value” in Rules 24A.4(b)(3) and 24B.4(b)(3), *Special Terms for FLEX Index Options,* has the same meaning set forth in Rule 24.9(5) [sic]. As is described earlier, the Exchange is proposing to amend Rule 24.9(a)(5) to provide that the exercise settlement value of GVZ options for all purposes under CBOE Rules will be calculated as the Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the month in which GVZ options expire.

Capacity:

CBOE has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of GVZ options.

Surveillance:

The Exchange will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in GVZ options. The Exchange further represents that these surveillance procedures shall be adequate to monitor trading in options on these volatility indexes. For surveillance purposes, the Exchange will have complete access to information regarding trading activity in the pertinent underlying securities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [16] of the Act, in general, and furthers the objectives of Section 6(b)(5) [17] 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and thereby will provide investors with the ability to invest in options based on an additional volatility index.

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

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

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

The Exchange neither solicited nor received comments on the proposal.

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 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 No. SR–CBOE–2010–018 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 No. SR–CBOE–2010–018. 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,[18] 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 such filing also will be available for inspection and copying at the principal office of CBOE. 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 No. SR–CBOE–2010–018 and should be submitted on or before May 5, 2010.

[18] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–8536 Filed 4–13–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61855; File No. SR–ISE–2010–26]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Intermarket Sweep Orders

April 6, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 26, 2010, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange Commission (the “SEC” or 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.

[19] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

The Exchange proposes to adopt a fee and credit related to the execution of Intermarket Sweep Orders ("ISOs") by Primary Market Makers ("PMMs") on behalf of non-broker/dealer Professional Orders..[sic] 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 adopt a fee and credit related to the execution of ISOs by PMMs on behalf of non-broker/dealer Professional Orders.[3]

On August 31, 2009, the Exchange implemented the new Options Order Protection and Locked/Crossed Market Plan ("Distributive Linkage") and the use of ISOs. Consistent with Distributive Linkage and pursuant to ISE rules, the Exchange's Primary Market Makers ("PMMs") have an obligation to address customer [4] orders when there is a better market displayed on another exchange. ISE's PMMs meet this obligation via the use of ISOs. In meeting their obligations, PMMs may incur fees when they send ISOs, especially when sending ISOs to exchanges that charge "taker" fees. To minimize the PMM's financial burden and help offset such fees, the ISE amended its schedule of fees on October 1, 2009 to adopt a rebate for the PMM of $0.20 per contract on all ISO orders sent to an away exchange (regardless of the fee charged by the exchange where the ISO order sent away was executed).[5]

The Exchange is now proposing to charge non-broker/dealer Professional Orders a fee of $0.45 per contract for executions that result from the PMM routing ISOs to away exchanges and to provide the PMM with a credit equal to the fee charged by the destination exchange for such non-broker/dealer Professional Orders, but not more than $0.45 per contract. Charging non-broker/dealer Professional Orders a fee to offset the charges assessed to the PMM by other exchanges for "linkage" executions is appropriate because the market professionals that are submitting non-broker/dealer Professional Orders can route directly to the away exchanges, if desired, and, therefore, should not be able to forgo the away market fee, at the expense of the PMM, by directing their orders to the ISE.[6] The Exchange will continue to provide the existing $0.20 rebate to PMMs for Priority Customer Orders.[7]

The proposed fee changes will become operative on April 1, 2010.

(2) *Basis*—The basis under the Securities Exchange Act of 1934 (the "Act") 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, the proposed fee change will more effectively offset fees incurred by PMMs when they send ISOs to away markets.

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) of the Act [8] and Rule 19b–4(f)(2) [9] thereunder. At any time within 60 days of the filing of such 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 No. SR–ISE–2010–26 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–2010–26. 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 Commissions 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 website viewing and printing in the Commission's Public

[3] Pursuant to ISE Rule 100(37C), a Professional Order is an order that is for that account of a person or entity that is not a Priority Customer. Pursuant to ISE Rule 100(37A), a Priority Customer is a person or entity that is not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account.

[4] Pursuant to ISE Rule 1900(f) of the Distributive Linkage rules, a customer is an individual or organization that is not a broker-dealer.

