



**Martha Redding**  
Senior Counsel  
Assistant Secretary

New York Stock Exchange  
11 Wall Street  
New York, NY 10005  
T + [REDACTED]  
F + [REDACTED]

May 21, 2015

**VIA E-MAIL**

Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

Re: Securities Exchange Act Rel. 34-74648 (SR-NYSE-2015-06)

Dear Mr. Fields:

The New York Stock Exchange LLC (the "NYSE" or "Exchange") filed the attached Partial Amendment No. 1 to the above-referenced filing on May 20, 2015.

Also attached are copies of an Exhibit 4 reflecting the changes proposed in the partial amendment and a revised Exhibit 5.

Sincerely,

A handwritten signature in blue ink, appearing to be the initials "BJF" followed by a stylized flourish.

Encls. (Partial Amendment No. 1 to SR-NYSE-2015-06, Exhibit 4 & Exhibit 5)

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 11      SECURITIES AND EXCHANGE COMMISSION      File No.\* SR - 2015 - \* 06  
 WASHINGTON, D.C. 20549      Form 19b-4      Amendment No. (req. for Amendments \*) 1

Filing by New York Stock Exchange  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input type="checkbox"/>	Amendment * <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) <input type="checkbox"/> Section 806(e)(2) <input type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input type="checkbox"/>
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Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposal to adopt new Rule 124 to conduct a Midday Auction and Amending Rule 104 to Codify the Obligation of Designated Market Makers to Facilitate the Midday Auction

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Clare      Last Name \* Saperstein  
 Title \* Associate General Counsel NYSE Group Inc  
 E-mail \* [REDACTED]  
 Telephone \* [REDACTED]      Fax [REDACTED]

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date 05/20/2015      Senior Counsel  
 By David De Gregorio      [REDACTED]

(Name \*)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

David DeGregorio,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

## SR-NYSE-2015-06, Partial Amendment No. 1.

New York Stock Exchange LLC (the “NYSE” or “Exchange”) hereby submits this Partial Amendment No. 1 to the above-referenced filing proposing to adopt a new Rule 124 to conduct a daily Midday Auction in a subset of primary NYSE- listed securities (the “Filing”).

The Exchange proposes to amend the Filing to address concerns raised by the Securities Industry and Financial Markets Association (“SIFMA”) regarding the ability of member organizations to display customer limit orders held by a member organization during the Midday Auction Pause, as required by 604 of Regulation NMS (the “Limit Order Display Rule”),<sup>1</sup> or to obtain the best execution for their customers if an order on the Exchange’s book becomes marketable during the Midday Auction Pause.<sup>2</sup> As proposed, the Exchange would amend Rule 124 to enable member organizations to opt out of participating in the Midday Auction on an order-by-order basis.

First, to address concerns regarding the Limit Order Display Rule, a member organization would be able to designate an order to cancel at the beginning of the Midday Auction Pause. Second, to address concerns regarding obtaining an execution opportunity if a resting order becomes marketable during the Midday Auction Pause, a member organization would be able to designate an order to route to an away market quote that locks or crosses the previously displayed price of the order. To further address concerns regarding execution opportunities during the Midday Auction Pause, the Exchange also proposes to cancel Non-Display Reserve Orders and Non-Display Reserve e-Quotes resting on the Exchange’s book during the Midday Auction Pause and to reject Non-Display Reserve Orders and Non-Display Reserve e-Quotes entered during the Midday Auction Pause. Finally, to reduce the potential for the Midday Auction to be a clearly erroneous execution, the Exchange proposes to prevent the Midday Auction from executing at a price outside of the LULD Price Bands, as provided for in Rule 80C(a)(4), or the Trading Collars, as provided for in Rule 1000(c), whichever is lower (for a buy imbalance) or higher (for a sell imbalance).

SIFMA also raised concerns regarding that statement in footnote 20 of the Filing (footnote 21 of the Exhibit 1) that the Exchange would be submitting separately a request for exemptive relief pursuant to Rule 611(d) of Regulation NMS that the Midday Auction be exempted from the requirements of Rule 611 of Regulation NMS, 17 CFR 242.600 et seq. In this regard, the Exchange will not be submitting a request for exemptive relief. Instead, the Exchange believes that the exception from the Order Protection Rule in Exchange Act Rule 611(b)(3) would apply to the single-priced trade at the conclusion of the Midday Auction conducted pursuant to Rule 124. The single-priced trade at the

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<sup>1</sup> 17 CFR 242.604.

