

*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 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 Number SR-CBOE-2010-013 and should be submitted on or before March 16, 2010.

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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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61520; File No. SR-NYSE-2010-06]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Waiver of all Transaction Fees for Shares Executed on the NYSE MatchPoint<sup>SM</sup> System

February 16, 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 January 29, 2010, 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, 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 extend the waiver of all transaction fees for shares executed on the NYSE MatchPoint<sup>SM</sup> ("NYSE MatchPoint" or "MatchPoint") system effective February 1, 2010 through March 31, 2010. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to extend the waiver of all transaction fees for shares executed on the MatchPoint system, which will be effective from February 1, 2010 through March 31, 2010. The NYSE 2010 Price List will reflect this extension of the fee waiver.

###### Background

On January 7, 2009, the Exchange filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to adopt a temporary equity transaction fee for shares executed on the NYSE MatchPoint system, effective until February 28, 2009.<sup>4</sup> The temporary equity transaction fee was extended numerous times since the original filing<sup>5</sup> and it was in effect until January

<sup>4</sup> See Securities Exchange Act Release No. 59229 (January 12, 2009) 74 FR 3119 (January 16, 2009) (SR-NYSE-2009-01).

<sup>5</sup> See Securities Exchange Act Release No. 59491 (March 3, 2009) 74 FR 10107 (March 9, 2009) (SR-NYSE-2009-20); see Securities Exchange Act Release No. 59864 (May 5, 2009) 74 FR 22194 (May 12, 2009) (SR-NYSE-2009-44); see Securities Exchange Act Release No. 60278 (July 10, 2009) 74

7, 2010. On January 7, 2010, the Exchange proposed a transaction fee holiday waiving all MatchPoint transaction fees under the temporary equity transaction fee schedule until January 29, 2010 ("transaction fee waiver").<sup>6</sup> Each such filing was effective upon filing pursuant to Section 19(b)(3)(A)<sup>7</sup> of the Act and subparagraph (f)(2) of Rule 19b-4.<sup>8</sup>

The Exchange believes that an extension of the transaction fee waiver will continue to induce users to enter more single-sided volume<sup>9</sup> into the MatchPoint system, which benefits all participants in MatchPoint, since it increases the likelihood of a match during the matching sessions (*i.e.*, intra-day and after hours matching sessions). The transaction fee waiver will apply to all Exchange members that access MatchPoint. Through this fee filing, the Exchange is seeking to extend the temporary transaction fee waiver from February 1, 2010 through March 31, 2010.

It is intended that new MatchPoint transaction fees will be in effect on or before April 1, 2010, after the transaction fee waiver terminates. The new transaction fees will also provide incentives for adding volume to the MatchPoint system.

###### 2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act")<sup>10</sup> for the proposed rule change is the requirement under Section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes that an extension of the fee waiver for all MatchPoint executions is reasonable in that it provides a significant incentive for users to add volume into the MatchPoint system. Adding volume to the MatchPoint system will increase a user's likelihood of obtaining an execution. Increased volume and trading activity will improve the overall

FR 34615 (July 16, 2009) (SR-NYSE-2009-67); see Securities Exchange Act Release No. 60439 (August 5, 2009) 74 FR 40270 (August 11, 2009) (SR-NYSE-2009-78) and see also Securities Exchange Act Release No. 60949 (November 6, 2009) 74 FR 58665 (November 13, 2009) (SR-NYSE-2009-110).

<sup>6</sup> See Securities Exchange Act Release No. 61350 (January 14, 2010) 75 FR 3767 (January 22, 2010) (SR-NYSE-2010-01).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> Executions in the MatchPoint system occur when buy and sell interest in a security is entered on a matched basis (both buy and sell sides submitted together) or when interest submitted in the system by one user matches against contra side interest submitted by another user.

<sup>10</sup> 15 U.S.C. 78a.

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

<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.

market for customers. The transaction fee waiver is also designed to make the system more competitive, which will further improve the quality of the market and benefit customers. Finally, the transaction fee waiver is equitable because it is available to all Exchange members that access the MatchPoint system, and it applies to all MatchPoint executions. The extended fee waiver will be in effect from February 1, 2010 until March 31, 2010.

#### *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)<sup>11</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>12</sup> thereunder, because it establishes a due, fee, or other charge imposed by the NYSE.

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-NYSE-2010-06 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-2010-06. 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-NYSE-2010-06 and should be submitted on or before March 16, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61519; File No. SR-NYSEArca-2010-04]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the WisdomTree Real Return Fund**

February 16, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 25, 2010, NYSE Arca, Inc. ("NYSE Arca" 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. 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 list and trade the shares of the following fund of the WisdomTree Trust (the "Trust") under NYSE Arca Equities Rule 8.600: WisdomTree Real Return Fund (the "Fund"). The shares of the Fund are collectively referred to herein as the "Shares." The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and on the Exchange's Web site at <http://www.nyx.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.

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

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<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.