

The Exchange believes that the changes proposed herein would not alter co-location users' understanding of the fees charged for co-location and related services. In addition, the changes proposed herein are intended to clarify the applicable fees for co-location and related services—not new or altered fees—and are designed to accurately reflect the fees for co-locating that the Exchange and co-location users already understand to be in effect.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> and 6(b)(5) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed change to the Price List is equitable because it applies fees for comparable co-location services uniformly to users of those services and because access to the Exchange and the services and products it provides are offered on fair and non-discriminatory terms. The proposed changes would result in clarification of the Exchange's fees for co-location and related services.

### *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>8</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>9</sup> thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

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.

## 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-NYSEAmex-2011-65 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-NYSEAmex-2011-65. 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-NYSEAmex-2011-65 and should be submitted on or before September 28, 2011.

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

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65239; File No. SR-NYSEAmex-2011-66]

### **Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Options Fee Schedule for Co-Location Services To Correct Several Typographical Errors**

August 31, 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 August 24, 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, 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 amend its options Fee Schedule for co-location services to correct several typographical errors. 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>.

<sup>10</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.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 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 amend its Fee Schedule for co-location services to correct several typographical errors.

The Exchange currently offers space at its data center in cabinets with tiered fees for the use of this space corresponding to the aggregated number of kilowatts allocated. However, the Exchange's Fee Schedule provides an incomplete list of power tier levels. Accordingly, the Exchange proposes to amend its Fee Schedule to reflect that the tiered fees are based on the aggregated power allocation of (i) Four to eight kilowatts; (ii) nine to 20 kilowatts; (iii) 21 to 40 kilowatts; or (iv) 41 kilowatts and greater. A co-location user whose power allocation has been at a level that is currently not reflected in the Fee Schedule has been charged according to the tiers set forth herein. For example, a user with twelve kilowatts allocated has been charged \$1,200 per-kilowatt per-month for the first 8 kilowatts and \$1,050 per-kilowatt per-month for the next 4 kilowatts (between 9 and 12).

In addition to the space that it offers at its data center, the Exchange provides co-location users with access to the Exchange's trading and execution systems and to the Exchange's proprietary market data products through either the Exchange's Liquidity Center Network ("LCN"), a local area network available in the data center, or the Exchange's Secure Financial Transaction Infrastructure ("SFTI") network, to which all co-location users have access. Access is available in either one or ten gigabit capacities, for which co-location users incur an initial charge per connection and an ongoing monthly charge per connection. The Exchange proposes to amend its Fee Schedule to reflect that the initial charge for a one

gigabit circuit for Bundled Network Access, Option 3 is \$27,000, not \$27,500 as currently stated in the Fee Schedule. The change in price is due to a typographical error in the Exchange's previous filing.<sup>3</sup> Co-location users have always been charged \$27,000 for this fee and have never been charged the fee of \$27,500 that is currently stated in the Fee Schedule.

Finally, the Exchange proposes to amend its Fee Schedule to include the ongoing monthly charge per connection for a ten gigabit circuit for LCN access, which is \$12,000. The reference to the ongoing monthly charge was erroneously omitted from the Fee Schedule submitted with the Exchange's previous filing.<sup>4</sup> Co-location users have always been charged the \$12,000 monthly charge per connection for a ten gigabit circuit for LCN access.

The Exchange believes that the changes proposed herein would not alter co-location users' understanding of the fees charged for co-location and related services. In addition, the changes proposed herein are intended to clarify the applicable fees for co-location and related services—not new or altered fees—and are designed to accurately reflect the fees for co-locating that the Exchange and co-location users already understand to be in effect.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> and 6(b)(5) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed change to the Fee Schedule is equitable because it applies fees for comparable co-location services uniformly to users of those services and because access to the Exchange and the services and products it provides are offered on fair and non-discriminatory terms. The

<sup>3</sup> See Securities Exchange Act Release No. 63274 (November 8, 2010), 75 FR 69722 (November 15, 2010) (SR-NYSEAmex-2010-101).

<sup>4</sup> *Id.*

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

proposed changes would result in clarification of the Exchange's fees for co-location and related services.

### 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>8</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>9</sup> thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

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.

## 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-NYSEAmex-2011-66 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-NYSEAmex-2011-66. This

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

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-NYSEAmex-2011-66 and should be submitted on or before September 28, 2011.

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

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65236; File No. SR-NYSEArca-2011-65]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Options Fee Schedule for Co-Location Services To Correct Several Typographical Errors

August 31, 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 August

24, 2011, 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 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 amend its options Fee Schedule for co-location services to correct several typographical errors. 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend its Fee Schedule for co-location services to correct several typographical errors.

The Exchange currently offers space at its data center in cabinets with tiered fees for the use of this space corresponding to the aggregated number of kilowatts allocated. However, the Exchange's Fee Schedule provides an incomplete list of power tier levels. Accordingly, the Exchange proposes to amend its Fee Schedule to reflect that the tiered fees are based on the aggregated power allocation of (i) four to eight kilowatts; (ii) nine to 20 kilowatts; (iii) 21 to 40 kilowatts; or (iv) 41 kilowatts and greater. A co-location user whose power allocation has been at a level that is currently not reflected in the Fee Schedule has been charged according to the tiers set forth herein. For example, a user with twelve kilowatts allocated has been charged

\$1,200 per-kilowatt per-month for the first 8 kilowatts and \$1,050 per-kilowatt per-month for the next 4 kilowatts (between 9 and 12).

In addition to the space that it offers at its data center, the Exchange provides co-location users with access to the Exchange's trading and execution systems and to the Exchange's proprietary market data products through either the Exchange's Liquidity Center Network ("LCN"), a local area network available in the data center, or the Exchange's Secure Financial Transaction Infrastructure ("SFTI") network, to which all co-location users have access. Access is available in either one or ten gigabit capacities, for which co-location users incur an initial charge per connection and an ongoing monthly charge per connection. The Exchange proposes to amend its Fee Schedule to reflect that the initial charge for a one gigabit circuit for Bundled Network Access, Option 3 is \$27,000, not \$27,500 as currently stated in the Fee Schedule. The change in price is due to a typographical error in the Exchange's previous filing.<sup>3</sup> Co-location users have always been charged \$27,000 for this fee and have never been charged the fee of \$27,500 that is currently stated in the Fee Schedule.

Finally, the Exchange proposes to amend its Fee Schedule to include the ongoing monthly charge per connection for a ten gigabit circuit for LCN access, which is \$12,000. The reference to the ongoing monthly charge was erroneously omitted from the Fee Schedule submitted with the Exchange's previous filing.<sup>4</sup> Co-location users have always been charged the \$12,000 monthly charge per connection for a ten gigabit circuit for LCN access.

The Exchange believes that the changes proposed herein would not alter co-location users' understanding of the fees charged for co-location and related services. In addition, the changes proposed herein are intended to clarify the applicable fees for co-location and related services—not new or altered fees—and are designed to accurately reflect the fees for co-locating that the Exchange and co-location users already understand to be in effect.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>5</sup> in general, and furthers the

<sup>3</sup> See Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR-NYSEArca-2010-100).

<sup>4</sup> *Id.*

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>10</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.