<sup>2</sup> See Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to Brent J. Fields, Secretary, Securities and Exchange Commission, dated March 20, 2015.

conclusion of the Midday Auction would be a single-priced reopening transactions after a trading halt conducted pursuant to Exchange rules and, thus, would be excepted under paragraph (b)(3) of Rule 611 under Regulation NMS from the trade-through requirements under Rule 611.

These amendments, as well as additional non-substantive amendments to the Filing, are described in greater detail below.

**1. The Exchange proposes to amend the first sentence in the first full paragraph on page 5 of the Filing (page 16 of the Exhibit 1):**

On page 5 of the Filing (page 16 of the Exhibit 1), the Exchange states that, “In order to maximize the interest eligible to participate in the Midday Auction, during the Midday Auction Pause, the Exchange would maintain resting orders on the Exchange’s book that are eligible to participate in a reopening.” The Exchange proposes a non-substantive amendment to amend this sentence to change the reference from “a reopening” and substitute it with “Midday Auction”, a defined term in the Filing, as follows (new text underlined):

In order to maximize the interest eligible to participate in the Midday Auction, during the Midday Auction Pause, the Exchange would maintain resting orders on the Exchange’s book that are eligible to participate in the Midday Auction[a reopening].

**2. The Exchange proposes to amend pages 5 of the Filing (pages 16-17 of the Exhibit 1), footnote 13-15 on page 5 of the Filing (footnotes 14-16 on pages 16-17 of the Exhibit 1), and page 29 of the Exhibit 5.**

The Exchange proposes to add the following sentence and accompanying footnote after the second sentence of the first full paragraph on page 5 of the Filing (page 16 of the Exhibit 1):

The Exchange would cancel resting and arriving Non-Displayed Reserve Orders and Non-Display Reserve e-Quotes, which are not eligible to participate in the Midday Auction.

<sup>13</sup> See Proposed Rule 124(b)(3).

The Exchange proposes to add the following clause to the second sentence in the last partial paragraph on page 5 of the Filing (page 17 of the Exhibit 1):

The Exchange also proposes to continuously re-price and/or cancel orders eligible to participate in the Midday Auction, including MOO and LOO Orders, consistent with Rule 80C(a)(5).

The Exchange also proposes to amend the Exhibit 5 to add the following new clause (3) to proposed Rule 124(b) on page 29 of the Exhibit 5 and renumber the remaining paragraphs in proposed Rule 124(b) to provide that Non-Display Reserve Orders and

Non-Display Reserve e-Quotes resting on the Exchange's book and arriving during the Midday Auction Pause would be cancelled:

(3) cancel resting and arriving Non-Displayed Reserve Orders and Non-Display Reserve e-Quotes, which are not eligible to participate in the Midday Auction;

Because the proposed change to new proposed Rule 124(b)(3) would specify order types that are not eligible to participate in the Midday Auction, the Exchange further proposes to amend the Exhibit 5 by adding the clause "eligible to participate in the Midday Auction," to current proposed Rule 124(b)(5), which would be re-numbered as proposed Rule 124(b)(6), as follows:

(6) continue to re-price and/or cancel orders eligible to participate in the Midday Auction, including MOO and LOO Orders, consistent with Rule 80C(a)(5);

The Exchange proposes to make the following non-substantive changes to existing footnotes 13-15 on page 5 of the Filing (footnotes 14-16 on pages 16-17 of the Exhibit 1) to reflect the renumbering of Rule 124(b) following insertion of new clause (3) described above:

<sup>13</sup> See Proposed Rule 124(b)([3]4).

<sup>14</sup> See Proposed Rule 124(b)([4]5).

<sup>15</sup> See Proposed Rule 124(b)([5]6).

**3. The Exchange proposes to amend footnote 17 on page 6 of the Filing (footnote 18 on page 17 of the Exhibit 1).**

The Exchange proposes to provide more detail regarding why it would be disseminating Order Imbalance Information every five seconds during a Midday Auction Pause by adding the following text to footnote 17 on page 6 of the Filing (footnote 18 on page 17 of the Exhibit 1):

<sup>17</sup> See Proposed Rule 124(b)([6]7). Rule 15(c)(3)(iii) specifies that Order Imbalance Information be disseminated approximately every fifteen seconds between 9:20 am ET and the opening of trading in a security. Rule 123C(6) specifies that Order Imbalance Information be disseminated every five seconds in the quarter hour prior to the closing auction. The Exchange believes that disseminating Order Imbalance Information every five seconds until a Midday Auction Stock re-opens is more appropriate than every fifteen seconds because the pause in trading before the Midday Auction is only five minutes.

