

may be examined at the places specified in Item IV below. The CHX 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

Through this filing, the Exchange would amend its Fee Schedule to provide for transaction and order processing fees and rebates to Exchange Participants for transactions involving issues priced less than one dollar that occur within the Exchange's Matching System.

Rule 610(c)(2) of Regulation NMS<sup>3</sup> generally requires that the fees charged by a trading center for execution of an order against a quotation of less than \$1.00 per share cannot exceed or accumulate to more than 0.3% of the quotation price per share. In order to comply with the rule, the Exchange proposes to charge a "take" fee equal to 0.30% of the trade value and to pay a "provide" rebate equal to 0.10% of the trade value. Trade value is defined as a dollar amount equal to the price per share multiplied by the number of shares executed. These changes are designed, at least in part, to provide an incentive for Participants to submit single-sided orders involving issues priced less than one dollar to the Matching System for execution. Currently, the Exchange does not charge any fee or pay any rebates in connection with the execution of trades at a price less than one dollar per share.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

*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.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(B)(3)(A)(ii) of the Act<sup>6</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>7</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such 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 purpose 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-CHX-2009-03 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CHX-2009-03. 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 such 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 publicly available. All submissions should refer to File Number SR-CHX-2009-03 and should be submitted on or before May 5, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-59724; File No. SR-ISE-2009-18]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No. 1, Relating to Lowering the Liquidity Rebate Amount That Direct Edge ECN Passes Through to Non-International Securities Exchange, LLC Members**

April 7, 2009.

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 April 2, 2009, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which items have been prepared by the ISE. The ISE filed Amendment No. 1 to the proposal

<sup>3</sup> 17 CFR 242.610(c)(2)

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

<sup>5</sup> 15 U.S.C. 78f(b)(4)

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

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</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.

on April 7, 2009.<sup>3</sup> The Commission is publishing notice to solicit comments on the proposed rule change, as amended, from interested persons, and is approving the proposal, as amended, on an accelerated basis.

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The ISE proposes to lower the liquidity rebate that Direct Edge ECN ("DECN"), in its capacity as an introducing broker for non-ISE Members, passes through to such non-ISE Members. The text of the proposed rule change is available on the Exchange's Internet Web site at <http://www.ise.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 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**

DECN, a facility of ISE, operates two trading platforms, EDGX and EDGA. On March 27, 2009, the ISE filed for immediate effectiveness a proposed rule change to amend DECN's fee schedule for ISE Members to lower the rebate that ISE Members receive for orders that add liquidity on EDGX in securities priced at or above \$1.00 that are reported to Tape B.<sup>4</sup>

DECN is a member of ISE as well as a facility of ISE. In its capacity as a member of ISE, DECN currently serves as an introducing broker for the non-ISE Member subscribers of DECN to access EDGX. Pursuant to SR-ISE-2009-17, DECN, as an ISE Member and introducing broker, receives rebates from DECN for transactions it executes on EDGX in its capacity as introducing broker for non-ISE Members. Since the rebate was lowered, DECN wishes to pass the lowered rebate through to non-

ISE Member subscribers of DECN. As a result, the per share rebate that non-ISE member subscribers receive will be the same as the rebate that ISE Members receive pursuant to SR-ISE-2009-17.

Finally, ISE is seeking accelerated approval of this proposed rule change, as well as a retroactive effective date of April 1, 2009. ISE represents that this proposal will ensure that both ISE Members and non-ISE Members (by virtue of the pass-through described above) will in effect receive equivalent amounts and that the imposition of such amounts will begin on the same April 1, 2009 start date.

##### **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>6</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. In particular, this proposal will ensure that both ISE Members and Non-ISE Members (by virtue of the pass-through described above) will receive equivalent rebates.

#### **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. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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

No. SR-ISE-2009-18 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-2009-18. 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. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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-2009-18 and should be submitted by May 5, 2009.

### **IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change, as Amended**

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>7</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>8</sup> which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities.

<sup>7</sup> In approving the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>3</sup> Amendment No. 1 supersedes and replaces the original filing in its entirety.

