

The Steiner comments suggest limiting the current proposal to cases in which there is only one respondent or multiple respondents being represented by only one attorney.¹³ The Steiner comments also ask that: (1) FINRA be ordered to effectuate immediately additional modifications to eliminate the portions of Rule 12404 that give each separately represented respondent a separate set of strikes, and to replace those portions with provisions that the amount of strikes that may be exercised by respondents in total cannot exceed the amount of strikes that can be exercised in total by the claimant; (2) that FINRA be ordered immediately to rescind its interpretation of Rule 12404 that permits even non-appearing respondents from participating in the arbitrator selection process; and (3) that FINRA be ordered to immediately propose a rule change providing that instead of appointing a cram down arbitrator that a new selection list be sent to the parties. FINRA notes that it is not proposing to amend its rules relating to party strikes, participation in arbitrator selection, or extended list appointments and that, therefore, the comments are outside the scope of the proposed rule change.¹⁴

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.¹⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,¹⁶ in that it is designed, among other things, 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 Commission believes that the proposed rule change will protect investors and the public interest by providing investors greater control in the arbitrator selection process. Forum users have criticized extended list appointments and asked FINRA to

reduce the number of arbitrators appointed in this way. Expanding the number of arbitrators on lists generated through NLSS should help to reduce extended list appointments and so increase the likelihood that arbitrators from each initial list would remain on the list after the parties complete the striking and ranking process. This, in turn, should enhance investor and industry participants' confidence in the arbitration process. Concerning the requests in the Steiner comments that FINRA be ordered to take certain actions, the Commission finds that requested actions are beyond the scope of the current rulemaking.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change (SR-FINRA-2010-022) be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62430; File No. SR-ISE-2010-69]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Amending the Direct Edge ECN Fee Schedule; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Notice; correction.

SUMMARY: The Securities and Exchange Commission published a document in the *Federal Register* of July 8, 2010, concerning a Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amending the Direct Edge ECN Fee Schedule by the International Securities Exchange, LLC; The document contained a typographical error in several section designations.

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

FOR FURTHER INFORMATION CONTACT: Yvonne Fraticelli, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549, (202) 551-5654.

Correction

In the *Federal Register* of July 8, 2010, in FR Doc. 2010-16668, on page 39313, in the first line of the second column, correct the section designation to read "II.", and on page 39314, fifth line from the bottom of the first column and in the Solicitation of Comments heading in the second column, correct the section designations to read "III." and "IV.", respectively.

Dated: July 9, 2010.

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62479; File No. SR-NYSEAmex-2010-31]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing of Amendment Nos. 2 and 3, and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3 Thereto, To Adopt as a Pilot Program a New Rule Series for the Trading of Securities Listed on the Nasdaq Stock Market Pursuant to Unlisted Trading Privileges, and Amending Existing NYSE Amex Equities Rules as Needed To Accommodate the Trading of Nasdaq-Listed Securities on the Exchange

July 9, 2010.

I. Introduction

On March 26, 2010, NYSE Amex LLC ("Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to: (1) Adopt, as a pilot program, a new NYSE Amex Equities Rule Series (Rules 500-525) for the trading of securities listed on the Nasdaq Stock Market ("Nasdaq") pursuant to unlisted trading privileges ("UTP"); and (2) amend existing NYSE Amex Equities rules to accommodate the trading of Nasdaq-listed securities on the Exchange. Subsequently, on April 6, 2010, NYSE Amex filed Amendment

¹³ PIRC supports the proposed rule change, and advocates a further rule revision that would give four strikes per side, rather than to each "separately represented party." *See id.*

¹⁴ *See* FINRA response.

¹⁵ In approving the proposed rule change, the Commission has considered the rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78o-3(b)(6).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.