**4. The Exchange proposes to amend pages 6 and 9 of the Filing (pages 17 and 23 of the Exhibit 1), and page 29 of the Exhibit 5.**

The Exchange proposes to add the following paragraph and accompanying footnotes immediately before the first full paragraph on page 6 of the Filing (page 17 of the Exhibit 1) to describe the functionality the Exchange proposes to add regarding the features to opt out of the Midday Auction by enabling member organizations either to designate an order to cancel at the beginning of the Midday Auction Pause or to designate an order to route to an away market if it is locked or crossed during the Midday Auction Pause. The proposed footnotes would also describe that resting and arriving orders designated to cancel at the start of the Midday Auction Pause would be cancelled and that the returned quantity of a routed order would also route:

In addition, the Exchange would provide functionality to assist member organizations in meeting their obligation to display customer limit orders as set forth in Rule 604 of Regulation NMS (the “Limit Order Display Rule”),<sup>18</sup> and to meet best execution requirements on behalf of customers. In particular, the Exchange proposes to enable member organizations to designate an order to cancel at the beginning of the Midday Auction Pause.<sup>19</sup> The Exchange also proposes to enable member organizations to alternatively designate an order to route to an away market if the member organization’s order is locked or crossed during the Midday Auction Pause.<sup>20</sup>

<sup>18</sup> 17 CFR 242.604.

<sup>19</sup> See Proposed Rule 124(b)(8). The designation would be “Opt to Cancel”. Resting and arriving orders designated to cancel at the start of the Midday Auction Pause would be cancelled.

<sup>20</sup> See Proposed Rule 124(b)(9). The designation would be “Opt to Route”. The returned quantity of a routed order would also route.

The Exchange also proposes to amend page 29 of the Exhibit 5 to add new subsections (8) and (9) to proposed Rule 124(b) describing the proposed functionality that would enable a member organization to opt out of the Midday Auction on an order-by-order basis:

(8) cancel resting and arriving orders designated to cancel at the start of the Midday Auction Pause; and

(9) route orders designated to route if the order becomes locked or crossed by an away market quote. The returned quantity of a routed order would also route.

As amended, proposed Rule 124(b) would therefore read in its entirety as follows (new text double-underlined, deleted text strike-through):

(b) Midday Auction Pause. At a time specified by the Exchange between 11 a.m. ET and 2 p.m. ET, the Exchange will pause trading in Midday Auction Stocks on the Exchange for five minutes by suspending automatic executions and publishing a zero quote. During the Midday Auction Pause, the Exchange will take the following actions:

(1) maintain resting orders on the Exchange's book that are eligible to participate in the Midday Auction;

(2) accept new orders that are eligible to participate in the Midday Auction, including Market-on-Open ("MOO") and Limit-on-Open ("LOO") Orders;

(3) cancel resting and arriving Non-Displayed Reserve Orders and Non-Display Reserve e-Quotes, which are not eligible to participate in the Midday Auction;

(4) accept and process cancellations of new and resting orders;

~~(4)~~(5) continue to re-price sell short orders, including MOO and LOO orders, consistent with Rule 440B(e);

~~(5)~~(6) continue to re-price and/or cancel orders eligible to participate in the Midday Auction, including MOO and LOO Orders, consistent with Rule 80C(a)(5); and

~~(6)~~(7) publish Order Imbalance Information, as defined in Rule 15(c), approximately every five seconds until the Midday Auction Stock re-opens;

(8) cancel resting and arriving orders designated to cancel at the start of the Midday Auction Pause; and

(9) route orders designated to route if the order becomes locked or crossed by an away market quote. The returned quantity of a routed order would also route.

Finally, the Exchange proposes to add the following sentence to the end of the third full paragraph on page 9 of the statutory basis section of the Filing (the partial paragraph at the top of page 23 of the Exhibit 1):

In addition, the proposed Midday Auction Pause would assist member organizations in meeting both their obligation to comply with the Limit Order Display Rule and their best execution requirements on behalf of customers by enabling firms to designate orders to cancel at the beginning of the Midday Auction Pause or route to away markets if an order



becomes locked/crossed during the Midday Auction Pause.

