

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63444; File No. SR-NYSE-2010-74)

December 6, 2010

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to Create a Bond Trading License for Member Organizations and Establish Bonds Liquidity Providers as a New Market Class on NYSE Under a Pilot Program

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on November 23, 2010, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “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 establish a twelve-month pilot program to: (1) create a bond trading license for member organizations that desire to trade only debt securities on the Exchange; and (2) establish a new class of NYSE market participants, “Bonds Liquidity Providers” (“BLPs”). The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE proposes a twelve-month pilot program to: (1) adopt new Rule 87 to create a bond trading license for member organizations that desire to trade only debt securities on the NYSE; and (2) adopt new Rule 88 to establish BLPs, a new class of debt market participants, and provide them with financial incentives for bringing liquidity to the Exchange's bond market. The purpose of the proposed rule change is to encourage market participants to bring additional liquidity to the Exchange's bond marketplace.

Background on the Current NYSE Bond Trading Platform

The Exchange began trading bonds electronically in 1977 with the introduction of the Automated Bond System ("ABS"). In 2007, the Exchange retired the ABS system, moved the platform to its Archipelago technology, and replaced former Rule 86 ("Automated Bond System") with new Rule 86 ("NYSE Bonds").⁴ The Exchange also filed Rules 1400 and 1401, expanding the number of debt issues that could be traded on the exchange. Bonds eligible to trade on the NYSE Bonds platform include any debt instrument that is listed on the NYSE and any corporate debt of a listed company of the Exchange.

Despite these changes, the Exchange has failed to attract meaningful trading volume. The NYSE Bonds platform executes between 0 and 20 trades per day, with an average sized trade of 20 bonds. Currently, there are no incentive programs in place to provide liquidity to

⁴ See Securities Exchange Act Release No. 55496 (March 20, 2007), 72 FR 14631 (March 28, 2007) (SR-NYSE-2006-37).

NYSE Bonds. The Exchange believes that the pilot incentive programs proposed in this filing will attract providers to NYSE Bonds and create more liquidity and transparency in the retail corporate bond market.

Bond Trading License

The Exchange proposes to establish a new bonds-only trading license to encourage more member organizations to trade debt securities on the NYSE.⁵ Currently, an approved member organization may obtain a trading license pursuant to Rule 300, which permits them to trade all debt and equity securities listed on the Exchange. Under proposed Rule 87, a member organization that chooses to trade only bonds, or a new member organization who desires to trade only bonds, could apply for a bond trading license (“BTL”) under proposed Rule 87. A BTL would be available to any approved NYSE member organization. A BTL license would not be transferable and could not, in whole or in part, be transferred, assigned, sublicensed or leased. However, the holder of the BTL could, with the prior written consent of the Exchange, transfer a BTL to a qualified and approved member organization (i) that is an affiliate or (ii) that continues substantially the same business of such BTL holder without regard to the form of the transaction used to achieve such continuation, *e.g.*, merger, sale of substantially all assets, reincorporation, reorganization or the like.

Background on BLPs

The Exchange also proposes to create a new class of market participant, BLPs, which would serve a function similar to the function served by Supplemental Liquidity Providers (“SLPs”) trading equity securities in the Exchange’s New Market Model.⁶ The structure of the

⁵ The NYSE intends to submit a separate fee filing to address the proposed bond trading license.

⁶ See Securities Exchange Act Release No. 58877 (October 29, 2008), 73 FR 65904

corporate bond market consists of thousands of bonds, with liquidity spread inconsistently across many issues. Under proposed Rule 88, the Exchange would provide incentives for quoting and adding liquidity to the bond market via the BLP program. Under a current pilot program, bond platform participants are only charged a graduated fee for liquidity taking transactions.⁷

Proposed Rule 88 seeks to provide an additional incentive in the form of a rebate to BLPs who provide liquidity to the Exchange's bond market. The Exchange believes that the rebate would encourage the additional utilization of, and interaction with, the NYSE and improve price discovery and liquidity and encourage competitive quotes and price improvement opportunities. These incentives should encourage BLPs to make more liquid and competitive markets.

