

*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-CBOE-2012-026 and should be submitted on or before April 5, 2012.

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

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66562; File No. SR-FINRA-2012-019]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Rule 9313 to Conform to FINRA Rule 9136 Regarding the Authority of Counsel to the National Adjudicatory Council

March 9, 2012.

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> notice is hereby given that on February 29, 2012, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has

designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. 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 amend FINRA Rule 9313 to conform to FINRA Rule 9136 regarding the authority of counsel to the National Adjudicatory Council.

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

On January 4, 2012, the SEC approved a proposed rule change to FINRA's Code of Procedure.<sup>4</sup> As part of the proposed rule change, FINRA amended FINRA Rule 9313 to give counsel to the National Adjudicatory Council ("NAC") the authority to establish the number of copies of all papers that shall be filed with the Adjudicator and specifications of such papers under FINRA Rule 9136. While FINRA Rule 9313 gives counsel to the NAC authority to establish the specifications of papers that shall be filed with the Adjudicator under FINRA Rule 9136, FINRA Rule 9136 does not provide discretion regarding the specifications for such papers. The proposed rule change amends FINRA Rule 9313(a)(8) to conform to FINRA Rule 9136 and removes counsel to the

NAC's authority to establish the specifications of papers that are filed with the NAC. Nevertheless, counsel to the NAC will continue to have the authority to take the actions specified in the other subsections of FINRA Rule 9313(a).

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date for the proposed rule change will be the effective date of SR-FINRA-2011-044.<sup>5</sup>

###### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>6</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will provide greater clarity to members and the public regarding FINRA's rules.

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

FINRA does not believe that the proposed rule change will result in 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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

<sup>5</sup> FINRA will announce the effective date of SR-FINRA-2011-044 in a *Regulatory Notice* to be published no later than March 4, 2012. The effective date will be no later than 30 days following publication of the *Regulatory Notice*. See *id.*

<sup>6</sup> 15 U.S.C. 78o-3(b)(6).

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

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its

<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> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> See Securities Exchange Act Release No. 66096 (January 4, 2012), 77 FR 1524 (January 10, 2012) (Order Approving File No. SR-FINRA-2011-044).

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.

#### 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2012-019 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-FINRA-2012-019. This file number should be included on the subject line if email 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

intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

FINRA. 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-FINRA-2012-019 and should be submitted on or before April 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-66561; File No. SR-NYSEAmex-2012-16]**

#### **Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing Changes to the Per Contract Execution Costs for Certain Participants**

March 9, 2012.

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> notice is hereby given that on February 29, 2012, NYSE Amex LLC (the "Exchange" or "NYSE Amex") 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 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 amend the NYSE Amex Options Fee Schedule ("Fee Schedule") to increase the per contract execution costs for certain participants. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and [www.nyse.com](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 amend the Fee Schedule to increase the per contract execution costs for certain participants. The Exchange believes the proposed fees will better reflect the costs associated with supporting a larger number of option classes, option series, and overall transaction volumes that have grown over time.

First, the Exchange proposes an increase of \$.03 per contract applicable to all NYSE Amex Options Market Maker participants. In conjunction with this increase, NYSE Amex Options Market Maker participants will have the ability to earn back the lower existing rate by executing as a NYSE Amex Options Market Maker 50,000 contracts or more on average each day in a month, excluding either Strategy Executions or QCC trades. The existing monthly fee cap applicable to NYSE Amex Options Market Makers will continue to apply.<sup>3</sup>

NYSE Amex Options Specialists and eSpecialists currently pay \$.10 per contract in transaction fees. Under the proposal, the charge applicable to NYSE Amex Options Specialist and eSpecialists would increase to \$.13 per contract. If, however, a NYSE Amex Options participant executes on average at least 50,000 contracts each day in a month as a Market Maker, then the rate per contract applicable to those NYSE Amex Options Specialist or eSpecialist transactions would be reduced to \$.10 per contract for that month.

NYSE Amex Options Market Makers that trade with directed order flow currently pay \$.15 per contract in transaction fees. Under the proposal the

<sup>9</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> See NYSE Amex Options Fee Schedule dated 2/1/12, endnote 5, available at [http://globalderivatives.nyx.com/sites/globalderivatives.nyx.com/files/nyseamexoptionsfeeschedule\\_020112.pdf](http://globalderivatives.nyx.com/sites/globalderivatives.nyx.com/files/nyseamexoptionsfeeschedule_020112.pdf).