



DIVISION OF  
TRADING AND MARKETS

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

February 3, 2010

Daniel M. Labovitz  
Vice President  
Office of General Counsel  
NYSE Regulation  
20 Broad St.  
New York, NY 10005

Re: NYSE Request for Interpretive Guidance under Rule 10b-18  
TP File No. 10-01

Dear Mr. Labovitz:

In your letter dated February 3, 2010, you request on behalf of the New York Stock Exchange LLC (“NYSE”) and NYSE Amex LLC (“NYSE Amex”) interpretive advice regarding the price provision of Rule 10b-18 under the Securities Exchange Act of 1934 (“Exchange Act”) in connection with the use of pegging e-Quotes by Floor brokers on the NYSE<sup>1</sup> to effect issuer repurchases in the manner set forth in your letter. We have attached a copy of your letter to avoid reciting the facts that it presents. Unless otherwise noted, each defined term in this letter has the same meaning as in your letter.

In your letter, you make the following representations:

The NYSE makes available to Floor brokers a bid/offer functionality known as a “pegging e-Quote,” which allows the Floor brokers to automatically maintain their electronic bid (offer) at the National best bid (offer) (“NBBO”) as the National published quotes moves. Because the speed of trading and flickering of quotes in certain issuers’ stocks can make it difficult to manually execute issuer repurchase orders in those stocks within Rule 10b-18’s price provision,<sup>2</sup> the Floor brokers on the NYSE have proposed to use pegging e-Quotes to enter and execute company orders. As a consequence, you request interpretive advice regarding the application of Rule 10b-18’s price provision to issuer repurchases effected by Floor brokers on the NYSE using pegging e-Quotes. In support of your belief that use of pegging e-Quotes are an appropriate means of staying within the safe harbor price provision, you state the following:

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<sup>1</sup> For purposes of this response, the term “NYSE” includes NYSE Amex.

<sup>2</sup> Rule 10b-18(b)(3)(i).

- Pegging e-Quotes are reactive; they do not become active until there is another, independent order at the National best bid. They do not establish the National best bid, nor do they become the National best bid when no other independent interest is at that price;
- Pegging e-Quotes can peg only to other non-pegging displayed interest within the pegging range selected by the Floor broker. A pegging e-Quote cannot peg to another pegging e-Quote. Also, a pegging e-Quote can itself be undisplayed, but cannot peg to undisplayed interest;
- The execution resulting from a pegging e-Quote will never exceed the highest independent bid quoted or reported in the Consolidated Quotation System. The pegging e-Quote can only join the highest independent bid quoted by the NYSE or by another market, and cannot ever bid at a higher price than the highest independent bid.<sup>3</sup>

*Response:*

Under Rule 10b-18(b)(3)(i), Rule 10b-18 purchases must be effected at a purchase price that does not exceed the highest independent bid or the last independent transaction price, whichever is higher, quoted or reported in the consolidated system at the time the Rule 10b-18 purchase is effected.<sup>4</sup>

On the basis of your representations and the facts presented, but without necessarily concurring in your analysis, the Division of Trading and Markets (“Division”) hereby confirms that using pegging e-Quotes to effect Rule 10b-18 purchases, as described in your letter, would enable Floor brokers to stay within the safe harbor price provision in Rule 10b-18(b)(3)(i), provided that the Rule 10b-18 purchase is effected at a purchase price that does not exceed the highest independent bid or the last independent transaction price, whichever is higher, quoted or reported in the consolidated system at the time the Rule 10b-18 purchase is effected.

We note that Rule 10b-18’s price provisions require an *independent* reference price that has not been set or influenced by the issuer (or by the Floor broker effecting purchases on behalf of an issuer), but instead is based on independent market prices. We also note that, regardless of whether an issuer’s repurchases technically satisfy the

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<sup>3</sup> Thus, an e-Quote pegged to the National best bid will be executed only if there is independent interest at the same time at the National best bid.

