

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR-ISE-2010-56 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-2010-56. 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 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 the 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-2010-56 and should be submitted on or before June 29, 2010.

#### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>8</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4)<sup>9</sup> of the Act, 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.

As described more fully above, ISE recently amended DECN's fee schedule for ISE Members pursuant to SR-ISE-2010-55 (the "Member Fee Filing"). The fee change made pursuant to the Member Fee Filing became operative on June 1, 2010. DECN receives rebates and is charged fees for transactions it executes on EGDG or EDGA in its capacity as an introducing broker for its non-ISE member subscribers. The current proposal, which will apply beginning on June 1, 2010, will allow DECN to pass through the revised fee to the non-ISE member subscribers for which it acts an introducing broker. The Commission finds that the proposal is consistent with the Act because it will charge fees to non-ISE member subscribers that are equivalent to those established for ISE member subscribers in the Member Fee Filing.

ISE has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after 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 revised fee established for ISE member subscribers in the Member Fee Filing, resulting in equivalent fees for ISE member and non-member subscribers. In addition, because the proposal will apply the revised fee beginning on June 1, 2010, the revised fees will have the same effective date, thereby promoting consistency in the 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 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>10</sup> that the proposed rule change (SR-ISE-2010-56) is approved on an accelerated basis.

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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**BILLING CODE 8011-01-P**

<sup>8</sup>In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C 78c(f).

<sup>9</sup>15 U.S.C. 78f(b)(4).

<sup>10</sup>15 U.S.C. 78s(b)(2).

<sup>11</sup>17 CFR 200.30-3(a)(12).

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62209; File No. SR-NYSEArca-2010-42]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Rule 6.82

June 2, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on May 18, 2010, 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 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 amend Rule 6.82 by revising the minimum financial requirements of Lead Market Makers. The text of the proposed rule change is below. Proposed new language is *italicized*; proposed deletions are in brackets:

#### Rules of NYSE Arca, Inc.

\* \* \* \* \*

#### Rule 6.82. Lead Market Makers

(a)-(b) No Change

(c) Obligations of Lead Market Makers:

Each LMM must meet the following obligations:

(1)-(11) No Change

(12) Maintain a cash or liquid asset position of at least *\$1,000,000*. [\$350,000, plus \$25,000 for each issue over 8 issues that has been allocated to the LMM.] In the event that two or more LMMs are associated with each other and deal for the same LMM account, this requirement will apply to such LMMs collectively, rather than to each LMM individually;

(13)-(14) No Change

(d)-(h) No Change

\* \* \* \* \*

<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

## 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 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 purpose of this filing is to revise Rule 6.82. Specifically, NYSE Arca proposes to revise the minimum financial requirements of a Lead Market Maker ("LMM") contained in Rule 6.82(c)(12).

#### Minimum Financial Requirement for LMMs

LMMs on NYSE Arca are required to maintain a cash or net liquid asset position of at least \$350,000. In addition, LMMs that have more than eight allocated issues are required to have an additional \$25,000 in cash or net liquid assets for each additional allocated issue. The Exchange now proposes that instead of the base minimum financial requirement of \$350,000 plus an additional \$25,000 for each issue over eight, all LMMs will now be required to maintain cash or net liquidating balance of at least \$1,000,000 (" \$1 million"). The \$1 million requirement will apply regardless of the number of issues an LMM is allocated.

Establishing a \$1 million minimum financial requirement, applicable to LMMs regardless of the number of issues they may be allocated, is consistent with the financial obligations rules for Options Specialists on NYSE Amex LLC.<sup>4</sup> The rights and obligations of LMMs pursuant to the rules of NYSE Arca<sup>5</sup> are substantially similar to the rights and obligations of Specialists contained in the rules of NYSE Amex.<sup>6</sup> Accordingly, establishing a \$1 million minimum financial requirement for

Arca would further harmonize the rules of the two exchanges.

