SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85772; File No. SR-NYSE-2019-22)

May 3, 2019

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, to Amend Rule 7.31 to Add a New Order Type, Capital Commitment Order, and Make Related Changes to Rules 7.16, 7.34, 7.36, and 7.37

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 April 18, 2019, 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. On May 1, 2019, the

Exchange filed Amendment No. 1 to the proposal. The Commission is publishing this notice to

solicit comments on the proposed rule change, as modified by Amendment No. 1, from

interested persons.

I.   Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed
        Rule Change

        The Exchange proposes to amend Rule 7.31 (Orders and Modifiers) to add a new order

type, Capital Commitment Order, and make related changes to Rules 7.16, 7.34, 7.36, and 7.37.

The Exchange proposes to further amend Rule 7.31 to specify that Market Orders and the Last

Sale Peg Modifier are not available to Designated Market Makers. This Amendment No. 1

supersedes the original filing in its entirety. The proposed rule change is available on the

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

[2]   15 U.S.C. 78a.

[3]   17 CFR 240.19b-4.

Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 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

The Exchange proposes to amend Rule 7.31 (Orders and Modifiers) to add a new order type, Capital Commitment Order, and make related changes to Rules 7.16, 7.34, 7.36, and 7.37. The Exchange proposes to further amend Rule 7.31 to specify that Market Orders and the Last Sale Peg Modifier would not be available to Designated Market Makers ("DMMs"). This Amendment No. 1 supersedes the original filing in its entirety.

Currently, the Exchange trades UTP Securities on its Pillar trading platform, subject to Pillar Platform Rules 1P - 13P.[4] In the next phase of Pillar, the Exchange proposes to transition trading of Exchange-listed securities to the Pillar trading platform, which means that DMMs would be trading on Pillar in their assigned securities.[5] Once transitioned to Pillar, such securities

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[4]   "UTP Security" is defined as a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. See Rule 1.1.

[5]   The Exchange has announced that, subject to rule approvals, the Exchange will begin

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will also be subject to the Pillar Platform Rules 1P - 13P. The Exchange has separately filed a proposed rule change to support the transition of Exchange-listed securities to the Pillar Trading Platform, including adding the DMM as a Participant under the Pillar Platform Rules.[6]

With this proposed rule change, the Exchange proposes an additional order type that would be available to DMMs when Exchange-listed securities transition to Pillar.

Proposed Capital Commitment Order

The proposed new order type, Capital Commitment Order, or "CCO," is based in part on the current Capital Commitment Schedule[7] ("CCS"), which is currently available only to DMMs trading in Exchange-listed securities. The Exchange proposes to make related changes to Rules 7.16 (Short Sales), 7.34 (Trading Sessions), 7.36 (Order Ranking and Display), and 7.37 (Order Execution and Routing).

The proposed CCO would be available to DMMs when the Exchange transitions Exchange-listed securities to Pillar. Like CCS interest, the CCO would enable DMMs to provide additional, non-displayed liquidity at specific price points in their assigned securities on Pillar.

The operation of the existing CCS is set forth in Rules 1000(d) – 1000(g). Under Rule 1000(d), a DMM may, for each security in which it is registered, place within Exchange systems

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transitioning Exchange-listed securities to Pillar on August 5, 2019, available here: https://www.nyse.com/publicdocs/nyse/markets/nyse/Revised_Pillar_Migration_Timeline.pdf. The Exchange will publish by separate Trader Update a complete symbol migration schedule.

[6] See Securities Exchange Act Release No. 85176 (February 22, 2019), 84 FR 6868 (February 28, 2019) (Notice of Filing) (SR-NYSE-2019-05) ("NYSE Tape A Pillar Filing").