**5. The Exchange proposes to amend pages 7 and 10 of the Filing (pages 18-19 and 24 of the Exhibit 1) and page 29 of the Exhibit 5.**

The Exchange proposes to add the following text and accompanying footnote in the partial paragraph at the top of page 7 of the Filing (the last partial paragraph on page 18 and the first partial paragraph on page 19 of the Exhibit 1) describing the Exchange's proposal to prevent the Midday Auction from executing at a price outside of the LULD Price Bands, as provided for in Rule 80C(a)(4), or the Trading Collars, as provided for in Rule 1000(c), whichever is lower (for a buy imbalance) or higher (for a sell imbalance):

Rule 80C(a)(4), or the Trading Collars, as provided for in Rule 1000(c), whichever is lower (for a buy imbalance) or higher (for a sell imbalance).<sup>20</sup> Although the LULD Plan provides that reopenings are not subject to the Plan,<sup>21</sup> the Exchange believes that because trading in Midday Auction Stocks would be continuing on other markets, the Midday Auction should execute consistent with the Price Bands in effect at the time of the Midday Auction. As noted above, to facilitate a Midday Auction priced consistent with the LULD Price Bands, the Exchange would be re-pricing both market and limit interest that is eligible to participate in the Midday Auction. Similarly, because Trading Collars provided for in Rule 1000(c) are based on the current numerical guidelines for determining whether a clearly erroneous execution has occurred and are designed to reduce the risk of, and to potentially prevent, automatic executions at prices that may be considered clearly erroneous,<sup>22</sup> the Exchange believes that the Midday Auction should execute consistent with the Trading Collar in order to mitigate the risk of executions at prices that are too far away from the prevailing price of a security. The Exchange believes that executions consistent with the more restrictive of these two parameters would further ensure that the Midday Auction would not be priced outside of established parameters for trading in a security at a given time.

<sup>22</sup> See Securities Act Release No. 74063 (January 15, 2015), 80 FR 3269, 3270 (January 22, 2015) (SR-NYSE-2015-01); Rule 128(c)(1).

To further effectuate this change, the Exchange proposes to amend page 29 of the Exhibit 5 to add the following text to proposed Rule 124(c)(2) describing the proposed additional parameter for a Midday Auction execution:

(2) The Midday Auction will not execute at a price outside of the Price Bands, as provided for in Rule 80C(a)(4), or the Trading Collars, as provided for in Rule 1000(c)(i), whichever is lower (for a buy imbalance) or higher (for a sell imbalance).

Finally, the Exchange proposes to amend the first full paragraph on page 10 of the statutory basis section of the Filing (the first full paragraph of page 24 of the Exhibit 1) as follows:

The Exchange also believes that the proposal to price a Midday Auction consistent with the lower (for a buy imbalance) or higher (for a sell imbalance) of the LULD price bands in effect at the time of the auction and the Trading Collars would perfect the mechanism of a free and open market and national market system because it would assure that the Midday Auction would not be priced outside of [the] established parameters for trading in that security at a given time. In particular, because trading in a Midday Auction Stock would be paused only on the Exchange, the Exchange believes it is appropriate to maintain deference to the prices that are occurring on other markets and price the Midday Auction consistent with the Price Bands. Similarly, the Exchange believes it is appropriate to prevent the Midday Auction from executing at prices that are too far away from the prevailing price of a security and therefore might constitute a clearly erroneous execution.

**6. The Exchange proposes to amend footnote 20 on page 7 of the Filing (footnote 21 on page 18 of the Exhibit 1) and amend page 8 of the Filing (page 20 of the Exhibit 1).**

The Exchange proposes to delete the second sentence in footnote 20 on page 7 of the Filing (footnote 21 of the Exhibit 1) in its entirety.

<sup>20</sup> See Proposed Rule 124(c)(2).[ The Exchange will be submitting separately a request for exemptive relief pursuant to Rule 611(d) of Regulation NMS that the Midday Auction be exempted from the requirements of Rule 611 of Regulation NMS, 17 CFR 242.600 et seq., because it operates, in substance, in the same way as a single-priced reopening transaction, which is an existing exception to the Order Protection Rule under Rule 611(b)(3).]

