

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64793; File No. SR-NYSE-2011-31)

July 1, 2011

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rule 1000(a)(iv) to Provide For a Different Liquidity Replenishment Point Value Range During the First Day of Trading of An Initial Public Offering on the Exchange

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 28, 2011, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1000(a)(iv) to provide for a different liquidity replenishment point (“LRP”) value range during the first day of trading of an initial public offering (“IPO”) on the Exchange. 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 Exchange 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 17 CFR 240.19b-4.

received on the proposed rule change. The text of these 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 aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 1000(a)(iv) to provide for a different LRP value range during the first day of trading of an IPO on the Exchange. Specifically, the Exchange proposes to add proposed Rule 1000(a)(iv)(E) to provide that on the first day of trading of an IPO, the LRP value shall be the greater of \$2.00 or the LRP value range that would be applicable based on the offering price of the IPO.

I. Background

Pursuant to NYSE Rule 1000(a)(iv), LRPs are pre-determined price points that function to moderate volatility in a particular security, improve price continuity, and foster market quality by temporarily converting the electronic market to an auction market and permitting new trading interest to add liquidity.³

Pursuant to Exchange Rule 60, Autoquote is suspended when an LRP is reached, i.e., when the unfilled balance of an incoming automatically executing order is able to trade at a price above (below) the LRP, or if the incoming interest would create a locked or crossed market. Autoquote resumes after a manual trade or when the lock or cross is cleared.⁴

³ See also NYSE Rules 60(e)(i).

⁴ See NYSE Rule 60(d)(i)(C).

LRPs are calculated by adding and subtracting a value to the security's last sale price. The LRP values are based on an examination of trading data and vary based on the security's NYSE average daily volume ("ADV"), price, and volatility. The values used to calculate the LRPs' range do not change intraday and are disseminated daily by the Exchange on its website.

II. Modification to LRP Value Ranges

The Exchange proposes to amend NYSE Rule 1000(a)(iv) to provide for a different LRP value range during the first day of trading of an IPO on the Exchange. Specifically, the Exchange proposes to provide that for the first day of trading of an IPO on the Exchange, the LRP value will be the greater of \$2.00 or the LRP value that would be applicable based on the offering price.

The Exchange currently uses the offering price of an IPO, as set by the investment bank syndicate the night before the first day of trading, to determine the LRP value range in that security. However, trading prices on the first day of an IPO can often be volatile, both compared to the offering price as well as intra-day. As a result, using the offering price to determine the LRP value range may be inconsistent with the actual trading prices, resulting in more frequent triggering of LRPs than is typical on the Exchange, thus unnecessarily limiting automatic execution of orders on the first day of trading.

For example, for the May 19, 2011, IPO of LinkedIn Corp. (LNKD), the offering price was set the night before at \$45 per share and based on that price and pursuant to Rule 1000(a)(iv)(C), the Exchange set the LRP value for the security at \$0.70 for the first day of trading. Notwithstanding the offering price, the opening price for LNKD at the Exchange was \$83.00 and the stock reached a trading high of \$122.70 during the first day

of trading, closing at \$94.25. LNKD therefore traded at prices throughout the day that would have otherwise warranted a higher LRP value and as a result, there was a greater occurrence of LRPs being reached than would have otherwise occurred on a regular trading day. The first day of trading in LNKD is illustrative of the type of volatility and price fluctuations that can occur on the first day of trading of an IPO.

The Exchange proposes to widen the LRP values for the first day of trading of an IPO in order to reflect that the first day of trading of an IPO generally differs from regular trading days in that there is often greater volume and volatility, with wider price fluctuations. As proposed, the LRP value range would be the greater of \$2.00 or the LRP value range that would be applicable based on the IPO's offering price. For example, if the IPO's offering price were priced above \$150, the LRP value range could be \$4.00 rather than \$2.00.

The Exchange believes that widening the LRP value ranges for the first day of trading of an IPO would allow for more continuous automatic executions of securities before hitting an LRP. While the purpose of the LRP is to dampen volatility and to provide market participants with time to react, the Exchange believes that the proposed amendment is necessary to lessen artificial limitations on trading. If an LRP is triggered too frequently, such as when the price of a security increases during the trading day well beyond the LRP value that has been assigned to that security for the day, trading in the security may be overly restrained. As such, the NYSE believes that allowing for an expanded value range on the first day of trading of an IPO will better facilitate the natural trading of a particular security.

2. Statutory Basis

The basis under the Act for these proposed rule changes are the requirement under Section 6(b)(5)⁵ that an Exchange have rules that are 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. The proposed rule change also is designed to support the principles of Section 11A(a)(1)⁶ in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer. The Exchange's proposal to provide flexibility in setting the LRP range on the first day of trading for an IPO is intended to provide for faster executions of securities by limiting the amount of time automatic executions are suspended when an LRP is triggered.

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.

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78k-1(a)(1).

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.⁹

A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission hereby grants that request. The proposed wider LRP values may facilitate trading by limiting the

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

amount of time automatic executions are suspended when an LRP is triggered. Waiving the 30-day operative delay will enable this change to be implemented immediately so that the wider LRP values will be available for the next IPO that takes place on the Exchange. Therefore, the Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay and designates the proposal as operative upon filing.¹²

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission 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 Act.

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-2011-31 on the subject line.

¹² For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2011-31. 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 Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. 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-2011-31, 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.¹³

Cathy H. Ahn
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).