

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 publicly available. All submissions should refer to File Number SR-NASDAQ-2010-144 and should be submitted on or before December 3, 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. 34-63251; File No. SR-NSX-2010-14]

### Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NSX Fee and Rebate Schedule

November 5, 2010.

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 October 29, 2010, National Stock Exchange, Inc. filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment 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 National Stock Exchange, Inc. ("NSX" or the "Exchange") is proposing

a rule change, operative at commencement of trading on November 1, 2010, which proposes to amend the NSX Fee and Rebate Schedule (the "Fee Schedule") with respect to certain rebates payable in the Automatic Execution mode of order interaction.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nsx.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 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

With this rule change, the Exchange is proposing to modify the Fee Schedule to adjust volume threshold necessary to obtain rebates with respect to displayed orders in Tape A and C securities priced one dollar and above that add liquidity in the Automatic Execution mode of order interaction ("AutoEx").<sup>3</sup>

For executions of displayed orders in Tape A and C securities priced one dollar and above that add liquidity in AutoEx, the proposed rule modifies the volume thresholds necessary to achieve rebates. Prior to the effective date of the proposed rule change, the Fee Schedule provides a rebate of \$0.0026 per share if an ETP Holder's liquidity adding average daily volume (as fully defined in Endnote 3 of the Fee Schedule, "Liquidity Adding ADV") is less than 25 million shares ("Tier 1"); a rebate of \$0.0027 per share if Liquidity Adding ADV is at least 25 million shares and less than 40 million shares ("Tier 2"); and a rebate of \$0.0028 per share if Liquidity Adding ADV is at least 40 million shares ("Tier 3").

The proposed rule change modifies the rebate measurement criteria from a set number of shares to a percentage, expressed in basis points, of Total

Consolidated Average Daily Volume ("TCADV"). As set forth in Explanatory Endnote 13, TCADV means average daily volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tape A, B and C securities. The proposed rule change also eliminates a rebate tier. Accordingly, after the effective date, an ETP Holder would receive a rebate of \$0.0026 per share with respect to its displayed Tape A and C orders priced one dollar or higher that add liquidity in AutoEx if such ETP Holder's Liquidity Adding ADV is less than 20 basis points of TCADV. The Tier 2 rebate of \$0.0027 is proposed to be deleted entirely. An ETP Holder would receive a rebate of \$0.0028 per share if such ETP Holder's Liquidity Adding ADV is equal to or exceeds 20 basis points of TCADV.

The proposed rule change does not modify other rebates or fees that are contained in the Fee Schedule.

##### Rationale

The Exchange has determined that these changes are necessary to create further incentive for ETP Holders to submit increased order volumes and, ultimately, to increase the revenues of the Exchange for the purpose of continuing to adequately fund its regulatory and general business functions. The Exchange has further determined that the proposed fee adjustments are necessary for competitive reasons. The Exchange believes that these rebate changes will not impair the Exchange's ability to fulfill its regulatory responsibilities.

The proposed modifications are reasonable and equitably allocated to those ETP Holders that submit orders in Tape A and C securities in AutoEx, and are not discriminatory because qualified ETP Holders are free to elect whether or not to send such orders. Based upon the information above, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest.

##### Operative Date and Notice

The Exchange intends to make the proposed modifications, which are effective on filing of this proposed rule, operative for trading on November 1, 2010. Pursuant to Exchange Rule 16.1(c), the Exchange will "provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange" through the issuance of a Regulatory Circular of the changes to the Fee Schedule and will post a copy of the rule filing on the Exchange's Web site (<http://www.nsx.com>).

<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.

<sup>3</sup> The Exchange's two modes of order interaction are described in NSX Rule 11.13(b).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,<sup>4</sup> in general, and Section 6(b)(4) of the Act,<sup>5</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 the facilities of the Exchange. Moreover, the proposed rule change is not discriminatory in that all qualified ETP Holders are eligible to submit (or not submit) trades and quotes at any price in AutoEx and Order Delivery in all tapes, as either displayed or undisplayed and as liquidity adding or liquidity taking, and may do so at their discretion.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and subparagraph (f)(2) of Rule 19b-4<sup>7</sup> thereunder, because, as provided in (f)(2), it changes "a due, fee or other charge applicable only to a member" (known on the Exchange as an ETP Holder). At any time within sixty (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-NSX-2010-14 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-NSX-2010-14. 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 NSX. 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-NSX-2010-14 and should be submitted on or before December 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63260; File No. SR-FINRA-2010-034]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filings of Amendments No. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Amended, To Adopt FINRA Rule 4530 (Reporting Requirements) in the Consolidated FINRA Rulebook

November 5, 2010.

## I. Introduction

On July 30, 2010, the Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposal to (i) adopt NASD Rule 3070 (Reporting Requirements) as FINRA Rule 4530 in the Consolidated FINRA Rulebook, with certain amendments and the addition of a supplementary material section, and (ii) delete paragraphs (a) through (d) of Incorporated NYSE Rule 351 and Incorporated NYSE Rules 351.10 and 351.13. The proposal was published for comment in the **Federal Register** on August 9, 2010.<sup>3</sup> The Commission received seven comments on the proposal.<sup>4</sup> On October 18, 2010, FINRA

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 62621 (July 30, 2010), 75 FR 47863 (August 9, 2010) ("Notice").

<sup>4</sup> See letter from Brendan Daly, Legal and Compliance Counsel, Commonwealth Financial Network, to Elizabeth M. Murphy, Secretary, Commission, dated August 27, 2010 ("Commonwealth Letter"); letter from Kristin Bulls, Products and Broker-Dealer Compliance Director, State Farm VP Management Corp., to Elizabeth M. Murphy, Secretary, Commission, dated August 30, 2010 ("State Farm Letter"); letter from Joan Hinchman, Executive Director, President and CEO, National Society of Compliance Professionals, to Elizabeth M. Murphy, Secretary, Commission, dated August 30, 2010 ("NSCP Letter"); letter from Clifford E. Kirsch and Susan S. Krawczyk, Sutherland Asbill & Brennan LLP, on behalf of the Committee of Annuity Insurers, to Elizabeth M. Murphy, Secretary, Commission, dated August 30, 2010 ("CAI Letter"); letter from Michael Lesutis, Assistant General Counsel, PFS Investments, Inc., to Elizabeth M. Murphy, Secretary, Commission, dated September 1, 2010 ("PFS Letter"); letter from James T. McHale, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Elizabeth M. Murphy, Secretary, Commission, dated September 1, 2010 ("SIFMA Letter"); letter from Dale E. Brown, President and CEO, Financial Services Institute, to Elizabeth M. Murphy, Secretary, Commission, dated September 15, 2010 ("FSI Letter").

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

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4.

<sup>8</sup> 17 CFR 200.30-3(a)(12).