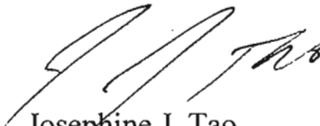
<sup>4</sup> 17 CFR 240.10b-18(b)(3)(i). Rule 10b-18(a) defines “consolidated system” as a consolidated transaction or quotation reporting system that collects and publicly disseminates on a current and continuous basis transaction or quotation information in common equity securities pursuant to an effective transaction reporting plan or an effective national market system plan (as those terms are defined in 17 CFR 242.600).

conditions of Rule 10b-18, the safe harbor is not available if the repurchases are fraudulent or manipulative, when viewed in the totality of the facts and circumstances surrounding the repurchases (*i.e.*, facts and circumstances in addition to the volume, price, time, and manner of the repurchases).

The foregoing interpretation under Rule 10b-18 is based solely on your representations and the facts presented, and is strictly limited to the application of Rule 10b-18 to the proposed transactions using pegging e-Quotes as described in your letter. Reliance on this interpretation should be discontinued, pending presentation of the facts for our consideration, in the event that any material change occurs with respect to any of those facts or representations. This interpretation may be withdrawn or modified at any time if the Securities and Exchange Commission or the Division determines 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 federal securities laws.

In addition, your attention is directed to the anti-fraud and anti-manipulation provisions of the federal securities laws, including Sections 9(a)(2) and 10(b) of the Exchange Act, and Rule 10b-5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the participants in the above transactions. The Division expresses no view with respect to any other questions that the proposed transactions may raise, including, but not limited to, the applicability of any other federal or state laws to the proposed transactions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. J. Tao', is written over a horizontal line.

Josephine J. Tao  
Assistant Director

Attachment



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2010 FEB 16 AM 9:46  
SEC / TM

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February 3, 2010

Ms. Josephine Tao  
Assistant Director  
Securities and Exchange Commission  
Division of Trading and Markets  
100 F Street, NE  
Washington, D.C. 20549-1090

Dear Ms. Tao:

The New York Stock Exchange LLC (“NYSE”) and NYSE Amex LLC request interpretive advice from the Division of Trading and Markets, Securities and Exchange Commission (“Commission” or “SEC”) regarding the price provision of Rule 10b-18 under the Securities Exchange Act of 1934, as amended (“Exchange Act”) in connection with the use of pegging e-Quotes, as described in this letter, by Floor brokers on the NYSE.<sup>1</sup>

NYSE Floor brokers have brought to our attention the following concern: in an electronic market, the speed of trading and flickering of quotes in certain issuers’ stocks can make it difficult to execute company share repurchase trades in those stocks that are within the price provision of the safe harbor in Exchange Act Rule 10b-18. As a result, brokers who attempt to manually execute company orders run the risk that they will execute trades at prices outside the safe harbor price provisions (and therefore outside their customers’ order instructions). As you know, Rule 10b-18 states that a transaction is within the price provision of the safe harbor provided that the execution price does not “exceed the highest independent bid or the last independent transaction price, whichever is higher, quoted or reported in the consolidated system at the time the Rule 10b-18 purchase is effected” (Exch. Act. Rule 10b-18(b)(3)(i)).

The NYSE makes available to Floor brokers a bid/offer functionality known as a “pegging e-Quote”, which allows them to automatically maintain their electronic bid (offer) at the National best bid (offer) (NBBO) as the National published quote moves. (NYSE Rule 70.26) The Floor brokers have proposed to use this functionality to enter and execute company orders.

The Floor brokers believe (and the Exchange concurs) that pegging e-Quotes are an appropriate means of staying within the safe harbor provisions for price. In support of that conclusion, we note the following salient points regarding pegging e-Quotes:

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<sup>1</sup> Floor brokers’ use of pegging e-Quotes is governed by NYSE and NYSE Amex Equities Rules 70.26, which are identical. For ease of discussion in this request, the term “NYSE” includes NYSE Amex.