Responsibilities of BLPs

(A) Quoting Requirements

Under proposed Rule 88(a), a BLP would be required to maintain: (1) a bid at least seventy percent (70%) of the trading day for a bond; (2) an offer at least seventy percent (70%) of the trading day for a bond; and (3) a bid or offer at the Exchange's Best Bid ("BB") or

(November 5, 2008) (SR-NYSE-2008-108) (establishing SLP Pilot); Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR-NYSE-2008-46) (establishing New Market Model Pilot); Securities Exchange Act Release No. 62814 (September 1, 2010), 75 FR 54671 (September 8, 2010) (SR-NYSE-2010-61) (extending the Pilots until January 31, 2011).

⁷ See Securities Exchange Act Release No 62455 (July 6, 2010), 75 FR 40004 (July 13, 2010) (SR-NYSE-2010-51); see also Securities Exchange Act Release No. 57176 (January 18, 2008), 73 FR 4929 (January 28, 2008) (SR-NYSE-2008-04). The pilot program, which is scheduled to expire in December 31, 2010, provides for the following transaction fee schedule: 1) when the liquidity taker purchases or sells from one to 10 bonds, the Exchange charges an execution fee of \$0.50 per bond; 2) when the liquidity taker purchases or sells from 11 to 25 bonds, the Exchange charges an execution fee of \$0.20 per bond, and 3) when the liquidity taker purchases or sells 26 bonds or more, the Exchange charges an execution fee of \$0.10 per bond. There is a \$100 execution fee cap per transaction. The Exchange intends to submit a separate filing to make the pilot program permanent.

Exchange's Best Offer ("BO") at least five percent (5%) of the trading day in each of its bonds in the aggregate. To create a financial incentive to serve as a BLP, proposed Rule 88(b) provides that a BLP that meets the quoting requirement for a bond as described in paragraph (a) would receive the liquidity provider rebate set forth in the Exchange's Price List. The Exchange intends to submit a separate filing that would set the liquidity provider rebate at \$0.05 per bond, with a \$50 rebate cap per transaction.

Currently, there are no live quote obligations in the corporate bond market.⁸ The proposed live quoting obligation, combined with the additional obligation of being on the BB or BO at least five percent of the day, presents a significant market and technological change for fixed income dealers. As such, NYSE believes that the proposed rule change would strike an appropriate balance between the quoting obligations and financial incentives offered to BLPs. Nonetheless, in keeping with the pilot status of the proposed rule changes, the Exchange would monitor and evaluate this balance during the course of the pilot; as more liquidity is brought to the NYSE bond marketplace, the Exchange may consider revising the incentive and quoting structure as needed.

(B) Qualifications

To qualify as a BLP under proposed Rule 88(c), a member organization would be required to: (1) demonstrate an ability to meet the quoting requirements of a BLP; (2) have mnemonics that identify to the Exchange BLP trading activity in assigned BLP bonds; (3) have adequate trading infrastructure and technology to support electronic trading.

Because a BLP would only be permitted to trade electronically from off the Floor of the Exchange, a member organization's off-Floor technology must be fully automated to

⁸ The absence of such data makes it difficult to evaluate the quality of such markets.

accommodate the Exchange's trading and reporting systems that are relevant to operating as a BLP. If a member organization were unable to support the relevant electronic trading and reporting systems of the Exchange for BLP trading activity, it would not qualify as a BLP.

(C) Application Process

Under proposed Rule 88(d), to become a BLP, a member organization would be required to submit a BLP application form with all supporting documentation to the Exchange. The Exchange would determine whether an applicant was qualified to become a BLP as set forth above. After an applicant submitted a BLP application to the Exchange, with supporting documentation, the Exchange would notify the applicant member organization of its decision. If an applicant were approved by the Exchange to act as a BLP, the applicant would be required to establish connectivity with relevant Exchange systems before the applicant would be permitted to trade as a BLP on the Exchange. In the event an applicant is disapproved or disqualified under proposed Rule 88(d)(4) or (i)(2) by the Exchange, such applicant may request an appeal of such disapproval or disqualification by the Exchange as provided in proposed Rule 88(j) of the Rule, and/or reapply for BLP status three (3) months after the month in which the applicant received disapproval or disqualification notice from the Exchange.