[7] See Rule 1000(d) - (g). See also Securities Exchange Act Release Nos. 75578 (July 31, 2015), 80 FR 47008 (August 6, 2015) (SR-NYSE-2015-26) (Order Granting Approval of a Proposed Rule Change Making Permanent the Rules of the NYSE New Market Model Pilot and the NYSE Supplemental Liquidity Providers Pilot) ("Approval Order").

a pool of non-displayed liquidity – the CCS – to be available to fill or partially fill incoming orders in automatic executions.[8] Rule 1000(d) also provides that CCS interest is used to trade at the Exchange BBO, at prices better than the Exchange BBO, and at prices outside the Exchange BBO. CCS interest must be for a minimum of one round lot of a security and entered at price points that are at, inside, or away from the Exchange BBO.

Rule 1000(e) governs executions at and outside the Exchange BBO and specifies how CCS interest would interact with such executions. Rule 1000(e)(iii) specifies how CCS would trade with an incoming order that sweeps multiple price points outside the Exchange BBO, and specifically, how CCS trades at a single price point to provide price improvement for completing the incoming order. Rule 1000(f) specifies how CCS interest may provide price improvement inside the Exchange BBO with interest arriving in the Exchange market. Under Rule 1000(g), CCS interest may trade with non-marketable[9] interest if the non-marketable interest betters the Exchange BBO (or cancels in the case of an arriving IOC order) and if the incoming interest may be executed in full by all available trading interest on the Exchange, including CCS interest and d-quotes.

On Pillar, the Exchange proposes to offer DMMs functionality similar to the CCS in the form of CCOs. However, the Exchange proposes to simplify and streamline CCO functionality on Pillar as compared to how the CCS functions. Among other things, unlike CCS, the proposed CCO would be an order type that includes a limit price, rather than a schedule of non-displayed

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8   CCS interest supplements displayed and non-displayed interest of the DMM in Exchange systems.

9   Under Rule 1000(g)(1), "non-marketable" means trading interest (i.e., displayable and non-displayable) that is at a price higher than the current Exchange bid (but below the current Exchange offer) or lower than the current Exchange offer (but above the current Exchange bid), including better bids and offers on other market centers. See NYSE Rule 1000(g)(1).

liquidity, and would be eligible to execute only at its limit price on an order-by-order basis.

Multiple CCOs would, therefore, not be aggregated at the same price or multiple prices like CCS

interest is today pursuant to Rules 1000(f) and (g). While the purpose of the CCO is the same as

CCS - a tool for DMMs to provide additional, non-displayed liquidity in their assigned securities

-- the operation of CCOs would be based in part on how Tracking Orders function on the

Exchange's affiliated exchanges that currently operate on Pillar, NYSE Arca, Inc. ("NYSE

Arca") and NYSE National, Inc. ("NYSE National").[10]

The proposed CCO would be described under paragraph (d)(5) of Rule 7.31 for

Exchange-listed securities trading on Pillar. Proposed Rule 7.31(d)(5) would set forth the general

requirements for CCOs and would provide that a CCO is a Limit Order that is not displayed,

does not route, must be entered in a minimum of one round lot, and must be designated Day.

This proposed rule text is based in part on how the CCS currently functions, but unlike CCS, the

proposed CCO would be a Limit Order rather than a schedule of non-displayed liquidity. This

proposed rule text uses Pillar terminology and is also based in part on the first half of the first

sentence of NYSE Arca Rule 7.31-E(d)(4) and NYSE National Rule 7.31(d)(4) relating to

Tracking Orders.

Proposed Rule 7.31(d)(5) would also provide that a CCO would be ranked Priority 5 -

CCOs. The Exchange would make a related amendment to Rule 7.36(e) to add this additional

priority category. Proposed Rule 7.36(e)(5) would provide that Priority 5 - CCOs would have

fifth priority after Priority 4 - Yielding Orders.[11] The Exchange believes that this proposed

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[10]   See NYSE Arca Rule 7.31-E(d)(4) and NYSE National Rule 7.31(d)(4).

