

[www.nasdaqomxtrader.com/Micro.aspx?id=Alpha](http://www.nasdaqomxtrader.com/Micro.aspx?id=Alpha).

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on July 1, 2011.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>12</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed amendments to the Subsidy are equitable and reasonable because member organizations with Exchange registered floor brokers would continue to be provided an equal opportunity to receive a Subsidy. The Exchange believes that amending the computation to exclude Firm-to-Customer executions and Firm-to-Firm executions where the Firm sides have reached the Cap is reasonable because the Exchange would not be paying a Subsidy on executions that incur no transaction fees. In addition, the Exchange believes that amending the computation to exclude Firm-to-Customer executions and Firm-to-Firm executions where the Firm sides have reached the Firm Related Equity Option Cap is equitable because the exclusions apply uniformly to all member organizations. Finally, the Exchange does not believe that this Subsidy is unreasonable or discriminatory because any floor broker is afforded the opportunity of meeting the volume criteria.

The Exchange believes that its proposal to amend Section III of the Fee Schedule to remove the list of Alpha Symbols is both reasonable and equitable because the list of symbols is readily available on the Exchange's Web site. Since the Alpha Symbols are subject to change, the Exchange believes that the list of current symbols on the Exchange's Web site is the most appropriate and current source of information for the complete list of Alpha Symbols subject to the Alpha Index Options Fee.<sup>13</sup>

### *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 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 either solicited or 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.<sup>14</sup> 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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-Phlx-2011-94 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-2011-94. 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-2011-94 and should be submitted on or before August 8, 2011.

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

**Cathy H. Ahn,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64861; File No. SR-ISE-2011-38]

### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Market Maker Incentive Plan for Foreign Currency Options**

July 12, 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 June 30, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change, as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> This list is kept up to date and current with any rule changes that are filed with the Commission.

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>15</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.

comments on the proposed rule change from interested persons.

### **I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

The ISE is proposing to extend an incentive plan for market makers in a number of foreign currency options ("FX Options") traded on the Exchange. 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 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 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.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### **1. Purpose**

The purpose of this proposed rule change is to extend an incentive plan for market makers in options on the New Zealand dollar ("NZD"), the Mexican peso ("PZO"), the Swedish krona ("SKA"), the Brazilian real ("BRB"), the Australian dollar ("AUX"), the British pound ("BPX"), the Canadian dollar ("CDD"), the euro ("EUI"), the Japanese yen ("YUK") and the Swiss franc ("SFC").<sup>3</sup> On August 3, 2009, the Exchange adopted an incentive plan applicable to market makers in NZD, PZO and SKA,<sup>4</sup> and on January 19, 2010, added BRB to the incentive plan,<sup>5</sup> and on March 1, 2011, added AUX, BPX, CDD, EUI, YUK and SFC.<sup>6</sup> The Exchange has since extended the date

by which market makers may join the incentive plan<sup>7</sup> and now proposes to do so again.

In order to promote trading in these FX Options, the Exchange has an incentive plan pursuant to which the Exchange waives the transaction fees for the Early Adopter<sup>8</sup> FXPMM<sup>9</sup> and all Early Adopter FXCMMs<sup>10</sup> that make a market in NZD, PZO SKA, BRB, AUX, BPX, CDD, EUI, YUK and SFC for as long as the incentive plan is in effect. Further, pursuant to a revenue sharing agreement entered into between an Early Adopter Market Maker and ISE, the Exchange pays the Early Adopter FXPMM forty percent (40%) of the transaction fees collected on any customer trade in NZD, PZO SKA, BRB, AUX, BPX, CDD, EUI, YUK and SFC and pays up to ten (10) Early Adopter FXCMMs that participate in the incentive plan twenty percent (20%) of the transaction fees collected for trades between a customer and that FXCMM. Market makers that do not participate in the incentive plan are charged regular transaction fees for trades in these products. In order to participate in the incentive plan, market makers are currently required to enter into the incentive plan no later than June 30, 2011. The Exchange now proposes to extend the date by which market makers may enter into the incentive plan to September 30, 2011.

##### **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>12</sup> 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 Exchange believes the proposed rule change is equitable as it will permit

all market makers to explore the opportunity to join the incentive plan for an additional three months. The Exchange believes the proposed rule change is reasonable because the extension of the incentive plan for three months will permit additional market makers to join the incentive plan which in turn will generate additional order flow to the Exchange by creating incentives to trade these FX Options as well as defray operational costs for Early Adopter Market Makers.