- Pegging e-Quotes are reactive. This means that pegging e-Quotes on the bid side do not become active until there is another, independent order at National best bid.<sup>2</sup> They do not establish the National best bid, nor do they become the National best bid when no other independent interest is at that price.<sup>3</sup>
- Pegging e-Quotes can peg only to other non-pegging displayed interest within the pegging range selected by the Floor broker. A pegging e-Quote cannot peg to another pegging e-Quote (although multiple pegging e-Quotes can peg to a single non-pegging bid). Also, a pegging e-Quote can itself be undisplayed, but cannot peg to undisplayed interest.

Because the execution resulting from a pegging e-Quote will never exceed the highest independent bid quoted or reported in the Consolidated Quotation System, we believe that it is an appropriate tool for complying with the safe harbor provisions of Rule 10b-18 for price. What is more, as noted above, the pegging e-Quote can only join the highest independent bid quoted by the NYSE or by another market, and cannot ever bid at a price higher than the highest independent bid.

The NYSE respectfully requests that the Division of Trading and Markets confirm our understanding that pegging e-Quotes would thus enable Floor brokers to stay within the 10b-18 safe harbor for price.

Thank you for your consideration. Please call me with any questions.

Sincerely,



Daniel M. Labovitz

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<sup>2</sup> This is true at the offer as well, but for purposes of this letter, only the functionality on the bid side is relevant, since company buy-back orders are necessarily orders to buy.

<sup>3</sup> This is the case except in the very limited circumstance (which is within the broker's control) where (i) a company buy-back order is filed at a price below the National then-existing best bid but uses its automated ability to peg to the National best bid, (ii) all other interest at the National best bid cancels, (iii) there is no intervening interest between the e-Quote's filed price and the bid price that was established by the cancelled bid and (iv) the broker's filed price for his buy-back order is itself outside the price provision of the safe harbor in that, if executed, it would establish a new high price for the day. If all four conditions were present, the e-Quote would become the best bid at its filed price (that is, without pegging to an independent bid) and would therefore be outside the price provision of the safe harbor. The NYSE recognizes that the scenario described above would not comply with the safe harbor provisions of Rule 10b-18 and, therefore, the NYSE is not seeking interpretive guidance with respect to this scenario.

## Rule 70. Execution of Floor Broker Interest

### (a)

(i) With respect to orders he is representing on the Floor, a Floor broker may place within the Display Book® system broker agency interest files (also referred to as e-Quotes<sup>SM</sup>) at multiple price points on both sides of the market at, or outside the Exchange BBO with respect to each security trading in the location(s) comprising the Crowd such Floor broker is a part of with respect to orders he or she is representing on the Floor, except that the agency interest files shall not include unelected stop orders.

(ii) The requirement that a Floor broker be in the Crowd in order to have agency interest files does not apply to orders governed by Section 11(a)(1)(G) of the Securities Exchange Act of 1934 ( "G" orders, also referred to as G-Quotes, when submitted as a Floor broker agency interest file).

### (b)

(i) Floor broker agency interest placed within files in the Display Book® system shall become part of the quotation when it is at or becomes the Exchange BBO and shall be executed in accordance with Exchange Rule 72. Floor broker agency interest placed within files shall be automatically executed, in accordance with, and to the extent provided by, Exchange Rules 1000-1004.

(ii) A Floor broker shall have the ability to maintain undisplayed reserve interest consistent with Exchange rules governing Reserve Orders. Such reserve interest is eligible for execution in manual transactions.

(iii) If an execution involving a Floor broker's agency interest at the Exchange BBO does not exhaust the broker's interest at that price, the displayed interest will be automatically replenished from his or her reserve interest, if any, so that at least one round-lot of the broker's interest is displayed consistent with Exchange rules governing Reserve Orders.

(c) A Floor broker may trade on behalf of his or her orders as part of the Crowd at the same price and on the same side of the market as his or her agency interest placed within files only to the extent that the volume traded in the Crowd is not included in the agency interest files.

