

acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(5) of the Act,<sup>7</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule will codify FINRA's authority and discretion to review and process documents related to requests for Company-Related Actions in the OTC securities and, along with the proposed new fees for such services, act to ensure there is more complete, accurate and timely information concerning Company-Related Actions.

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

FINRA does not believe that the proposed rule change will result in 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*

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **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 Exchange 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-FINRA-2009-089 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-FINRA-2009-089. 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,<sup>8</sup> 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 FINRA. 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-FINRA-2009-089 and should be submitted on or before January 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-30597 Filed 12-24-09; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61201; File No. SR-NYSE-2009-127]

### **Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Program That Offers Liquidity Takers a Reduced Transaction Fee Structure for Certain Bond Trades Executed on the NYSE Bonds System and Retiring the Liquidity Provider Credit Pilot Program**

December 18, 2009.

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 December 17, 2009, the New York Stock Exchange LLC ("NYSE" or the "Exchange") 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 Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</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 extend the pilot program that offers liquidity takers a reduced transaction fee structure for certain bond trades executed on the NYSE Bonds<sup>SM</sup> system ("NYSE Bonds") to June 30, 2010, and retire the pilot program that issues liquidity providers a \$20 credit for certain bond trades executed on NYSE Bonds with an execution size of less than 20 bonds that is due to expire on December 31, 2009. The text of the proposed rule change is available on the NYSE's Web site (<http://www.nyx.com>), on the Commission's Web site (<http://www.sec.gov>), at the Exchange's principal office, and at the Commission's Public Reference Room.

<sup>8</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/>.

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

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

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

## 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 Exchange 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 New York Stock Exchange LLC (the "Exchange" or the "NYSE") proposes to: (1) Extend the pilot program that offers liquidity takers a reduced transaction fee structure for certain bond trades executed on the NYSE Bonds<sup>SM</sup> system ("NYSE Bonds") to June 30, 2010, and (2) retire the pilot program that issues liquidity providers a \$20 credit for certain bond trades executed on NYSE Bonds with an execution size of less than 20 bonds that is due to expire on December 31, 2009.

#### Liquidity Taker Pilot Program

The Exchange's pilot program reduces transaction fees charged to liquidity takers for transactions executed on NYSE Bonds with a staggered transaction fee schedule based on the number of bonds purchased or sold in excess of ten (10) bonds. Currently, the transaction fee for orders that take liquidity from the market is \$.50 per bond. This fee remains unchanged for orders up to ten (10) bonds. The extended fee filing pilot program provides for the following transaction fee schedule: (1) When the liquidity taker purchases or sells from one to ten (10) bonds, the Exchange will charge an execution fee of \$0.50 per bond; (2) when the liquidity taker purchases or sells from eleven (11) to twenty-five (25) bonds, the Exchange will charge an execution fee of \$0.20 per bond, and (3) when the liquidity taker purchases or sells twenty-six (26) bonds or more, the Exchange will charge an execution fee of \$0.10 per bond.

For example, if a liquidity taker purchases or sells five (5) bonds, the Exchange will charge \$.50 per bond, or a total of \$2.50 for execution fees. If a liquidity taker purchases or sells twenty (20) bonds, the Exchange will charge

\$.20 per bond or a total of \$4.00 for execution fees. If a liquidity taker purchases or sells thirty (30) bonds, the Exchange will charge \$.10 per bond or a total of \$3.00 for execution fees.

The Exchange will continue to impose a \$100 execution fee cap per transaction.

The Exchange seeks to file with the Commission, a proposal to make this liquidity taker program permanent. Accordingly, the Exchange proposes to extend the pilot program for an additional six (6) months in order to give the Exchange the necessary time to complete the 19b-4 process regarding the program permanency filing.

#### Liquidity Taker Pilot Program

In December 2007, the Exchange initiated a four-month pilot program that issued liquidity providers a \$20 credit for certain bond trades executed on the NYSE Bonds with an execution size of less than 20 bonds.<sup>5</sup> This pilot program was extended twice with the most recent expiration date of December 31, 2009.<sup>6</sup>

The purpose of establishing a \$20 credit program for liquidity providers was to incentivize them to display the best price available on NYSE Bonds. However, during the operation of this pilot, no significant liquidity was generated. This is not the case with the pilot program for liquidity takers. Accordingly, the Exchange proposes that the pilot program for liquidity providers be retired on its expiration date of December 31, 2009, and be removed from the NYSE Price List.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act<sup>7</sup> in general and Section 6(b)(4) of the Act<sup>8</sup> 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.

### 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.

<sup>5</sup> See Securities Exchange Act Release No. 56894 (December 7, 2007), 72 FR 70362 (December 11, 2007) (SR-NYSE-2007-107).