[5] *See* Securities and Exchange Act Release No. 60791 (October 5, 2009), 74 FR 52521 (October 13, 2009)(SR–ISE–2009–74).

[6] The Chicago Board Options Exchange ("CBOE") charges a comparable route-out fee for non-customer orders. *See* CBOE Fee Schedule, Item 20. *See* Securities Exchange Act Release No. 61701 (March 12, 2010), 75 FR 13622 (March 22, 2010)(SR–CBOE–2010–022).

[7] *See* note 3.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 19b–4(f)(2).

Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available 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–2010–26 and should be submitted by May 5, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–8537 Filed 4–13–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61864; File No. SR–NYSEAmex–2010–36]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees for Professional Customers and To Make Certain Other Changes to its Options Fee Schedule

April 7, 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 April 1, 2010, NYSE Amex LLC ("NYSE Amex" or "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. NYSE Amex has designated this proposal as one establishing or changing a member due, fee, or other charge imposed under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] 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.

[10] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(2).

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

The Exchange proposes multiple changes to its Schedule of Fees and Charges (the "Schedule") effective April 1, 2010. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office, the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

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

NYSE Amex proposes to establish fees for a new type of customer known as a Professional Customer as defined in proposed NYSE Amex rule 900.2NY(18A), effective April 1, 2010, contingent upon the approval of the Professional Customer rule filing.[5] This new designation will treat Professional Customers in the same manner as Broker Dealers for purposes of priority and parity. Consistent with that treatment, the Exchange is seeking to establish fees for Professional Customers that are the same as the fees charged to the execution of Broker Dealer orders. Professional Customer orders that are executed electronically will be subject to a fee of $.20 per contract. Professional Customer orders executed in open outcry will be subject to a fee of $.25 per contract. Professional Customer transactions in any product that has a licensing or royalty fee will be assessed that fee as well.

NYSE Amex also proposes to clarify the treatment of Professional Customer orders as they relate to certain provisions in the Fee Schedule. For purposes of the calculation associated with the Specialist/e-Specialist/DOMM Rights Fee, Professional Customer orders will be treated as Customer orders. The Routing Surcharge will be assessed on all non-customer orders routed to away markets and on Customer orders, including Professional Customer orders, that are charged a transaction fee at another exchange. The Cancellation Fee will not apply to Professional Customer orders. Only public customer electronic orders that trade contra to a market maker will result in the collection of marketing charges under the Exchange's payment for order flow program. Broker Dealer and Professional Customer electronic orders that trade contra to a market maker will not result in the collection of marketing charges.

The Exchange proposes to restructure certain trade related charges for non-electronic trades. These trades are executed in the Firm range (clearance account "F") and are currently billed either the Firm Facilitation rate or the Broker Dealer & Firm Manual rate. Under the current rate schedule trades by a firm that facilitate a customer, or Firm Facilitation trades, are subject to a $0.00 rate per contract. Firm transactions not facilitating a customer are subject to a $0.25 Broker/Dealer & Firm Manual rate. Under the revised rate schedule all manual trades clearing in the Firm range will be subject to a rate of $0.25 per contract, subject to tiered pricing as described below. The Exchange believes that billing all Firm Manual transactions at the same rate is a fair and equitable allocation of fees.

NYSE Amex also proposes to adopt a tiered pricing schedule applicable to Firm Proprietary manual executions on behalf of ATP holders that clear in the firm range. The tiered schedule seeks to create an incentive for executing more manual Firm Proprietary volume on the Exchange. At the same time, the Exchange proposes to reduce the fees for electronic executions for Broker Dealers and Firm Proprietary activity from $.30 per contract to $.20 per contract. Firm Proprietary electronic trades will now be represented as a separate line on the Schedule. Concurrently, with the implementation of tiered pricing for Firm Proprietary manual volumes, Firm Facilitation trades will be eliminated as a separate category on the fee schedule. All non-Strategy Executions currently executed as Firm Facilitation trades in open outcry or manual trades will fall under the new tiered pricing schedule and the customer side of a Firm Facilitation trade will continue to

[5] Securities Exchange Act Release No. 61629 (March 2, 2010), 75 FR 10851 (March 9, 2010)(Notice of Filing of SR–NYSEAmex–2010–18).