The Exchange proposes to add the following text and accompanying footnote before the first full paragraph on page 8 of the Filing (page 20 of the Exhibit 1):

The Exchange believes that the exception from the Order Protection Rule in Exchange Act Rule 611(b)(3) would apply to the single-priced trade at the conclusion of the Midday Auction conducted pursuant to Rule 124. Rule 611 under Regulation NMS requires a trading center to have policies and procedures reasonably designed to prevent trade-throughs on that trading center of protected quotations in NMS stocks, unless, among other reasons, the transaction was a single-priced opening, reopening, or closing transaction by the trading center. A trading center relying on such an exception is required to have policies and procedures reasonably designed to assure compliance with the terms of the exception. The Commission stated that “[t]he exception for single-priced reopenings [in paragraph (b)(3)] will only apply to single-priced reopening transactions after a trading halt conducted pursuant to a trading center rule. To

qualify, the reopening process must be transparent and provide for the queuing and ultimate execution of multiple orders at a single equilibrium price.”<sup>26</sup>

As discussed in the filing, the Midday Auction is proposed to be a reopening auction in a symbol that has been halted or paused and would be conducted in the same manner as Rule 123D (Openings and Halts in Trading) reopenings. At the end of the Midday Auction Pause, the Exchange would conduct the Midday Auction by reopening the Midday Auction Stocks at a single equilibrium price. The reopening process for the Midday Auction would also follow existing procedures for reopenings because the DMM would be responsible for conducting the auction, and would have market obligations to facilitate the auction that are no different from the DMM obligations relating to facilitating a reopening following a trading halt or trading pause. Accordingly, the Exchange believes that the single-priced trade at the conclusion of the Midday Auction is a single-priced reopening transaction after a trading halt conducted pursuant to Exchange rules and would be excepted under paragraph (b)(3) of Rule 611 under Regulation NMS from the trade-through requirements under Rule 611.

<sup>26</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 at 37537 (June 29, 2005) (“Regulation NMS Adopting Release”).

**7. The Exchange proposes to amend page 8 of the Filing (page 20 of the Exhibit 1) and page 30 of the Exhibit 5.**

The Exchange proposes a non-substantive amendment to amend the first sentence in the partial paragraph on the top of page 8 of the Filing (the last sentence in the partial paragraph on the top of page 20 of the Exhibit 1) to replace the reference to proposed Rule 124(b)(6) with references to proposed Rule 124(b)(5) and (6), as follows:

In such case, the reopening would not be subject to the LULD Price Bands, and as proposed, orders re-priced pursuant to proposed Rule 124(b)(~~6~~)5 and (6) would be re-filed according to the original order instructions and the security would be reopened pursuant to the procedures set forth in Rule 123D.

To further effectuate this change, the Exchange proposes to amend page 30 of the Exhibit 5 to add the following text to subsection (e) of proposed Rule 124 to replace the cross-reference to proposed Rule 124(b)(6) with references to proposed Rule 124(b)(5) and (6):

(e) If there is a significant imbalance in a Midday Auction Stock at the end of the Midday Auction Pause, with the approval of a Floor Governor or two Floor Officials, the Midday Auction Pause may be converted to an order imbalance halt. If a Midday Auction Pause is converted to an order imbalance halt, orders re-priced pursuant to section (b)(~~6~~)5 and (6) of this Rule will be re-filed according to the original instructions of the order and the security will be reopened pursuant to the procedures set forth in Rule 123D.

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All other representations in the Filing remain as stated therein and no other changes are being made.

Additions: Underlined

Deletions: [Bracketed]

Marked Additions: Double-underlined

Marked Deletions: ~~Strikethrough~~

## Rules of New York Stock Exchange LLC

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### **Rule 104. Dealings and Responsibilities of DMMs**

**This version of Rule 104 is operative no later than five weeks after the approval by the Securities and Exchange Commission of SR-NYSE-2008-46**

The provisions of this rule shall be in effect during a Pilot set to end on July 31, 2015.

