

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66981; SR-NYSE-2011-56; SR-NYSEAmex-2011-86)

May 14, 2012

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE Amex LLC; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Disapprove Proposed Rule Changes to Codify Certain Traditional Trading Floor Functions That May Be Performed by Designated Market Makers and to Permit Designated Market Makers and Floor Brokers Access to Disaggregated Order Information

On October 31, 2011, the New York Stock Exchange LLC (“NYSE”) and NYSE Amex LLC (“NYSE Amex”) (collectively, the “SROs”) each filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² proposed rule changes (“SRO Proposals”) to amend certain of their respective rules relating to Designated Market Makers (“DMMs”)³ and floor brokers. The SRO Proposals were published for comment in the Federal Register on November 17, 2011.⁴ The Commission received no comment letters on the proposals. On December 22, 2011, the Commission extended the time period in which to either approve the SRO Proposals,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See NYSE Rule 98(b)(2). “DMM unit” means any member organization, aggregation unit within a member organization, or division or department within an integrated proprietary aggregation unit of a member organization that (i) has been approved by NYSE Regulation pursuant to section (c) of NYSE Rule 98, (ii) is eligible for allocations under NYSE Rule 103B as a DMM unit in a security listed on the Exchange, and (iii) has met all registration and qualification requirements for DMM units assigned to such unit. The term “DMM” means any individual qualified to act as a DMM on the Floor of the Exchange under NYSE Rule 103. See also NYSE Amex Equities Rule 2(i). Rule 2(i) defines the term “DMM” to mean an individual member, officer, partner, employee or associated person of a DMM unit who is approved by the Exchange to act in the capacity of a DMM. NYSE Amex Equities Rule 2(j) defines the term “DMM unit” as a member organization or unit within a member organization that has been approved to act as a DMM unit under NYSE Amex Equities Rule 98.

⁴ See Securities Exchange Act Release Nos. 65735 (November 10, 2011), 76 FR 71405 (SR-NYSEAmex-2011-86) and 65736 (November 10, 2011), 76 FR 71399 (SR-NYSE-2011-56).

disapprove the SRO Proposals, or to institute proceedings to determine whether to disapprove the SRO Proposals, to February 15, 2012.⁵

On February 15, 2012, the Commission instituted proceedings to determine whether to disapprove the proposed rule changes.⁶ The Commission thereafter received five comments on the proposals.⁷ NYSE Euronext, on behalf of the SROs, submitted a response letter on March 28, 2012.⁸

Section 19(b)(2) of the Act⁹ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule changes were published for notice and comment in the Federal Register on November 17, 2011. May 15, 2012 is 180 days from that date, and July 14, 2012 is an additional 60 days from that date.

⁵ See Securities Exchange Act Release No. 66036, 76 FR 82011 (December 29, 2011).

⁶ See Securities Exchange Act Release No. 66397, 77 FR 10586 (February 22, 2012) (“Order Instituting Proceedings”).

⁷ See Letters to Elizabeth M. Murphy, Secretary, Commission, from Kenneth Polcari, dated March 12, 2012; Patrick Armstrong and Daniel Tandy, Co-Presidents, Alliance of Floor Brokers, dated March 13, 2012; Jonathan Corpina, President, and Jennifer Lee, Vice President, Organization of Independent Floor Brokers, dated March 13, 2012; James J. Angel, Ph.D., CFA, dated March 15, 2012; and John Petschauer, CEO, EZX, Inc., dated March 14, 2012.

⁸ See Letter to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, Executive Vice President and Corporate Secretary, NYSE Euronext, dated March 28, 2012.

⁹ 15 U.S.C. 78s(b)(2).

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule changes so that it has sufficient time to consider the proposed rule changes, the issues raised in the comment letters that have been submitted in connection with the proposed rule changes, and the SROs' response to such issues in its response letter. Specifically, while commenters and the SROs noted a number of benefits to the proposals, as the Commission noted in the Order Instituting Proceedings, the proposals raise issues such as whether DMMs and floor brokers would receive a benefit under the proposals that is disproportionate to the services they provide.¹⁰

¹⁰ See Order Instituting Proceedings, supra note 6 at 10589.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹¹ designates July 14, 2012, as the date by which the Commission should either approve or disapprove the proposed rule changes (SR-NYSE-2011-56 and SR-NYSEAmex-2011-86).

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

Kevin M. O'Neill
Deputy Secretary

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(57).