Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Correcting the Formatting of a Recently Adopted NYSE Amex Rule

February 23, 2012.

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 February 17, 2012, 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 Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. 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 correct the formatting of a recently adopted NYSE Amex Rule. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.nyse.com](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 correct the formatting of a recently adopted NYSE Amex Rule. Specifically, the Exchange recently codified in Commentary .05 of NYSE Amex Rule 903 the ability to allow trading of options on iShares® Silver Trust (“SLV” or “SLV Trust”) and United States Oil Fund (“USO” or “USO Fund”) at \$0.50 strike price intervals where the strike price is less than \$75. In adopting the rule change, the Exchange adopted new paragraph (b) in Commentary .05 and designated the existing language in Commentary .05 as paragraph (a). In this filing, the Exchange is proposing to change the references to (a), (b) and (c) in paragraph (a) to (i), (ii) and (iii). Other than this reformatting, the Exchange is not proposing any changes to the text of Commentary .05.

##### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>4</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 foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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 that the proposed rule change, which would correct the formatting of a recently amended Exchange rule, would provide more clarity to ATP Holders and the investing public with respect to that rule.

#### 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

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>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</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 would correct the formatting of a recently amended Exchange rule<sup>8</sup> and thereby provide more clarity to ATP Holders and the investing public with respect to that rule. Therefore, the Commission designates the proposal operative upon filing.<sup>9</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.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</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 Commission has waived the five-day pre-filing requirement.

<sup>8</sup> See Securities Exchange Act Release No. 66349 (February 7, 2012), 77 FR 7637 (February 13, 2012) (SR-NYSEAmex-2012-09).

<sup>9</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>12</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> 17 CFR 240.19b-4(f)(6).

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

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

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAmex-2012-14 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-2012-14. This file number should be included on the subject line if email 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-2012-14 and should be submitted on or before March 21, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66454; File No. SR-FINRA-2011-073]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of Proposed Rule Change Relating to Establishing a Governmental Accounting Standards Board Accounting Support Fee

February 23, 2012.

#### I. Introduction

On December 20, 2011, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to adopt Section 14 to Schedule A of the FINRA By-Laws to establish an accounting support fee to adequately fund the annual budget of the Governmental Accounting Standards Board ("GASB"). The proposed rule change was published for comment in the **Federal Register** on January 9, 2012.<sup>3</sup> The Commission received nine comment letters on the proposed rule change.<sup>4</sup> On February 13, 2012, FINRA submitted a response letter to the comments.<sup>5</sup> This order grants approval of the proposed rule change.

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

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

<sup>3</sup> See Securities Exchange Act Release No. 66080 (January 3, 2012), 77 FR 1119 ("Notice").

<sup>4</sup> See letters to Elizabeth M. Murphy, Secretary, Commission, from David T. Bellaire, Esq., General Counsel and Director of Government Affairs, Financial Services Institute, dated January 30, 2012 ("FSI Letter"); Eric Berman, CPA—Chair, Financial Management Standards Board, Association of Government Accountants, dated January 30, 2012 ("AGA Letter"); David L. Cohen, Managing Director, Associate General Counsel, Securities Industry and Financial Markets Association, dated January 30, 2012 ("SIFMA Letter"); Jeffrey L. Esser, Executive Director and Chief Executive Officer, Government Finance Officers Association, Robert O'Neill, Executive Director, International City/County Management Association, Larry E. Naake, Executive Director, National Association of Counties, Donald J. Borut, Executive Director, National League of Cities, and Tom Cochran, CEO and Executive Director, United States Conference of Mayors, dated January 30, 2012 ("Associations Letter"); John T. Hicks, President, National Association of State Budget Officers, dated January 30, 2012 ("NASBO Letter"); Ronald L. Jones, President, National Association of State Auditors, Comptrollers and Treasurers, dated January 30, 2012 ("NASACT Letter"); Michael Nicholas, Chief Executive Officer, Bond Dealers of America, dated January 30, 2012 ("BDA Letter"); Martin J. Benison, Comptroller, Office of the Comptroller, Commonwealth of Massachusetts, dated January 24, 2012 ("Massachusetts Letter"); and Chris Melton, Sr., dated January 19, 2012 ("Melton Letter").

<sup>5</sup> See Letter to Elizabeth M. Murphy, Secretary, Commission, from Brant K. Brown, Associate

## II. Description of the Proposed Rule Change

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") was signed into law by President Obama on July 21, 2010.<sup>6</sup> As added by Section 978 of the Dodd-Frank Act, Section 19(g) of the Securities Act of 1933 ("Securities Act") gives the Commission the authority to require a national securities association to establish a reasonable annual accounting support fee to adequately fund the annual budget of the GASB ("GASB Accounting Support Fee"), and rules and procedures to provide for the equitable allocation, assessment, and collection of the GASB Accounting Support Fee from the association's members.<sup>7</sup> On May 11, 2011, the Commission exercised this authority and issued an order requiring FINRA to establish (a) a reasonable annual accounting support fee to adequately fund the annual budget of the GASB; and (b) rules and procedures, in consultation with the principal organizations representing State governors, legislators, local elected officials, and State and local finance officers, to provide for the equitable allocation, assessment, and collection of the accounting support fee from its members, and the remittance of all such accounting support fees to the FAF.<sup>8</sup>

In response to the Commission's order of May 11, 2011, FINRA proposed new Section 14 (Accounting Support Fee for Governmental Accounting Standards Board) to Schedule A of the FINRA By-Laws to establish the GASB Accounting Support Fee. The proposed rule change would assess the fee based on FINRA members' municipal securities trading volume reported to the Municipal Securities Rulemaking Board ("MSRB"). FINRA stated its belief that basing the GASB Accounting Support Fee on reliable and timely reporting data will ensure the accuracy of the fee and that using transaction data to apportion the

General Counsel, FINRA, dated February 13, 2012 ("FINRA Response Letter").

<sup>6</sup> See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

<sup>7</sup> See 15 U.S.C. 77s(g). For purposes of the GASB Accounting Support Fee, the annual budget of the GASB is the annual budget reviewed and approved according to the internal procedures of the Financial Accounting Foundation ("FAF"). See 15 U.S.C. 77s(g)(2). FINRA stated that it anticipates that the GASB's annual budget will include an administrative fee to FINRA. The administrative fee is intended to cover FINRA's costs associated with calculating, assessing, and collecting the GASB Accounting Support Fee, and the amount will be negotiated with the FAF each year. For the initial year, the administrative fee will be \$50,000.

<sup>8</sup> See Securities Exchange Act Release No. 64462 (May 11, 2011), 76 FR 28247 (May 16, 2011).

<sup>10</sup> 17 CFR 200.30-3(a)(12).