

an exchange name to reflect a corporate change to a limited liability company, are both clarifying in nature. The Nominating Committee name change will ensure that the committee's title accurately reflects its functions, which, according to NASDAQ, includes governance through its general review of the overall effectiveness of the Board and other similar duties. Similarly, the change in NASDAQ OMX's By-Laws to reflect a previously approved change of NASDAQ OMX PHLX, Inc. to a Delaware limited liability company will ensure that the By-Laws are accurate and properly reflect an exchange entity name.

Finally, as to the part of the proposal that will specifically set forth in NASDAQ OMX's By-Laws that broker nonvotes will not be counted as a vote cast either for or against in director elections, the Commission believes that this change should help to provide transparency to the election of directors process, especially in light of NASDAQ OMX's recent change to a majority vote standard in the uncontested election of directors. While in its filing NASDAQ notes that it has always been NASDAQ OMX's practice to not count broker nonvotes for or against in director elections, the impact of the broker nonvotes and how such votes are counted will take on added significance under NASDAQ OMX's newly adopted majority vote standard for director elections. Accordingly, the Commission believes it is important that the NASDAQ OMX By-Laws provide clarity on this issue, even though, according to NASDAQ, Delaware case law would dictate the same result.

Based on the above, the Commission believes that the changes being proposed by NASDAQ to amend the By-Laws of its parent corporation, NASDAQ OMX, is consistent with investor protection and the public interest pursuant to Section 6(b)(5) of the Act since the changes will ensure the accuracy of the NASDAQ OMX By-Laws, as well as clarify for shareholders how broker nonvotes will be counted in director elections.<sup>11</sup>

#### IV. Conclusion

*It is therefore ordered*, that pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the

<sup>11</sup> As noted by NASDAQ in its filing, the other Boards of Directors of the regulatory subsidiaries of NASDAQ OMX have approved the changes to NASDAQ OMX's By-Laws. The Commission expects such regulatory subsidiaries to file these changes shortly pursuant to Section 19(b) of the Act.

<sup>12</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-NASDAQ-2011-025), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Cathy H. Ahn,

Deputy Secretary.

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64287; File No. SR-NYSE-2011-15]

#### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to NYSE Rule 1401 To Modify the Initial Trading Market Value for Debt Securities

April 8, 2011.

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 1, 2011, the 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 and II 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 NYSE Rule 1401 to modify the initial trading market value requirements for Debt Securities from \$10,000,000 to \$5,000,000. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>, 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.

<sup>13</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.

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 NYSE proposes to amend NYSE Rule 1401 to modify the initial trading market value requirements for Debt Securities from \$10,000,000 to \$5,000,000.

NYSE Rule 1400 and 1401 set forth requirements for trading Debt Securities. The term "Debt Securities" includes any unlisted note, bond, debenture or evidence of indebtedness that is: (1) Statutorily exempt from the registration requirements of Section 12(b) of the Securities Exchange Act of 1934 (the "Act"), or (2) eligible to be traded under a Commission exemptive order.<sup>3</sup> Currently, NYSE Rule 1401 requires that Debt Securities traded on the NYSE must have an outstanding aggregate market value or principal amount of no less than \$10,000,000 on the date that trading commences.

The Exchange proposes to reduce the required initial outstanding aggregate market value to \$5,000,000. There are numerous corporate retail note programs offered by well-known issuers whose equity securities are listed on the Exchange, such as General Electric, DOW Chemical, Goldman Sachs and Caterpillar, that involve issuances of \$5,000,000 or more but less than \$10,000,000 in principal.<sup>4</sup> However, such issuances may not be traded on the NYSE under current NYSE Rule 1401. The Exchange believes that setting the minimum initial aggregate market value at \$5,000,000 would expand the number of Debt Securities that could be traded on the Exchange's platform, thereby

<sup>3</sup> See NYSE Rule 1401 and Securities Exchange Act Release No. 54766 (November 16, 2006), 71 FR 67657 (November 22, 2006). Under the exemptive order, among other things, the issuer of the debt security must have at least one class of common or preferred equity security listed on the Exchange. Further, for purposes of NYSE Rule 1400(2), the term Debt Securities includes only securities that, if they were to be listed on the NYSE, would be listed under Sections 102.03 or 103.05 of the NYSE's Listed Company Manual, except that such securities do not include any security that is defined as an "equity security" under Section 3(a)(11) of the Act. The term Debt Securities also does not include a security that, if listed on the NYSE, would have been listed under Sections 703.19 or 703.21 of the NYSE's Listed Company Manual. See NYSE Rule 1400.

<sup>4</sup> Examples of debt securities issuances in the \$5-10 million range include GE 4.85 8/15/14 CUSIP 36966RHE9, DOW 5.35 6/15/2013 CUSIP 26054LEG4; GS 5.50 5/15/2019 CUSIP 38141E6C8; CAT 5.85 2/15/2028 CUSIP 14912HJP6.

offering investors in such securities greater transparency and choice with respect to secondary market trading.

## 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>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</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. The Exchange believes the proposed rule changes are consistent with these principles in that they seek to expand the number of Debt Securities that can be traded on the NYSE, thereby benefiting investors with increased transparency and choice with respect to secondary market trading.

### *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

Within 45 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 or disapprove 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2011-15 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-2011-15. 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 No. SR-NYSE-2011-15 and should be submitted on or before May 5, 2011.

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

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64275; File No. SR-ISE-2011-24]

### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Enhancements to the Exchange's Electronic Trading Platform**

April 8, 2011.

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 7, 2011, 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 and II below, which items have been prepared by the Exchange. The Exchange has filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 certain rules to facilitate enhancements to its electronic options trading system being implemented as part of the Optimise platform. 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 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 self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

<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. 78s(b)(3)(A).

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

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 17 CFR 200.30-3(a)(12).