

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal should promote competition by allowing the Exchange, without undue delay, to list and trade option series that are trading on other options exchanges. Therefore, the Commission designates the proposal operative upon filing.¹¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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:

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 Commission has waived the five-day pre-filing requirement in this case.

¹¹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 Number SR-Phlx-2011-74 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-Phlx-2011-74. 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 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-Phlx-2011-74 and should be submitted on or before June 29, 2011.

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

Cathy H. Ahn,

Deputy Secretary.

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¹² 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64590; File No. SR-FINRA-2011-020]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of a Proposed Rule Change Relating to FINRA's Trading Activity Fee Rate for Transactions in Covered Equity Securities

June 2, 2011.

I. Introduction

On April 26, 2011, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² a proposed rule change related to FINRA's Trading Activity Fee ("TAF") for transactions in Covered Securities. The proposed rule change was published for comment in the **Federal Register** on May 3, 2011.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

FINRA's proposal would amend Section 1 of Schedule A to the FINRA By-Laws to adjust the rate of FINRA's TAF for transactions in Covered Securities that are exchange-registered equity securities. Covered Securities are defined in Section 1 of Schedule A to the FINRA By-Laws as: exchange-registered securities wherever executed (except debt securities that are not TRACE-Eligible Securities); OTC Equity Securities; security futures; TRACE-Eligible Securities (provided that the transaction is a Reportable TRACE Transaction); and all municipal securities subject to Municipal Securities Rulemaking Board reporting requirements. The rules governing the TAF also include a list of exempt transactions.⁴ The TAF, along with the Personnel Assessment and the Gross Income Assessment fees, are used to fund FINRA's regulatory activities, including examinations; financial monitoring; and FINRA's policymaking, rulemaking, and enforcement activities.⁵

The current TAF rate is \$0.000075 per share for each sale of a Covered Security, with a maximum charge of

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 64353 (April 27, 2011), 76 FR 24942 ("Notice").

⁴ See FINRA By-Laws, Schedule A, § 1(b)(2).

⁵ See FINRA By-Laws, Schedule A, § 1(a).

\$3.75 per trade. In the Notice, the Exchange stated that over 95% of TAF revenue is generated by transactions in Covered Securities that are equity securities. Thus, FINRA's revenue from the TAF is substantially affected by changes in trading volume in the equities markets and, due to the substantial decrease in average daily share volumes since 2009, FINRA has experienced a commensurate substantial decline in revenue from the TAF. Accordingly, FINRA has proposed to increase the TAF rate for Covered Securities that are equity securities by \$0.000015 per share, from \$0.000075 per share to \$0.000090 per share, with a corresponding increase to the per-transaction cap for Covered Securities that are equity securities from \$3.75 to \$4.50.⁶ FINRA stated in the Notice that the TAF for covered securities that are equity securities rate has not been adjusted in over six years, and that the proposal is designed to "stabilize revenue flows necessary to support FINRA's regulatory mission."

FINRA proposes July 1, 2011 as the effective date of the adjusted TAF and will announce the effective date of the proposed rule change in a *Regulatory Notice*.

III. Discussion and Commission's Findings

After carefully considering the proposed rule change, the Commission finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁷ In particular, the Commission finds that the proposal is consistent with Section 15A(b)(5) of the Act,⁸ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. The Commission believes that the proposal is reasonably designed to secure adequate funding to support FINRA's regulatory duties.

IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the

proposed rule change (SR-FINRA-2011-020), be, and hereby is, approved.

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

Cathy H. Ahn,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64581; File No. SR-NYSEAmex-2011-35]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fees Relating to the Sale of Trading Licenses

June 2, 2011.

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 May 26, 2011, NYSE Amex LLC ("NYSE Amex" 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 modify the fees it charges for the issuance of trading licenses that are required in order to effect transactions on the floor of the Exchange or through any facility of the Exchange. The Exchange proposes to amend Rule 300—NYSE Amex Equities (Trading Licenses) to (i) Create a two-tiered pricing structure for the annual fee, under which the fee would continue to be \$40,000 per license for the first two licenses held by a member organization but would be reduced to \$25,000 per license for any additional trading licenses held by that member organization, (ii) provide a formula for proration of the annual fee during a calendar month in which a trading license has been in place for less than the full month and (iii) provide that the monthly installments of the annual fee be payable in arrears at the end of each

month. These changes will become operational on June 1, 2011. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, <http://www.sec.gov>, and <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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the fees it charges for the issuance of trading licenses that are required in order to effect transactions on the floor of the Exchange or through any facility of the Exchange. As currently provided in Rule 300—NYSE Amex Equities (Trading Licenses), the price per trading license sold in each annual offering of such licenses is \$40,000 or such other price as the Exchange may set per trading license.

The Exchange proposes to modify the structure of its annual fee for trading licenses by moving from a single price of \$40,000 for all such licenses to a two-tiered pricing structure. Under the proposal, the annual fee would continue to be \$40,000 per license for the first two trading licenses held by a member organization but would be reduced to \$25,000 per license for any additional trading licenses held by that member organization.

Pursuant to Rule 300(e)—NYSE Amex Equities, a buyer of a trading license is required to pay the Exchange the trading license fee in equal monthly installments in advance over the period during which the trading license is in effect. The Exchange proposes to change its billing schedule so that the monthly installments are payable in arrears at the end of each month.

Finally, Rule 300(d)—NYSE Amex Equities provides that, following the annual offering and at any time thereafter during the following calendar year, the Exchange shall sell additional

⁶ Because transactions in Covered Securities that are equity securities account for over 95% of TAF revenues, FINRA is not proposing adjustments to the TAF rates for other types of Covered Securities.

⁷ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78o-3(b)(5).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.