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

The proposed rule change does not 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*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

### **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.<sup>13</sup> At any time within 60 days of the filing of such 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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

<sup>3</sup> The Commission previously approved the trading of options on NZD, PZO, SKA, BRB, AUX, BPX, CDD, EUI, YUK and SFC. See Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR-ISE-2006-59).

<sup>4</sup> See Securities Exchange Act Release No. 60536 (August 19, 2009), 74 FR 43204 (August 26, 2009) (SR-ISE-2009-59).

<sup>5</sup> See Securities Exchange Act Release No. 61459 (February 1, 2010), 75 FR 6248 (February 8, 2010) (SR-ISE-2010-07).

<sup>6</sup> See Securities Exchange Act Release No. 64012 (March 2, 2011), 76 FR 12778 (March 8, 2011) (SR-ISE-2011-11).

<sup>7</sup> See Securities Exchange Act Release Nos. 60810 (October 9, 2009), 74 FR 53527 (October 19, 2009) (SR-ISE-2009-80), 61334 (January 12, 2010), 75 FR 2913 (January 19, 2010) (SR-ISE-2009-115), 61851 (April 6, 2010), 75 FR 18565 (April 12, 2010) (SR-ISE-2010-27), 62503 (July 15, 2010), 75 FR 42812 (July 22, 2010) (SR-ISE-2010-71), 36045 (October 5, 2010), 75 FR 62900 (October 13, 2010) (SR-ISE-2010-100), 63639 (January 4, 2011), 76 FR 1488 (January 10, 2011) (SR-ISE-2010-121) and 64202 (April 6, 2011), 76 FR 20431 (April 12, 2011) (SR-ISE-2011-16).

<sup>8</sup> Participants in the incentive plan are known on the Exchange's Schedule of Fees as Early Adopter Market Makers.

<sup>9</sup> A FXPMM is a primary market maker selected by the Exchange that trades and quotes in FX Options only. See ISE Rule 2213.

<sup>10</sup> A FXCMM is a competitive market maker selected by the Exchange that trades and quotes in FX Options only. See ISE Rule 2213.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

Number SR-ISE-2011-38 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-ISE-2011-38. 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 Number SR-ISE-2011-38, and should be submitted on or before August 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64859; File No. SR-NYSEAmex-2011-47]

### Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operative Date of NYSE Amex Equities Rule 92(c)(3) From August 1, 2011 to September 12, 2011

July 12, 2011.

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 July 1, 2011, NYSE Amex LLC (the "Exchange" or "NYSE Amex") 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 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 operative date of NYSE Amex Equities Rule 92(c)(3) from August 1, 2011 to September 12, 2011. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, on the Commission's Web site at <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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange is proposing to extend the delayed operative date of NYSE Amex Equities Rule 92(c)(3) from August 1, 2011 to September 12, 2011. The Exchange believes that this extension will provide the time necessary for the Exchange and the Financial Industry Regulatory Authority, Inc. ("FINRA") to harmonize their respective rules concerning customer order protection to achieve a standardized industry practice.

##### Background

On July 5, 2007, the Commission approved amendments to NYSE Rule 92 to permit riskless principal trading at the Exchange.<sup>4</sup> These amendments were filed in part to begin the harmonization process between NYSE Rule 92 and FINRA's Manning Rule.<sup>5</sup> In connection with those amendments, the Exchange implemented for an operative date of January 16, 2008, NYSE Rule 92(c)(3), which permits Exchange member organizations to submit riskless principal orders to the Exchange, but requires them to submit to a designated Exchange database a report of the execution of the facilitated order. That rule also requires members to submit to that same database sufficient information to provide an electronic link of the execution of the facilitated order to all of the underlying orders.

For purposes of NYSE Rule 92(c)(3), the Exchange informed member organizations that when executing riskless principal transactions, firms must submit order execution reports to the Exchange's Front End Systemic Capture ("FESC") database linking the execution of the riskless principal order on the Exchange to the specific underlying orders. The information provided must be sufficient for both member firms and the Exchange to reconstruct in a time-sequenced manner all orders, including allocations to the underlying orders, with respect to which a member organization is claiming the riskless principal exception.

Because the rule change required both the Exchange and member organizations to make certain changes to their trading and order management systems, the NYSE filed to delay to May 14, 2008 the

<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.

<sup>4</sup> See Securities Exchange Act Release No. 56017 (July 5, 2007), 72 FR 38110 (July 12, 2007) (SR-NYSE-2007-21).

<sup>5</sup> See NASD Rule 2111 and IM-2110-2.

<sup>14</sup> 17 CFR 200.30-3(a)(12).