

SR-BATS-2009-020 and should be submitted on or before July 30, 2009.

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

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60205; File No. SR-NYSEArca-2009-60]

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

July 1, 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 June 29, 2009, the 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, II and III 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 its Schedule of Fees and Charges for Exchange Services in order to extend until December 31, 2009 the current pilot program regarding transaction fees charged for trades executed through the intermarket options linkage ("Linkage"). 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 Exchange 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 purpose of this proposed rule change is to extend the pilot program establishing an NYSE Arca fee for Principal ("P") Orders and Principal Acting as Agent ("P/A") Orders executed through Linkage. The fee currently is effective for a pilot program set to expire on July 31, 2009, and this filing would extend the fee through December 31, 2009. The fee that NYSE Arca charges for P and P/A orders is the basic execution fee for trading on NYSE Arca. This is the same fee that all NYSE Arca Option Trading Permit Holders pay for non-customer transactions executed on the Exchange. The Exchange does not charge for the execution of Satisfaction Orders sent through Linkage and is not proposing to charge for such orders. The Exchange is making no substantive changes to the operation of the pilot program, other than extending the pilot program through December 31, 2009.

The Exchange also proposes to revise the Linkage Fees portion of the Schedule, so as to delete the fee for manually executed orders. The Exchange does not manually execute orders via Linkage. All Linkage orders are executed electronically. Deleting this reference from the Schedule will more accurately reflect the way Linkage orders are executed.

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act<sup>3</sup>, in general, and with Section 6(b)(4)<sup>4</sup> of the Act 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 for the purpose of executing P and P/A orders through Linkage.

#### 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: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) 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, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(f)(6) thereunder.<sup>6</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-NYSEArca-2009-60 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.

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its 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>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> 15 U.S.C. 78f(b).

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

All submissions should refer to File Number SR–NYSEArca–2009–60. 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 available publicly. All submissions should refer to File Number SR–NYSEArca–2009–60 and should be submitted on or before July 30, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60208; File No. SR–ISE–2009–39]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to PrecISE Fees

July 1, 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 June 24, 2009, the International Securities

Exchange, LLC (the "Exchange" or the "ISE") 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 ISE is proposing to amend the fees for its PrecISE Trade<sup>®</sup> order entry terminals. 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 amend the ISE's fee schedule for its proprietary PrecISE Trade<sup>®</sup> order entry terminals. "PrecISE" is the Exchange's internally-developed proprietary order-routing terminal used by Electronic Access Members ("EAM") to send order flow to ISE. ISE currently charges a monthly fee of \$300 per user per month for the first 10 users; for all subsequent users, ISE charges \$50 per user per month.<sup>3</sup> ISE recently upgraded PrecISE, enhancing it with certain new functionalities that, among other things, provide users with "Greek" calculations and the use of Attributable Orders.<sup>4</sup> Certain other user-

<sup>3</sup> See Securities Exchange Act Release No. 55960 (June 26, 2007), 72 FR 36531 (July 3, 2007) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to PrecISE Fees).

<sup>4</sup> Attributable Order is a market or limit order in which an EAM can choose to disclose their member ID. See Securities Exchange Act Release No. 58701

requested enhancements have also been built into the new version. In order for ISE to cover the costs of building out the enhanced version, we propose to increase the fee for the first 10 users to \$350 per month and for all subsequent users, \$100 per month.

ISE also proposes to change the method for calculating this fee. Currently, EAMs are billed based on the number of maximum concurrent logins. For example, if an EAM uses five logins over the course of a month but only three logins were used simultaneously at any point during the month, that member is charged for just those three logins. The Exchange now proposes to charge EAMs for the total number of logins used during the month. Using the same example, EAMs will now be charged for all five logins that they used over the course of the month. This proposed fee change will be operative on July 1, 2009.

(2) *Basis*—The basis under the Securities Exchange Act of 1934 (the "Exchange Act") [sic] for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, these fees will enable the Exchange to cover its costs for providing an enhanced version of its front-end trading system.

##### 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

The foregoing rule change has become effective pursuant to Section 19(b)(3) [sic] of the Act<sup>5</sup> and Rule 19b–4(f)(2)<sup>6</sup> thereunder. At any time within 60 days of the filing of such proposed rule

(October 1, 2008), 73 FR 59007 (October 8, 2008) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a New Order Type) (SR–ISE–2008–74).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A). [sic]

<sup>6</sup> 17 CFR 19b–4(f)(2). [sic]

<sup>7</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.