(a) DMMs registered in one or more securities traded on the Exchange must engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. The responsibilities and duties of a DMM specifically include, but are not limited to, the following:

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- (2) Facilitate openings and reopenings, including the Midday Auction, for each of the securities in which the DMM is registered as required under Exchange rules. This may include supplying liquidity as needed. (See Rule 123D for additional responsibilities of DMMs with respect to openings and Rule 13 with respect to Reserve Order interest procedures at the opening.) DMM and DMM unit algorithms will have access to aggregate order information in order to comply with this requirement. (See Supplementary Material .05 of this 104 with respect to odd-lot order information to the DMM unit algorithm.)

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### **Rule 124. [Reserved] Midday Auction**

[Reserved]

(a) The Exchange will conduct a Midday Auction in Exchange-listed securities that have a consolidated average daily trading volume of 1,000,000 shares or less and have been designated by the Exchange (“Midday Auction Stocks”), as specified below.

- (1) The Exchange will update the list of Midday Auction Stocks at least quarterly.

(2) The Exchange will not conduct a Midday Auction on trading days on which the Exchange is scheduled to close before 4:00 p.m. ET or if the stock is halted, paused, suspended, or not opened for trading at the time of the Midday Auction.

(3) The Exchange will conduct one Midday Auction in each Midday Auction Stock per trading day.

(b) Midday Auction Pause. At a time specified by the Exchange between 11 a.m. ET and 2 p.m. ET, the Exchange will pause trading in Midday Auction Stocks on the Exchange for five minutes by suspending automatic executions and publishing a zero quote. During the Midday Auction Pause, the Exchange will take the following actions:

(1) maintain resting orders on the Exchange's book that are eligible to participate in the Midday Auction;

(2) accept new orders that are eligible to participate in the Midday Auction, including Market-on-Open ("MOO") and Limit-on-Open ("LOO") Orders;

(3) cancel resting and arriving Non-Displayed Reserve Orders and Non-Display Reserve e-Quotes, which are not eligible to participate in the Midday Auction;

(4) accept and process cancellations of new and resting orders;

~~(4)~~(5) continue to re-price sell short orders, including MOO and LOO orders, consistent with Rule 440B(e);

~~(5)~~(6) continue to re-price and/or cancel orders eligible to participate in the Midday Auction, including MOO and LOO Orders, consistent with Rule 80C(a)(5); and

~~(6)~~(7) publish Order Imbalance Information, as defined in Rule 15(c), approximately every five seconds until the Midday Auction Stock re-opens;

(8) cancel resting and arriving orders designated to cancel at the start of the Midday Auction Pause; and

(9) route orders designated to route if the order becomes locked or crossed by an away market quote. The returned quantity of a routed order would also route.

(c) At the end of the Midday Auction Pause, the Exchange will conduct the Midday Auction by re-opening the Midday Auction Stocks at a single price in the same manner as in Rule 123D for reopenings, with the following exceptions:

(1) Indications may be published to the Consolidated Tape during a Midday Auction Pause. Prior Floor Official approval is not required before publishing an indication. If an indication is published, it does not need to be updated before the

Midday Auction and the Midday Auction may occur outside of any prior indication. A Midday Auction is not subject to the requirements that (i) a minimum of three minutes must elapse between the first indication and the Midday Auction, or (ii) if more than one indication is published, a minimum of one minute must elapse before the Midday Auction; and

(2) The Midday Auction will not execute at a price outside of the Price Bands, as provided for in Rule 80C(a)(4), or the Trading Collars, as provided for in Rule 1000(c)(i), whichever is lower (for a buy imbalance) or higher (for a sell imbalance).

(d) Orders will participate in the Midday Auction in the same manner that such orders would participate in openings or reopenings. Orders that are not eligible to participate in openings or reopenings pursuant to Exchange rules will not participate in the Midday Auction.

(e) If there is a significant imbalance in a Midday Auction Stock at the end of the Midday Auction Pause, with the approval of a Floor Governor or two Floor Officials, the Midday Auction Pause may be converted to an order imbalance halt. If a Midday Auction Pause is converted to an order imbalance halt, orders re-priced pursuant to section (b)(46) and (5) of this Rule will be re-filed according to the original instructions of the order and the security will be reopened pursuant to the procedures set forth in Rule 123D.

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**EXHIBIT 5**

Additions underlined  
Deletions [bracketed]

Rules of New York Stock Exchange LLC

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**Rule 104. Dealings and Responsibilities of DMMs**

**This version of Rule 104 is operative no later than five weeks after the approval by the Securities and Exchange Commission of SR-NYSE-2008-46**

The provisions of this rule shall be in effect during a Pilot set to end on July 31, 2015.

