Number SR–OPRA–2009–01 and should be submitted on or before February 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61350; File No. SR–NYSE–2010–01]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Waiving All Transaction Fees for Shares Executed on the NYSE MatchPoint℠ System Until January 29, 2010

January 14, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 7, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "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 waive all transaction fees for shares executed on the NYSE MatchPoint℠ ("NYSE MatchPoint" or "MatchPoint") system, effective upon filing this rule change with the Securities and Exchange Commission ("SEC" or "Commission") until January 29, 2010. 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 NYSE's 2010 Price List by waiving all transaction fees for shares executed on the NYSE MatchPoint system, which will be effective upon filing this rule change with the Commission until January 29, 2010. The Exchange is also eliminating the current temporary equity transaction fee for shares executed on MatchPoint, which has been in effect since January 2009.

Background

On January 7, 2009, the Exchange filed with the Securities and Exchange Commission a proposed rule change to adopt a temporary equity transaction fee for shares executed on the NYSE MatchPoint system, effective until February 28, 2009.[4] This temporary equity transaction fee has been extended numerous times since the original filing and is currently in effect until January 31, 2010.[5] Each such filing was effective upon filing pursuant to Section 19(b)(3)(A)[6] of the Act and subparagraph (f)(2) of Rule 19b–4.[7]

The current temporary equity transaction fee is a scaled fee for MatchPoint users based on the average daily volume of shares executed during a calendar month through the MatchPoint system as follows:

Average daily volume of shares executed	Rate (per share)
50,000 shares or less	$.0015
Over 50,000 to 499,999	.0010
500,000 and greater	.0005

The Exchange believes that a temporary waiver of the current transaction fees for all executions will induce users to enter more single-sided volume[8] into the MatchPoint system, which benefits all participants in MatchPoint, since it increases the likelihood of a match during the matching sessions (*i.e.,* intra-day and after hours matching sessions). This waiver of transaction fees will apply to all Exchange members that access MatchPoint.

It is intended that new MatchPoint transaction fees will be in effect on February 1, 2010, after the proposed fee waiver terminates. The new transaction fees will also provide incentives for adding volume to the MatchPoint system.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act")[9] for the proposed rule change is the requirement under Section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes the fee waiver for all MatchPoint executions is reasonable in that it provides a significant incentive for users to add volume into the MatchPoint system. The fee waiver will be in effect upon filing the rule change with the Commission until January 29, 2010. Adding volume to the MatchPoint system will increase a user's likelihood of obtaining an execution. Increased volume and trading activity will improve the overall market for customers. The proposed transaction fee waiver is also designed to make the system more competitive, which will further improve the quality of the market and benefit customers. Finally, the transaction fee waiver is equitable because it is available to all Exchange members that access the MatchPoint system, and it applies to all MatchPoint executions.

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

The Exchange does not believe that the proposed rule change will impose

[6] 17 CFR 200.30–3(a)(29).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 59229 (January 12, 2009) 74 FR 3119 (January 16, 2009) (SR–NYSE–2009–01).

[5] *See* Securities Exchange Act Release No. 59491 (March 3, 2009) 74 FR 10107 (March 9, 2009) (SR–NYSE–2009–20); *see* Securities Exchange Act Release No. 59864 (May 5, 2009) 74 FR 22194 (May 12, 2009) (SR–NYSE–2009–44); *see* Securities Exchange Act Release No. 60278 (July 10, 2009) 74 FR 34615 (July 16, 2009) (SR–NYSE–2009–67); *see* Securities Exchange Act Release No. 60439 (August 5, 2009) 74 FR 40270 (August 11, 2009) (SR–NYSE–2009–78) and *see also* Securities Exchange Act Release No. 60949 (November 6, 2009) 74 FR 58665 (November 13, 2009) (SR–NYSE–2009–110).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

[8] Executions in the MatchPoint system occur when buy and sell interest in a security is entered on a matched basis (both buy and sell sides submitted together) or when interest submitted in the system by one user matches against contra side interest submitted by another user.

[9] 15 U.S.C. 78a.

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) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE.

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*. Please include File Number SR–NYSE–2010–01 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–NYSE–2010–01. 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 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 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–NYSE–2010–01 and should be submitted on or before February 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61361; File No. SR–FINRA–2010–001]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to Publication of Certain Aggregate Daily Trading Volume Data

January 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 6, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. 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

FINRA has filed a proposed rule change relating to the publication of aggregate daily trading volume data for over-the-counter trades in NMS stocks that are executed within a FINRA member's alternative trading system ("ATS") dark pool and reported to a FINRA Trade Reporting Facility ("TRF").[3] The proposed rule change would amend FINRA Rule 6160 (Multiple MPIDs for Trade Reporting Facility Participants) to (1) require members that opt to have their trading data published to obtain and use a separate Market Participant Identifier ("MPID") designated exclusively for reporting the member's ATS dark pool transactions, and (2) adopt related Supplementary Material.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

Some FINRA members operate "dark pools," a type of ATS that does not display quotations or subscribers' orders to any person or entity either internally within the ATS dark pool or externally beyond the ATS dark pool (other than employees of the ATS).[4] Over-the-counter transactions executed within an ATS dark pool are reported by the ATS to a FINRA facility, *e.g.,* a FINRA TRF.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The FINRA TRFs are facilities used by members to report over-the-counter transactions in NMS stocks to FINRA. There are two TRFs in operation today: the FINRA/Nasdaq TRF and the FINRA/NYSE TRF. Each TRF is operated in conjunction with the respective exchange "Business Member."

[4] *See, e.g.,* Rule 301(b)(3)(i)(A) of Regulation ATS.