SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62960; File No. SR-NYSE-2010-56)

September 21, 2010

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change Amending its Price List to Reflect Fees Charged for Co-Location Services

On August 3, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend its Price List to reflect fees charged for co-location services. The proposed rule change was published for comment in the Federal Register on August 20, 2010.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

In its proposal, NYSE proposed to amend its Price List to identify fees pertaining to co-location services, which allow Users[4] of the Exchange to rent space on premises controlled by the Exchange so that they may locate their electronic servers in close physical proximity to the Exchange's trading and execution systems. NYSE represented that it planned to begin operating a data center in Mahwah, New Jersey, from which it will offer co-location services. The Exchange represented that it will offer space at the data center in cabinets with power usage

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 62732 (Aug. 16, 2010), 75 FR 51512 ("Notice").

4 For the purposes of this filing, the term "Users" includes any "member organization," as that term is defined in NYSE Rule 2(b) and any "Sponsored Participant," as that term is defined in NYSE Rule 123B.30(a)(ii)(B).

capability of either four or eight kilowatts (kW).[5] In addition, the Exchange stated that it will offer Users services related to co-location, including cross connections, equipment and cable installation, and remote "hot-hands" services, which allow Users to use on-site data center personnel to maintain User equipment. The Exchange proposed tiered co-location fees based on the level of service (1Gb circuit, 10Gb circuit and various bundled options), and additional fees for related services.

NYSE represented that Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from or superior to that of Users that do not receive co-location services. The Exchange noted that all orders sent to NYSE enter the Exchange's trading and execution systems through the same order gateway regardless of whether the sender is co-located in the Exchange's data center or not. Furthermore, NYSE noted that co-located Users do not receive any market data or data service product that is not available to all Users. Users that receive co-location services normally would expect reduced latencies in sending orders to the Exchange and receiving market data from the Exchange.

In addition, the Exchange represented that co-located Users have the option of obtaining access to the Exchange's Liquidity Center Network ("LCN"), a local area network available in the data center.[6] Co-located Users have the option of using either the LCN or the Exchange's

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5 The Exchange represented that it also allows Users, for a monthly fee (i.e., 40% of the applicable monthly per kW fee), to obtain an option for future use on available, unused cabinet space in proximity to their existing cabinet space. Specifically, Users may reserve cabinet space of up to 30% of the cabinet space under contract, which the Exchange will endeavor to provide as close as reasonably possible to the User's existing cabinet space, taking into consideration power availability within segments of the data center and the overall efficiency of use of data center resources as determined by the Exchange.

6 NYSE represented that pricing for LCN access is provided on a stand-alone basis and on a bundled basis in combination with SFTI connections and optic connections to outside

Secure Financial Transaction Infrastructure ("SFTI") network, to which all Users have access. Because it operates as a local area network within the data center, the LCN provides reduced latencies in comparison with SFTI. Other than the reduced latencies, the Exchange believes that there are no material differences in terms of access to the Exchange between Users that choose to co-locate and those that do not. According to NYSE, SFTI and LCN both provide Users with access to the Exchange's trading and execution systems and to the Exchange's proprietary market data products. User access to non-proprietary market data products is available through SFTI and not through LCN.

NYSE represented that it offers co-location space based on availability and the Exchange believes that it has sufficient space in the Mahwah data center to accommodate current demand on an equitable basis for the foreseeable future. In addition, the Exchange believes that any difference among the positions of the cabinets within the data center does not create any material difference to co-location Users in terms of access to the Exchange.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and with Section 6(b)(5) of the

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access centers and within the data center. The SFTI and optic connections are not related to the co-location services.

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

8 15 U.S.C. 78f(b)(4).

Act,[9] which requires, among other things, that the rules of a national securities exchange be designed 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposed tiered fees for co-location and related services are reasonable and equitably allocated insofar as they are applied on the same terms to similarly-situated market participants. In addition, the Commission believes that the connectivity options described in the proposed rule change are not unfairly discriminatory because NYSE makes the co-location services uniformly available to all Users who voluntarily request them and pay the fees as detailed in the proposal. As represented by NYSE, these fees are uniform for all such customers and may vary from User to User due to each User's choice of service package. Finally, the Commission believes that the proposal will further the protection of investors and the public interest because it will provide greater transparency regarding the connectivity options available to market participants.

[9] 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR-NYSE-2010-56) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon
Deputy Secretary

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[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30-3(a)(12).