(D) Voluntary Withdrawal of BLP Status

A BLP would be permitted to withdraw from the status of a BLP by giving notice to the Exchange. Such withdrawal would become effective when those bonds assigned to the withdrawing BLP are reassigned to another BLP. After the Exchange receives the notice of withdrawal from the withdrawing BLP, the Exchange would reassign such bonds as soon as practicable, but no later than 30 days of the date the notice was received by the Exchange. If the reassignment of bonds takes longer than the 30-day period, the withdrawing BLP would have no

further obligations and would not be held responsible for any matters concerning its previously assigned BLP bonds.

(E) Calculation of Quoting Requirements

Beginning with the first month of operation as a BLP, the BLP must satisfy the 70% quoting requirement for each of its assigned BLP bonds. The Exchange would determine whether a BLP met its 70% quoting requirement by determining the average percentage of time a BLP was at a bid (offer) in each of its BLP bonds during the regular trading day⁹ on a daily and monthly basis. The Exchange would determine whether a BLP has met this requirement by calculating the following:

- A “Daily Bid Quoting Percentage” would be calculated by determining the percentage of time a BLP had at least 10 displayed BLP bonds at a single price level in an Exchange bid during each trading day for a calendar month;
- A “Daily Offer Quoting Percentage” would be calculated by determining the percentage of time a BLP had at least 10 displayed BLP bonds at a single price level in an Exchange offer during each trading day for a calendar month;
- A “Monthly Average Bid Quoting Percentage” would be calculated for each BLP bond by summing the bond’s “Daily Bid Quoting Percentages” for each trading day in a calendar month then dividing the resulting sum by the total number of trading days in such calendar month; and
- A “Monthly Average Offer Quoting Percentage” would be calculated for each BLP bond by summing the bond’s “Daily Offer Quoting Percentage” for each trading day

⁹ “Trading day” means any day on which the Exchange is scheduled to be open for business. Days on which the Exchange closes prior to 4 p.m. (Eastern Time) for any reason, which may include any regulatory halt or trading halt, are considered a trading day.

in a calendar month then dividing the resulting sum by the total number of trading days in such calendar month.

Only displayed orders entered throughout the trading day would be used when calculating whether a BLP is in compliance with its 70% average quoting requirements.

The BLP's 5% quoting requirements would not be in effect during the first two months of operation as a BLP in order to allow the BLP time to achieve this quoting metric. The 5% quoting requirement would take effect in the third month of a BLP's operation. At that time, a BLP would be required to satisfy the 5% quoting requirement for each assigned BLP bond. The Exchange would determine whether a BLP had met its 5% quoting requirement by determining the average percentage of time a BLP was at the BB or BO in each of its assigned BLP bonds during the regular trading day on a daily and monthly basis, as follows:

- A "Daily BB Quoting Percentage" would be calculated by determining the percentage of time a BLP had at least one displayed BLP bond in an Exchange bid at the BB during each trading day for a calendar month;
- A "Daily BO Quoting Percentage" would be calculated by determining the percentage of time a BLP had at least one displayed BLP bond in an Exchange offer at the BO during each trading day for a calendar month;
- A "Daily BBO Quoting Percentage" would be calculated for each trading day by summing the "Daily BB Quoting Percentage" and the "Daily BO Quoting Percentage" in each BLP bond; and
- A "Monthly Average BBO Quoting Percentage" would be calculated for each BLP bond by summing the bond's "Daily BBO Quoting Percentages" for each trading day

in a calendar month then dividing the resulting sum by the total number of trading days in such calendar month.

Only displayed orders at the BB and BO throughout the trading day would be used when calculating whether a BLP is in compliance with its 5% average quoting requirement.

(F) Matching of BLPs and Issuers

During the proposed pilot program, an issuer may be represented by only one BLP. Prior to the commencement of the pilot, the Exchange would match issuers with BLPs that have been approved under proposed Rule 88(d) in the following manner. In the first round of matching, the Exchange would match BLPs to issuers that have at least one debt issue with a current outstanding principal of \$500 million or greater. BLPs would be permitted to select the issuers that they want to represent from this group; the order in which BLPs would be permitted to make their selections would be determined by lottery. Each BLP would make one selection in the random order determined by the lottery, and the process would continue until all BLPs have exhausted their selections for this group of issuers.

In the second round of matching, the Exchange would match BLPs to issuers with one of more debt issues that each has a current outstanding principal of less than \$500 million. Each BLP would submit a list of the issuers and the issuer's bonds that it would be willing to represent. The BLP that is willing to represent the most bonds for a given issuer would be matched to that issuer. In event of a tie (i.e., two or more issuers seeking to represent the same issuer and the same number of that issuer's bonds), the BLP with the highest lottery number from the first round would be matched with the issuer.