The Exchange notes that the proposed requirement to maintain at least \$1 million in cash or liquid assets represents only the minimum financial obligation of an LMM. When allocating options issues to LMMs, the Exchange takes into consideration the "adequacy of capital"<sup>7</sup> of each LMM and could require an LMM to have a cash or liquid assets balance in excess of the \$1 million, as a condition of being allocated a given options issue(s). Also, the Exchange may reallocate an options issue(s) if an LMM is to incur a material change to its financial situation.<sup>8</sup> Financial requirements established by the Exchange as a condition of issue allocation are separate from the \$1 million minimum financial requirement of Rule 6.8(c)(12).

In addition to any LMM-specific financial obligation or requirement established by NYSE Arca, LMMs must maintain net capital sufficient to comply with the requirements of Exchange Act Rule 15c3-1.

The Exchange has conducted an analysis of financial positions for all OTP Holders presently registered as an LMM. Based on this analysis, the Exchange has determined that certain LMMs will realize a decrease in their present minimum financial requirement, while others may realize an increase. However, due to the fact that LMMs are represented by highly capitalized OTP Holders, the Exchange has concluded that any increase in the minimum financial requirement will not impose undue hardships on any OTP Holders at this time. In addition, the Exchange does not believe that the change to the minimum financial requirement creates an unnecessary burden, or onerous barrier to entry, for OTP Holders who in the future may seek approval to operate as an LMM.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the

public interest. This rule change is designed to make the minimum financial requirement for LMMs consistent with similar requirements at NYSE Amex while still maintaining a standard designed to ensure that OTP Holders on NYSE Arca are adequately capitalized to fulfill their obligations as LMMs.

### 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 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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</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-2010-42.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> See NYSE Amex Rule 927NY(c)(10).

<sup>5</sup> See NYSE Arca Rules 6.82(c)-(d).

<sup>6</sup> See NYSE Amex Rules 927NY(c)-(d).

<sup>7</sup> See NYSE Arca Rule 6.82(e)(1).

<sup>8</sup> See NYSE Arca Rule 6.82(f)(1)(B).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

*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-NYSEArca-2010-42. 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 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 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-2010-42 and should be submitted on or before June 29, 2010.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62195; File No. SR-ISE-2010-46]

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

May 28, 2010.

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 May 18, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 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 is proposing to amend its Schedule of Fees. The text of the proposed rule change is available on the Exchange's Web site at <http://www.ise.com>, at the principal office of the Exchange, on the Commission's Web site at <http://www.sec.gov>, 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

(a) *Purpose*—The Exchange currently identifies on its Schedule of Fees certain ETF products whose options are listed only on ISE and for which the Exchange charges a fee of \$0.18 per contract for

customer transactions. Currently, the First Trust ISE Water ETF ("FIW"), the Claymore China Technology ETF ("CQQQ"), the ProShares UltraPro Short Dow30 ("SDOW"), the ProShares UltraPro Dow30 ("UDOW"), the ProShares UltraPro Short MidCap400 ("SMDD"), the ProShares UltraPro MidCap400 ("UMDD"), the ProShares UltraPro Short Russell2000 ("SRTY"), the ProShares UltraPro Russell2000 ("URTY"), the First Trust ISE Global Copper Index Fund ("CU") and the First Trust ISE Global Platinum Index Fund ("PLTM") are the only such ETFs listed on the Exchange's fee schedule. On May 18, 2010, ISE began listing options on the First Trust Amex Biotechnology Index Fund ("FBT"), the First Trust Financials AlphaDEX Fund ("FXO") and the First Trust NASDAQ 100 Weighted Index Fund ("QQEW"). As of the date of this filing, FBT, FXO and QQEW are singly listed on ISE. The Exchange therefore proposes to charge a fee of \$0.18 per contract for customer transactions in options on FBT, FXO and QQEW. The Exchange also proposes to charge a Payment for Order Flow fee for transactions in options on these products.

(b) *Basis*—The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>3</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>4</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 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

<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.

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

<sup>13</sup> 17 CFR 200.30-3(a)(12).