<sup>6</sup> See Securities Exchange Act Release Nos. 57617 (April 4, 2008), 73 FR 19542 (April 10, 2008) (SR-NYSE-2008-25) and 59177 (December 30, 2008), 74 FR 747 (January 7, 2009) (SR-NYSE-2008-136).

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

<sup>8</sup> 15 U.S.C. 78f(b)(4).

### 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 rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>10</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2009-127 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-NYSE-2009-127. 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

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

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

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 such filing also will be available for inspection and copying at the principal office of NYSE. 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-NYSE-2009-127 and should be submitted on or before January 19, 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. 34-61203; File No. SR-NASDAQ-2009-108]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Codify Certain Provisions of the Options Listing Procedures Plan Into the Exchange's Rules

December 18, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on December 7, 2009, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. 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

NASDAQ is filing a proposal for the NASDAQ Options Market ("NOM" or "Exchange") [sic] amend its Chapter IV, Section 6 (Series of Options Contracts Open for Trading) to apply uniform objective standards to the range of options series exercise (or strike) prices available for trading on the Exchange.

The text of the proposed rule change is available from Nasdaq's Web site at <http://nasdaq.cchwallstreet.com>, at Nasdaq'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, Nasdaq 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. Nasdaq 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposal is to implement in NOM rules, specifically Chapter IV, Section 6, changes that were recently made to the Plan for the Purpose of Developing and Implementing Procedures Designated to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934, also known as the Options Listing Procedures Plan ("OLPP"), in Amendment No. 3 thereto.<sup>3</sup> The

<sup>3</sup> See Securities Exchange Act Release No. 60531 (August 19, 2009), 74 FR 43173 (August 26, 2009) (order approving Amendment No. 3 to the OLPP, which would apply uniform objective standards to the range of options series exercise or strike prices available for trading on exchanges that are sponsors of OLPP). The sponsors of OLPP include NASDAQ, Chicago Board Options Exchange, Incorporated; International Stock Exchange LLC; NASDAQ OMX BX, Inc.; NASDAQ OMX Phlx, Inc.; NYSE Amex, LLC; and NYSE Arca, Inc. (together known as the "Plan Sponsor Exchanges"). The OLPP is a national market system plan that, among other things, sets forth procedures governing the listing of new options series and replaces and supersedes the Joint-Exchange Options Plan ("JEOP"). See Securities Exchange Act Release No. 44521 (July 6, 2009), 66 FR 36809 (July 13, 2001) (order approving OLPP). See also Securities Exchange Act Release

proposed rule change incorporates uniform objective standards to the range of options series exercise (or strike) prices available for trading on the Exchange, as a quote mitigation strategy intended to reduce the overall number of option series available for trading, which will in turn lessen the rate of increase in quote traffic ("range limitations" or "range limitation strategy").<sup>4</sup>

Chapter IV, Section 6 currently indicates what series of option contracts may be open for trading after a particular class of options has been approved for trading on the Exchange. This proposal adds Supplementary Material .09 to Section 6 that applies certain "range limitations" to the addition of new series for options classes overlying equity securities, Exchange Traded Funds ("ETFs"), or Trust Issued Receipts ("TIRs").

As proposed in Supplementary Material .09 to Section 6, if the price of the underlying security is less than or equal to \$20, the Exchange would not list new option series with an exercise price more than 100 percent above or below the price of the underlying security.<sup>5</sup> If the price of the underlying security is greater than \$20, the Exchange would not list new option series with an exercise price more than 50 percent above or below the price of the underlying security. The proposal provides for an objective basis upon which the underlying prices for the price range limitations described above shall be determined, specifically in regard to intra-day add-on series and next-day series additions, new expiration months and for option series to be added as a result of pre-market trading.

The proposal also allows the Exchange to designate up to five underlying securities to which, instead of the aforementioned 50 percent restriction, a 100 percent restriction would apply. These designations would be made on an annual basis and cannot be removed during the calendar year unless the option class is delisted by the Exchange, in which case the Exchange may designate another class to replace the delisted class. If a designated class

No. 29698 (September 17, 1991), 56 FR 48954 (September 25, 1991) (order approving JEOP).

<sup>4</sup> The Exchange expects that other Plan Sponsor Exchanges will file similar rule change proposals implementing range limitations in their rules to mitigate quotes. See, for example, Securities Exchange Act Release No. 60995 (November 13, 2009), 74 FR 60008 (November 19, 2009) (SR-CBOE-2009-084) (notice of filing and immediate effectiveness).

<sup>5</sup> This restriction would not prohibit the listing of at least three options series per expiration month in an option class.

<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.