

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-NSX-2009-04 and should be submitted on or before July 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60067; File No. SR-NYSEArca-2009-48]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Schedule of Fees and Charges for Exchange Services

June 8, 2009.

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 May 29, 2009, 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. 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 the section of 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 June 1, 2009. 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.

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 make multiple changes to its Schedule that will take effect on June 1, 2009. A more detailed description of the proposed changes follows.

Tier 1 Rates:

Currently, Tier 1 rates are applied to customers with an average daily share volume per month greater than 90 million shares in Tape A, B and C securities, including adding liquidity of more than 45 million shares. The Exchange proposes making Tier 1 rates more attainable for customers by lowering the adding liquidity component from 45 million shares to 30 million shares. In Tape A and Tape C securities, the Exchange proposes a rebate of \$0.0030 per share for orders that add liquidity (previously \$0.0029) and a take fee of \$0.0030 per share for orders that remove liquidity (previously \$0.0028).

Tier 2 Rates:

Tier 2 rates are applied to customers with an average daily share volume per month greater than 60 million shares in Tape A, B and C securities, including adding liquidity of more than 30 million shares. The Exchange proposes making Tier 2 rates more attainable for customers by lowering the adding liquidity component from 30 million shares to 20 million shares. In Tape A and Tape C securities, the Exchange proposes a rebate of \$0.0028 per share for orders that add liquidity (previously \$0.0027) and a take fee of \$0.0030 per share for orders that remove liquidity (previously \$0.0029).

Take Tier:

The Take Tier rates are applied to customers that take liquidity or route to

an away market center with an average daily share volume per month greater than 85 million shares and route an average daily share volume per month greater than 2 million shares. The Exchange proposes to eliminate the Take Tier.

The proposed changes will become operative on June 1, 2009.

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 rates are part of the Exchange's continued effort to attract and enhance participation on the Exchange, by offering attractive rebates for liquidity providers and volume-based incentives. The Exchange believes that the proposed changes to the Schedule are equitable in that they apply uniformly to our 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 proposed 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.

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,

¹⁵ 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).

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).

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. Please include File Number SR-NYSEArca-2009-48 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-2009-48. 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 inspection and copying 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-2009-48 and should be submitted on or before July 6, 2009.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-13972 Filed 6-12-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60066; File No. SR-FINRA-2009-036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rules 2124 (Net Transactions With Customers), 2220 (Options Communications), 4370 (Business Continuity Plans and Emergency Contact Information) and 5250 (Payments for Market Making) in the Consolidated FINRA Rulebook

June 8, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 21, 2009, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to adopt NASD Rules 2220 (Options Communications), 2441 (Net Transactions with Customers), 2460 (Payments for Market Making), 3510 (Business Continuity Plans) and 3520 (Emergency Contact Information) as FINRA rules in the consolidated FINRA rulebook without substantive change. The proposed rule change would renumber NASD Rule 2220 as FINRA Rule 2220, NASD Rule 2441 as FINRA Rule 2124, NASD Rule 2460 as FINRA Rule 5250, and NASD Rules 3510 and 3520 would be combined into FINRA Rule 4370 in the consolidated FINRA rulebook.

The text of the proposed rule change is available on FINRA's Web site at

<http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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

As part of the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook"),³ FINRA is proposing to adopt NASD Rules 2220 (Options Communications), 2441 (Net Transactions with Customers), 2460 (Payments for Market Making), 3510 (Business Continuity Plans) and 3520 (Emergency Contact Information) as FINRA rules in the consolidated FINRA rulebook without substantive change.

Proposed FINRA Rule 2220

FINRA is proposing to adopt NASD Rule 2220 (Options Communications) without substantive change into the Consolidated FINRA Rulebook as FINRA Rule 2220. NASD Rule 2220 sets forth a member's obligations with respect to its options communications with the public. In 2008, FINRA revised NASD Rule 2220 to make it more consistent with FINRA's general rules on communications with the public and the options communications rules of other self-regulatory organizations (SROs).⁴ As amended, NASD Rule 2220,

³ The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see FINRA *Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

⁴ See Securities Exchange Act Release No. 58738 (October 6, 2008), 73 FR 60371 (October 10, 2008) (Order Approving File No. SR-FINRA-2008-013).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.