another trading venue that has already introduced this pricing model for low-priced securities. The change will result in a fee increase for firms when they access liquidity in these securities and a fee reduction for firms when they provide liquidity in these stocks. NASDAQ is also correcting a typographical error in Rule 7018.

The impact of the changes upon the net fees paid by a particular market participant will depend upon a number of variables, including the prices of the market participant's quotes and orders relative to the national best bid and offer (*i.e.,* its propensity to add or remove liquidity) and the extent to which it trades in low-priced securities. NASDAQ notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. NASDAQ believes that the change will further enhance the competitiveness of its fees in comparison with those charged by other venues, and that its fees are reasonable and equitably allocated to members on the basis of whether they opt to direct orders to NASDAQ.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [17] and subparagraph (f)(2) of Rule 19b–4 thereunder.[18] 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.

[17] 15 U.S.C. 78s(b)(3)(a)(ii).

[18] 17 CFR 240.19b–4(f)(2).

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 Number SR–NASDAQ–2010–014 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–NASDAQ–2010–014. 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 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 offices 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–NASDAQ–2010–014, and should be submitted on or before March 15, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–3332 Filed 2–19–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61512; File No. SR–NYSEArca–2010–05]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fee Schedule

February 12, 2010.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 28, 2010, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") through its wholly-owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), 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. NYSE Arca filed the proposal pursuant to Section 19(b)(3)(A) [4] of the Act and Rule 19b–4(f)(2) [5] thereunder. 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 (the "Schedule"). While changes to the Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on February 1, 2010. The text of the proposed rule change is available on the Exchange's Web site at *http://www.nyse.com*, on the Commission's Web site at *http://www.sec.gov*, at the Exchange, and at the Commission's Public Reference Room. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

[19] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

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 make multiple changes to its fee schedule effective February 1, 2010. A more detailed description of the proposed changes follows.

Super Tier:

The Exchange proposes to introduce a new Super Tier. For ETP Holders and Market Makers with an average daily share volume ("ADV") per month of more than 70 million shares added and more than 120 million total shares (added, removed, and routed) in all U.S. securities, the pricing structure for trading in Tape A and Tape C securities will be a rebate of $0.0030 per share for adding liquidity and a fee of $0.0028 per share for removing liquidity. All other fees within the Super Tier will match the Tier 1 rates effective on February 1, 2010.

Tier 1:

The Exchange also proposes changes to the Tier 1 rates and volume levels. Currently Tier 1 rates are applied to ETP Holders and Market Makers that provide liquidity on the Exchange with an ADV per month of greater than 25 million shares and transact a total ADV per month of greater than 80 million shares (includes both adding and removing). Under this proposal, Tier 1 rates will be applied to ETP Holders and Market Makers that provide liquidity on the Exchange with an ADV per month of greater than 60 million shares. The Exchange proposes to eliminate the total share requirement.

Currently, the rebate for adding liquidity in Tape A and Tape C securities in Tier 1 is set at $0.0027 per share, and the fee for removing liquidity is set at $0.0027 per share. Under this proposal the rebate for adding liquidity in Tape A and Tape C securities will be $0.0029 per share and the fee for removing liquidity will be $0.0029 per share. The Exchange also proposes to change the rebate for PO and PO+ orders routed to Amex that provide liquidity to the NYSE Amex Book to $0.0015 (currently $0.0030 per share). All other Tier 1 rates remain the same.

Tier 2:

The Exchange also proposes changes to the Tier 2 rates and volume levels. Currently Tier 2 rates are applied to ETP Holders and Market Makers that provide liquidity on the Exchange with an ADV per month of greater than 15 million shares and transact a total ADV per month of greater than 50 million shares. Under this proposal, Tier 2 rates will be applied to ETP Holders and Market Makers that provide liquidity on the Exchange with an ADV per month of greater than 25 million shares. The Exchange proposes to eliminate the total share requirement.