(d) A Floor broker's agency interest files must be cancelled when he or she leaves the Crowd, except that a Floor broker may leave the Crowd without canceling his or her agency interest files to recharge his or her handheld device. In addition, Floor brokers may leave the Crowd without canceling his or her agency interest files to obtain "market looks" in securities located at panels that are part of another Crowd. Failure to adhere to these provisions is a violation of Exchange rules. The Floor broker shall be held to all executions involving his or her agency interest files.

(e) The aggregate number of shares of agency interest in the files at each price shall be made available to the DMM. A Floor broker has discretion to exclude all of his or her agency interest, subject to the provisions below, from the aggregated agency interest information available to the DMM consistent with Exchange rules governing Reserve Orders.

(f)(i) Floor broker agency interest excluded from the aggregated agency interest information available to the DMM is able to participate in automatic executions and not in manual executions.



(ii) Floor broker agency interest that is not excluded from the aggregated agency interest information available to the DMM is able to participate in automatic executions and in manual executions.

(g) The Floor broker is the executing broker for transactions involving his or her agency interest files.

(h)

(i) Floor broker agency interest placed within files may participate in the opening and closing trades in accordance with Exchange policies and procedures governing the open.

(ii) Floor broker agency interest may be placed within files prior to the opening trade, regardless of the Floor broker's location on the Floor, provided they have complied with the requirements of Rule 123(e). However, Floor brokers must be in the Crowd at the open in order to participate in the opening trade and any agency interest entered prior to the open in securities that are not part of such Crowd must be cancelled before the open.

(i) The ability of a Floor broker to have reserve interest will be available during the open and during the close. The ability of a Floor broker to exclude volume from aggregated agency interest information available to the DMM will not be available during the open and the close. Floor broker agency interest will not be excluded from the aggregate agency interest information available to the DMM during a manual execution.

(j) Nothing in this rule shall be interpreted as modifying or relieving the Floor broker from his or her agency obligations and required compliance with all SEC and Exchange rules, policies and procedures.

• • • **Supplementary Material:** -----

**.25 Discretionary Instructions for Bids and Offers Represented via Floor Broker Agency Interest Files (e-Quotes <sup>SM</sup>)**

(a)

(i) A Floor broker may enter discretionary instructions as to size and/or price with respect to his or her e-Quotes ("discretionary e-Quotes" or "d-Quotes"). The discretionary instructions relate to the price at which the d-Quote may trade and the number of shares to which the discretionary price instructions apply.

(ii) Discretionary instructions are active at all times during the trading day and at the opening and closing transactions. Executions of d-Quotes within the discretionary pricing instruction range are considered non-displayable interest for purposes of Rule 72.

(iv) Discretionary instructions will be applied only if all d-Quoting prerequisites are met. Otherwise, the d-Quote will be handled as a regular e-Quote, notwithstanding the fact that the Floor broker has designated the e-Quote as a d-Quote. For example, to be considered a discretionary e-Quote, an e-Quote must have a discretionary price range.



(v) The requirements for e-Quotes apply to d-Quotes, including the requirement that the Floor broker be in the Crowd.

(vi) A Floor broker may have multiple d-Quotes, with different discretionary price and size limitations, on the same side of the market. Except as provided for in Rule 70.25(d)(ii), such multiple d-Quotes do not compete with each other for executions. Trading volume is allocated by Floor broker, not number of d-Quotes participating in an execution.

(vii) Discretionary instructions apply to both displayed and reserve interest, including reserve interest that is excluded from the aggregate reserve size visible to the DMM on the Floor.

(viii) Neither the DMM on the Floor nor the DMM unit's system employing algorithms will have access to the discretionary instructions entered by Floor brokers with respect to their e-Quotes.

**(b) Price Discretion**

(i) A Floor broker may set a discretionary price range specifies the prices at which the Floor broker is willing to trade. This discretion will be used, as necessary, to initiate or participate in a trade with interest capable of trading at a price within the discretionary price range.