<sup>4</sup> See SR-ISE-2009-17.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

ISE recently amended DECN's fee schedule to lower the rebate that DECN subscribers who also are ISE members receive for orders in Tape B securities priced at or above \$1 that add liquidity on EDGX.<sup>9</sup> DECN receives this rebate for transactions it executes on EDGX in its capacity as an introducing broker for its non-ISE member subscribers.

The current proposal, which will apply retroactively to April 1, 2009, will allow DECN to pass through the lowered rebate to the non-ISE member subscribers for which it acts as an introducing broker. The Commission finds that the proposal is consistent with the Act because it will provide a rebate amount for non-ISE member subscribers that is equivalent to the rebate amount established for ISE member subscribers in the Member Fee Filing.<sup>10</sup>

ISE has requested that the Commission find good cause for approving the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. As discussed above, the proposal will allow DECN to pass through to non-ISE member subscribers the lowered rebate amount established for ISE member subscribers in the Member Fee Filing, resulting in equivalent rebate amounts for ISE member and non-member subscribers. In addition, because the proposal will apply the reduced rebate retroactively to April 1, 2009, the reduced rebates for ISE member and non-member subscribers will have the same effective date, thereby promoting consistency in DECN's fee schedule. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (File No. SR-ISE-2009-18), as amended, is approved on an accelerated basis.

<sup>9</sup> See Securities Exchange Act Release No. 59592 (April 2, 2009) (notice of filing and immediate effectiveness of File No. SR-ISE-2009-17) (the "Member Fee Filing"). The Member Fee Filing reduced the rebate for these orders from \$.0035 per share to \$.003 per share.

<sup>10</sup> See note 9, *supra*.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59722; File No. SR-FINRA-2009-022]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to FINRA's Regulatory Notice on the FINRA Rule 9520 Series (Eligibility Proceedings)

April 7, 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 March 31, 2009, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA proposes to make technical amendments to the proposed *Regulatory Notice* entitled "Eligibility Proceedings: Amendments to FINRA Rule 9520 Series to Establish Procedures Applicable to Firms and Associated Persons Subject to Certain Statutory Disqualifications" (the "SD *Regulatory Notice*") that details impending changes to the FINRA Rule 9520 Series. The Commission recently approved amendments to the FINRA Rule 9520 Series, which governs the eligibility procedures for persons subject to certain disqualifications, to comport with the amended definition of disqualification in the FINRA By-Laws.<sup>3</sup> The amendments to the FINRA Rule 9520

<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. 59586 (March 17, 2009), 74 FR 12166 (March 23, 2009) (SR-FINRA-2008-045) ("SD Approval Order").

Series will become effective on June 15, 2009.

The proposed rule change makes technical amendments to the original *SD Regulatory Notice* filed on September 8, 2008, in connection with the amendments to the FINRA Rule 9520 Series.

The text of the proposed rule change is available at FINRA, the Commission's Public Reference Room, and <http://www.finra.org>.

#### 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 III 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

In September 2008, FINRA filed a proposed rule change to amend the FINRA Rule 9520 Series, which governs eligibility proceedings under which FINRA may allow a person subject to a statutory disqualification to enter or remain in the securities industry, to comport with the amended definition of disqualification in the FINRA By-Laws. FINRA filed the original *SD Regulatory Notice* as part of its original filing on September 8, 2008, and amended its filing on December 11, 2008.<sup>4</sup> The *SD Regulatory Notice* describes in detail the circumstances under which persons must obtain FINRA approval to enter or remain in the securities industry, notwithstanding the existence of additional categories of statutory disqualification. The proposed rule change was published for comment in the **Federal Register** on January 13, 2009.<sup>5</sup> The Commission received no comments on the proposed rule change. On March 17, 2009, the Commission

<sup>4</sup> See SR-FINRA-2008-045, Exhibit 2 (filed September 8, 2008). Amendment No. 1 to SR-FINRA-2008-045 replaced and superseded the original rule filing except with regard to Exhibit 2.

<sup>5</sup> See Securities Exchange Act Release No. 59208 (January 6, 2009), 74 FR 1738 (January 13, 2009) (SR-FINRA-2008-045) (notice).