Currently, the rebate for adding liquidity in Tape A and Tape C securities in Tier 2 is set at $0.0026 per share, and the fee for removing liquidity is set at $0.0028 per share. Under this proposal the rebate for adding liquidity in Tape A and Tape C securities will be $0.0029 per share and the fee for removing liquidity will be $0.0030 per share. The Exchange also proposes to change the fee for orders routed to away markets other than the NYSE in Tape A and Tape C securities to $0.0030 (currently $0.0029 per share). The Exchange is also changing the rebate for PO and PO+ orders routed to Amex that provide liquidity to the NYSE Amex Book to $0.0015 (currently $0.0030 per share). All other Tier 2 rates remain the same.

Provide Tier:

The Exchange proposes to remove the current Provide Tier from the Schedule.

Basic Rates:

Finally, the Exchange proposes to change the Basic Rate pricing. Currently, the rebate for adding liquidity in Tape A and Tape C securities is set at $0.0023 per share, and the fee for removing liquidity is set at $0.0030 per share. Under this proposal the rebate for adding liquidity in Tape A and Tape C securities will be $0.0021 per share and the fee for removing liquidity will remain $0.0030 per share. The Exchange also proposes to change the rebate for PO and PO+ orders routed to Amex that provide liquidity to the NYSE Amex Book to $0.0015 (currently $0.0030 per share). All other Basic Rates will remain the same.

The proposed changes to the Schedule are part of the Exchange's continued effort to attract and enhance participation on the Exchange, by offering attractive rates and rebates with volume-based incentives. The Exchange believes the proposed fees are reasonable and equitable in that they apply uniformly to all ETP Holders. The proposed changes will become operative on February 1, 2010.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the "Act"),[6] in general, and Section 6(b)(4) of the Act,[7] 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. The proposed changes to the Schedule are part of the Exchange's continued effort to attract and enhance participation on the Exchange, by offering attractive rates and rebates with volume-based incentives. The proposed changes to the Schedule are equitable in that they apply uniformly to all Users.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca on its members.

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.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

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

[9] 17 CFR 240.19b–4(f)(2).

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 Number SR–NYSEArca–2010–05 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–NYSEArca–2010–05. 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–NYSEArca–2010–05 and should be submitted on or before March 15, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–3331 Filed 2–19–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61508; File No. SR–BATS–2010–001]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

February 5, 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 January 29, 2010, BATS Exchange, Inc. (the "Exchange" or "BATS") 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. BATS has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. 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 its fee schedule applicable to Members[5] of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on February 1, 2010.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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[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).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

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 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 Exchange proposes to modify its fee schedule applicable to use of the Exchange effective February 1, 2010, in order to (i) implement a fee of 0.10% of the total dollar value for trades that remove liquidity in securities priced below $1.00; (ii) increase the fee charged by the Exchange for its "CYCLE" and "RECYCLE" routing strategies from $0.0026 per share to $0.0027 per share; and (iii) amend the fees for certain destination specific routing options to continue to offer a "one under" pricing model.

(i) Charge for Removing Liquidity in Securities Priced Below $1.00

The Exchange has not previously charged Members for transactions that remove liquidity from or add liquidity to the Exchange's book in securities priced below $1.00. The Exchange proposes to begin charging 0.10% of the total dollar value of the execution for any security (all Tapes) priced under $1.00 that removes liquidity from the Exchange's book. The Exchange is not proposing to provide a liquidity rebate in such securities at this time. The Exchange believes that a nominal fee is warranted for securities priced below $1.00 for various reasons, including that such transactions inevitably contribute to the overall infrastructure costs incurred by the Exchange.

(ii) Increase in Routing Fees for "CYCLE" and "RECYCLE" Routing

Based on increased fees at various market centers to remove liquidity, the Exchange proposes to modify the fee charged by the Exchange for its "CYCLE" and "RECYCLE" routing strategies from $0.0026 per share to $0.0027 per share. To be consistent with this change, the Exchange proposes to