(ii) The minimum price range for a discretionary e-Quote is the minimum price variation set forth in Exchange Rule 62.

(iii) Floor brokers may specify that price discretion applies to all or only a portion of their d-Quote. Price discretion is necessary for d-Quotes. Therefore, if price discretion is provided for only a portion of the d-Quote, the residual will be treated as an e-Quote.

(iv) When price discretion is used, d-Quotes trade first from reserve volume, if any, and then from displayed volume.

**(c) Discretionary Size**

(i) A Floor broker may designate the amount of his or her e-Quote volume to which discretionary price instructions shall apply.

(ii) A Floor broker may designate a minimum and/or maximum size of contra-side volume with which it is willing to trade using discretionary price instructions.

(iii) All available contra-side interest at a possible execution price of the d-Quote will be used by Exchange systems to determine whether the size of contra-side volume is within the d-Quote's discretionary size range.

(iv) Interest displayed by other market centers at the price at which a d-Quote may trade will not be considered by Exchange systems when determining if the d-Quote's minimum and/or maximum size range is met, unless the Floor broker designates that such away volume should be included in this determination.



(v) An increase or reduction in the size associated with a particular price that brings the contra-side volume within a d-Quote's minimum or maximum discretionary size parameter, will trigger an execution of that d-Quote.

(vi) Once the total amount of a Floor broker's discretionary volume has been executed, the d-Quote's discretionary price instructions will become inactive and the remainder of that d-Quote will be treated as an e-Quote.

**(d) Minimum Trade Size**

(i) A Floor broker may designate a minimum trade size ("MTS") that must be met before the d-Quote is executed. If the MTS cannot be met by contra-side interest in Exchange systems, the d-Quote will not participate in an execution. MTS instructions are not active at the open and close.

(ii) A d-Quote with an MTS instruction may compete with other d-Quotes on the same side of the market from the same Floor broker. If the d-Quote with the MTS instruction has a more aggressive range of price discretion than the competing d-Quotes, the d-Quote with the MTS designation will be executed to meet the MTS. If the price will not be improved by the d-Quote with the MTS instruction and the MTS cannot be met, the d-Quote with the MTS instruction will not participate.

**(e) Executions of Discretionary e-Quotes**

(i) A d-Quote will use its discretion as described below. In so doing, a d-Quote may improve the execution price of incoming orders.

(A) A d-Quote with discretionary pricing instructions above the best bid if a buy order or below the best offer if a sell order will seek to secure the largest execution for the d-Quote using the least amount of price discretion to exercise at or above the bid if a buy order or at or below the best offer if a sell order.

(B) A d-Quote with discretionary pricing instructions equal to or less than the best bid if a buy order or equal to or greater than the best offer if a sell order will extend to its maximum discretion.

(ii) Discretionary e-Quotes will automatically execute against contra-side interest in Exchange systems if the contra-side interest's price is within the discretionary price range and the interest's size meets any minimum or maximum size requirements of MTS that have been set for the d-Quote.

(iii) Discretionary e-Quotes from different Floor brokers on the same side of the market with the same price instructions trade on parity subject to Rule 72.

(iv) Same-side d-Quotes from different Floor brokers compete for an execution, with the most aggressive price range (e.g. three cents vs. two cents) establishing the execution price. If an incoming order remains unfilled at that price, executions within the less aggressive price range may then occur.

(v) Discretionary e-Quotes from Floor brokers on opposite sides of the market will be able to trade with each other. The d-Quote that arrived at the Display Book® system last will use the most discretion necessary to effect a trade, except as provided below.



**(A)** When a protected bid or offer, as defined in Section 242.600(b)(57) of Regulation NMS ("Reg. NMS"), is published by another market center at a price that is better than the price at which contra-side d-Quotes would trade in accordance with (v) above, the following applies:

**(1)** the amount of discretion necessary to permit a trade on the Exchange consistent with the Order Protection Rule (Section 242.611 of Reg. NMS) ("OPR") will be used; or

**(2)** such portion of the appropriate d-Quote as is necessary will be automatically routed in accordance with OPR in order to permit a trade to occur on the Exchange.