(a) DMMs registered in one or more securities traded on the Exchange must engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. The responsibilities and duties of a DMM specifically include, but are not limited to, the following:

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(2) Facilitate openings and reopenings, including the Midday Auction, for each of the securities in which the DMM is registered as required under Exchange rules. This may include supplying liquidity as needed. (See Rule 123D for additional responsibilities of DMMs with respect to openings and Rule 13 with respect to Reserve Order interest procedures at the opening.) DMM and DMM unit algorithms will have access to aggregate order information in order to comply with this requirement. (See Supplementary Material .05 of this 104 with respect to odd-lot order information to the DMM unit algorithm.)

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**Rule 124. [Reserved] Midday Auction**

[Reserved]

(a) The Exchange will conduct a Midday Auction in Exchange-listed securities that have a consolidated average daily trading volume of 1,000,000 shares or less and have been designated by the Exchange (“Midday Auction Stocks”), as specified below.

(1) The Exchange will update the list of Midday Auction Stocks at least quarterly.



(2) The Exchange will not conduct a Midday Auction on trading days on which the Exchange is scheduled to close before 4:00 p.m. ET or if the stock is halted, paused, suspended, or not opened for trading at the time of the Midday Auction.

(3) The Exchange will conduct one Midday Auction in each Midday Auction Stock per trading day.

(b) Midday Auction Pause. At a time specified by the Exchange between 11 a.m. ET and 2 p.m. ET, the Exchange will pause trading in Midday Auction Stocks on the Exchange for five minutes by suspending automatic executions and publishing a zero quote. During the Midday Auction Pause, the Exchange will take the following actions:

(1) maintain resting orders on the Exchange's book that are eligible to participate in the Midday Auction;

(2) accept new orders that are eligible to participate in the Midday Auction, including Market-on-Open ("MOO") and Limit-on-Open ("LOO") Orders;

(3) cancel resting and arriving Non-Displayed Reserve Orders and Non-Display Reserve e-Quotes, which are not eligible to participate in the Midday Auction;

(4) accept and process cancellations of new and resting orders;

~~(4)~~(5) continue to re-price sell short orders, including MOO and LOO orders, consistent with Rule 440B(e);

~~(5)~~(6) continue to re-price and/or cancel orders eligible to participate in the Midday Auction, including MOO and LOO Orders, consistent with Rule 80C(a)(5); and

~~(6)~~(7) publish Order Imbalance Information, as defined in Rule 15(c), approximately every five seconds until the Midday Auction Stock re-opens;

(8) cancel resting and arriving orders designated to cancel at the start of the Midday Auction Pause; and

(9) route orders designated to route if the order becomes locked or crossed by an away market quote. The returned quantity of a routed order would also route.

(c) At the end of the Midday Auction Pause, the Exchange will conduct the Midday Auction by re-opening the Midday Auction Stocks at a single price in the same manner as in Rule 123D for reopenings, with the following exceptions:

(1) Indications may be published to the Consolidated Tape during a Midday Auction Pause. Prior Floor Official approval is not required before publishing an indication. If an indication is published, it does not need to be updated before the

Midday Auction and the Midday Auction may occur outside of any prior indication. A Midday Auction is not subject to the requirements that (i) a minimum of three minutes must elapse between the first indication and the Midday Auction, or (ii) if more than one indication is published, a minimum of one minute must elapse before the Midday Auction; and

(2) The Midday Auction will not execute at a price outside of the Price Bands, as provided for in Rule 80C(a)(4), or the Trading Collars, as provided for in Rule 1000(c)(i), whichever is lower (for a buy imbalance) or higher (for a sell imbalance).

(d) Orders will participate in the Midday Auction in the same manner that such orders would participate in openings or reopenings. Orders that are not eligible to participate in openings or reopenings pursuant to Exchange rules will not participate in the Midday Auction.

(e) If there is a significant imbalance in a Midday Auction Stock at the end of the Midday Auction Pause, with the approval of a Floor Governor or two Floor Officials, the Midday Auction Pause may be converted to an order imbalance halt. If a Midday Auction Pause is converted to an order imbalance halt, orders re-priced pursuant to section (b)(4) and (5) of this Rule will be re-filed according to the original instructions of the order and the security will be reopened pursuant to the procedures set forth in Rule 123D.

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