After the commencement of the program, matching would continue in a manner similar to the second round of matching prior to commencement of the program. On a monthly basis,

BLPs would be permitted to apply for unrepresented issuers. The BLP willing to represent the most debt issuances of an issuer would be awarded status as a BLP for such issuer, with ties resolved by lottery.

A BLP must represent each debt issuance of an issuer that has an outstanding principal of \$500 million or more. A BLP also may represent any issuance below such level, but would not be required to do so. If a BLP is representing a debt issuance that was above \$500 million but falls below such level, or has voluntarily been representing an issuance below the \$500 million level where the outstanding principal amount has since been reduced, the BLP may cease representing such issue by notifying the Exchange in writing by the 15th day of the month, in which case the BLP may cease acting as such on the 1st day of the following month.

The Exchange believes that this matching process would be fair to approved BLPs and beneficial to issuers. In light of the unique nature of the debt market, the matching process would give BLPs the opportunity to select the issuers that they want to represent and thereby take into account the BLP's expertise in particular issuers and sectors. The matching process for the largest issuers would be determined on a random basis, while the matching process for smaller issuers would be determined in favor of those BLPs willing to offer the broadest coverage to such issuers. NYSE anticipates that this process would result in the broadest coverage of issuers and sectors upon commencement of the pilot.

(G) Failure to Meet Quoting Requirements

If, in any given calendar month after the first two months a BLP acted as a BLP, a BLP fails to meet any of the quoting requirements set forth in paragraph (a) of proposed Rule 88, the BLP would no longer be eligible for the rebate for the affected bond. If a BLP's failure to meet the quoting requirements continues for three consecutive calendar months in any assigned BLP

bond, the Exchange could, in its discretion, take one or more of the following actions: (i) revoke the assignment of all of the affected issuer's bonds from the BLP; (ii) revoke the assignment of an additional unaffected issuer from a BLP; or (iii) disqualify a member organization from its status as a BLP.

The Exchange, in its sole discretion, would determine if and when a member organization is disqualified from its status as a BLP. One calendar month prior to any such determination, the Exchange would notify a BLP of such impending disqualification in writing. When disqualification determinations are made, the Exchange would provide a disqualification notice to the member organization.

If a member organization were disapproved pursuant to paragraph (d)(2) of the proposed Rule or disqualified from its status as a BLP pursuant to paragraph (i)(1)(C) of the proposed Rule, such member organization could re-apply for BLP status three calendar months after the month in which the member organization received its disqualification notice.

(H) Appeal of Disapproval or Disqualification

In the event a member organization disputes the Exchange's decision to disapprove or disqualify it under Rule 88(d)(4) or (i)(2), such member organization ("appellant") may request, within five (5) business days of receiving notice of the decision, the Bond Liquidity Provider Panel ("BLP Panel") to review all such decisions to determine if such decisions were correct.

In the event a member organization is disqualified from its status as a BLP pursuant to proposed Rule 88(i)(2), the Exchange will not reassign the appellant's bonds to a different BLP until the BLP Panel has informed the appellant of its ruling.

The BLP Panel will consist of the NYSE's Chief Regulatory Officer ("CRO"), or a designee of the CRO, and two (2) officers of the Exchange designated by the Co-Head of U.S.

Listings and Cash Execution. The BLP Panel will review the facts and render a decision within the time frame prescribed by the Exchange. The BLP Panel may overturn or modify an action taken by the Exchange and all determinations by the BLP Panel will constitute final action by the Exchange on the matter at issue.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, in that it is designed 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 Exchange believes the proposed rule changes are consistent with these principles in that they seek to expand the number of member organizations that can trade debt securities on the NYSE, establish a new class of market participants, BLPs, that will provide additional liquidity to the bond market, and in general promote a free and open market. The Exchange believes that investors will benefit from increased transparency, competition and liquidity in its bond marketplace.

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

The Exchange does not believe that the proposed rule change will impose 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

No written comments were solicited or received with respect to the proposed rule change.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2010-74 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-NYSE-2010-74. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<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 website viewing and printing in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549-1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its website at www.nyse.com. 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-NYSE-2010-74 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).