**(vi)** As with all executions on the Exchange, executions involving d-Quotes will comply with OPR.

**(vii)** Discretionary e-Quotes may provide price improvement to and trade with an incoming contra-side DMM algorithmic trading message to "hit bid/take offer," just as they can with any other marketable incoming interest.

**(viii)** Discretionary e-Quotes may initiate sweeps in accordance with and to the extent provided by Exchange Rules 1000- 1004, but only to the extent of their price and volume discretion. Discretionary e-Quotes may participate in sweeps initiated by other orders but, in such cases, their discretionary instructions are not active.

**(ix)** Discretionary e-Quotes may trade with non-marketable contra-side Reg. NMS-compliant Immediate or Cancel Orders, NYSE Immediate or Cancel Orders and Intermarket Sweep Orders that are within the discretionary range of the d-Quote.

#### **.26 Pegging for d-Quotes and e-Quotes.**

**(i)** An e-Quote, other than a tick-sensitive e-Quote, may be set to provide that it will be available for execution at the National best bid ("NBB") (for an e-Quote that represents a buy order) or at the National best offer ("NBO") (for an e-Quote that represents a sell order) as the National best bid or offer ("NBBO") changes, so long as the NBBO is at or within the e-Quote's limit price.

**(ii)** A d-Quote may also employ pegging.

**(iii)** Pegging is only active when auto-quoting is active.

**(iv)** Pegging e-Quotes and d-Quotes trade on parity with other interest at the NBBO after interest entitled to priority is executed.

**(v)** Pegging is reactive. An e-Quote or d-Quote will not establish the NBBO as a result of pegging.

**(vi)** A pegging e-Quote or d-Quote that sets the Exchange best bid or offer is entitled to priority.

**(vii)** Pegging e-Quotes and d-Quotes peg only to other non-pegging interest within the pegging range selected by the Floor broker.



(viii) An e-Quote or d-Quote will not sustain the NBBO as a result of pegging if there is no other non-pegged interest at that price and such price is not the e-Quote's or d-Quote's limit price.

(A) If the lowest quotable price established by the Floor broker for a pegging e-Quote or d-Quote to buy is the NBB and all other interest at that price cancels or is executed, the pegging e-Quote or d-Quote will remain displayed at that NBB price.

(B) If the highest quotable price established by the Floor broker for a pegging e-Quote or d-Quote to sell is the NBO and all other interest at that price cancels or is executed, the pegging e-Quote or d-Quote will remain displayed at that NBO price.

(ix) A Floor broker may establish a price range for an e-Quote or d-Quote, beyond which the pegging function will not be available ( "quote," "ceiling" and "floor" prices).

(A) The "quote price" is the lowest price to which a buy e-Quote or d-Quote may peg or the highest price to which a sell e-Quote or d-Quote may peg.

(B) The "ceiling price" is the highest price to which a buy-side e-Quote or d-Quote may peg.

(C) The "floor price" is the lowest price to which a sell-side e-Quote or d-Quote may peg.

(D) A quote, ceiling and floor price may be at a price other than the limit price of the order that is being e-Quoted or d-Quoted, but may not be inconsistent with the order's limit.

(x) As long as the NBB is at or within the pegging price range selected by the Floor broker with respect to a buy-side e-Quote or d-Quote, or the NBO is within the price range selected by the Floor broker with respect to a sell-side e-Quote or d-Quote, the pegging e-Quote or d-Quote will join such NBB or NBO as it is auto quoted.

(xi) If the Floor broker does not designate a pegging range, but has instructed that his or her e-Quote or d-Quote shall peg, the e-Quote or d-Quote will peg to the NBBO as long as such bid (offer) is within the limit of the order that is being e-Quoted or d-Quoted.

(xii) As an e-Quote or d-Quote pegs, its discretionary price range, if any, moves along with it, subject to any floor or ceiling price set by the Floor broker.

(A) If the NBB is higher than the ceiling price of a pegging buy-side e-Quote or d-Quote, the e-Quote or d-Quote will remain at its quote price or the highest price at which there is other interest within its pegging price range, whichever is higher (consistent with the limit price of the order underlying the e-Quote or d-Quote).

(B) If the NBO is lower than the floor price of a pegging sell-side e-Quote or d-Quote, the e-Quote or d-Quote will remain at its quote price or the lowest price at which there is other interest within its pegging price range, whichever is lower (consistent with the limit price of the order underlying the e-Quote or d-Quote).

(C) If the NBBO returns to a price within the pegging price range selected by the Floor broker, the e-Quote or d-Quote will once again peg to the NBBO.

(xiii) A Floor broker may establish a minimum and/or maximum size of same-side volume to which his or her e-Quote or d-Quote will peg. Other pegging e-Quote or d-Quote volume will not be considered in determining whether the volume parameters set by the Floor broker have been met.

### **.30 Definition of Crowd.**

The rooms on the Exchange Floor that contain active posts/panels where Floor brokers are able to conduct business constitute the Crowd. A Floor broker will be considered to be in the Crowd if he or she is physically present in one of these rooms.

### **.40 Operation of an NYSE Approved Booth Premise**

(1) A member organization will be permitted to operate within its booth premise on the Floor as described in subparagraph (2) below provided that the member organization has obtained prior approval from NYSE Regulation, Inc. ("NYSE") to operate its booth premise in said manner.

(2) A member organization approved to operate its booth premise pursuant to this rule is permitted, subject to the provisions of subparagraph (3) below, to conduct the same business-related activities for its customer accounts from its booth premise as it is permitted to conduct from its off-Floor or "upstairs" location, including initiating orders and routing orders to Exchange systems and other markets.

(3) Member organizations approved to operate booth premises pursuant to this rule are prohibited from effecting any transaction from its approved booth premises for its own account, the account of an associated person or an account with respect to which it or an associated person thereof exercises investment discretion on the Exchange.

(4) A member organization approved to operate its booth premise pursuant to this rule is subject to the same regulatory requirements governing the conduct of the member organization's off-Floor or "upstairs" office, including but not limited to relevant employee registration and qualification requirements pursuant to Exchange Rule 345 and supervisory responsibilities pursuant to Exchange Rule 342.

(5) Orders originated in or routed through facilities located at such approved booth premises must comply with the relevant order entry requirements of Exchange Rules including Exchange Rules 123 and 132B.

(6) A member organization approved to operate its booth premise pursuant to this rule must adopt and implement comprehensive written procedures and guidelines governing the conduct and supervision of business handled in such booth and staff working in such booth. Further, the member organization must establish a process for regular review of such written procedures and guidelines and compliance therewith.

(7) The written procedures and guidelines, and any changes thereto, referred to in (6) above must be approved by NYSE before implementation.

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**Amended:** April 21, 1955, effective June 1, 1955; June 17, 1991; May 28, 1998; December 14, 2005 (NYSE-2005-87); March 22, 2006 (NYSE-2004-05); September 12, 2006 (NYSE-2006-58); October 5, 2006 (NYSE-2006-36); October 5, 2006 (NYSE-2006-82); November 27, 2006 (NYSE-2006-65); December 1, 2006 (NYSE-2006-76); February 20, 2007 (NYSE-2007-14); June 14, 2007 (NYSE-2007-51); October 2, 2007 (NYSE-2007-93); October 5, 2007 (NYSE-2007-94); April 18, 2008 (NYSE-2008-30); October 24, 2008 (NYSE-2008-46); November 17, 2008 (NYSE-2008-115); December 10, 2008 (NYSE-2008-127); July 7, 2009 (NYSE-2009-55); July 10, 2009 (NYSE-2009-68; November 30, 2009 (NYSE-2009-106).