[11]   Pursuant to Section 11(a)(1)(G) of the Act and Rule 11a1-1(T)(a) thereunder, an order for the account of a member (i.e., a Yielding Order), does not need to yield priority, parity, or precedence in execution to orders for the account of another member. 15 U.S.C.

priority category is consistent with current CCS functionality[12] because CCOs would be ranked

behind all other displayed and non-displayed orders. This proposed rule change is also based in

part on how Tracking Orders function on NYSE Arca and NYSE National, as Tracking Orders

similarly have a priority ranking behind all other displayed and non-displayed orders at a price.[13]

Proposed Rule 7.31(d)(5) would further provide that CCOs would be available only to

DMMs in their assigned securities, eligible to be traded in the Core Trading Session[14] only, and

not eligible to participate in any Auctions. This proposed rule text is based on current rules that

the CCS is available only to DMMs. The requirement that CCOs would be eligible to trade in the

Core Trading Session only is consistent with current CCS functionality for Exchange-listed

securities, which trade during regular trading hours only,[15] and proposed functionality that

Exchange-listed securities would not be eligible to participate in the Early Trading Session on

Pillar.[16] The Exchange also proposes to amend Rule 7.34(c)(1)(A) (Trading Sessions) to specify

that CCOs are not eligible to participate in the Early Trading Session and that CCOs entered

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78k(a)(1)(G) and 17 CFR 240.11a1-1(T)(a). Consistent with these requirements, under current rules, G Orders do not always yield to DMM interest. See, e.g., Rule 115A(a)(1)(D) (at the same price, G Orders do not yield to DMM interest in the opening transaction),

[12]   See Rule 1000(e)(ii)(B) and (e)(iii)(A)(2) (providing that CCS interest yields to all displayed and non-displayed interest when trading at the BBO or outside the BBO).

[13]   See NYSE Arca Rule 7.36-E(e)(4) and NYSE National Rule 7.36(e)(4) (Tracking Orders have fourth priority behind all other orders).

[14]   The Core Trading Session begins at 9:30 a.m. Eastern Time and ends at the conclusion of Core Trading Hours. See Rule 7.34(a)(2). The term "Core Trading Hours" means "the hours of 9:30 a.m. Eastern Time through 4:00 p.m. Eastern Time or such other hours as may be determined by the Exchange from time to time." See Rule 1.1(d).

[15]   See Rule 51(a).

[16]   See NYSE Tape A Pillar Filing, supra note 6.

during the Early Trading Session would be rejected. The proposal that CCOs would not be eligible to participate in any Auctions is also consistent with current CCS functionality.

Proposed Rule 7.31(d)(5)(A) would describe how CCOs function on arrival and would provide that a CCO to buy (sell) does not trade on arrival and is triggered to trade by an Aggressing Order[17] to sell (buy) that (i) has exhausted all other interest eligible to trade at the Exchange at the CCO's working price, and (ii) has a remaining quantity equal to or less than the size of a resting CCO (i.e., completely fills an Aggressing Order). This proposed rule text is based in part on how Tracking Orders function, as described in NYSE Arca Rule 7.31-E(d)(4)(A) and NYSE National Rule 7.31(d)(4)(A). This proposed functionality is also similar to how CCS operates, as it is a schedule of resting non-displayed liquidity, and does not trade with resting interest.

Proposed Rule 7.31(d)(5)(A)(1) would provide that a CCO to buy (sell) may be designated to trade with an Aggressing Order to sell (buy) that has a remaining quantity greater than the size of the resting CCO (i.e., partially fills an Aggressing Order). This is similar to the operation of CCS interest, which the DMM can similarly designate for partial execution.[18] The Exchange believes that this optional functionality should continue to be available to DMMs as it would increase execution opportunities for incoming orders.

Proposed Rule 7.31(d)(5)(A)(2) would provide that an arriving CCO to buy (sell) with a limit price in the discretionary price range, as defined in paragraph (d)(4)(C)(i) of Rule 7.31, can

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[17] An Aggressing Order is a buy (sell) order that is or becomes marketable against sell (buy) interest on the Exchange Book. See Rule 7.36(a)(6). A resting order may become an Aggressing Order if its working price changes, if the PBBO or NBBO is updated, because of changes to other orders on the Exchange Book, or when processing inbound messages. Id.

[18] See Rule 1000(e)(iii)(A)(4).

trigger a resting D Order to sell (buy) to exercise discretion. This would be new functionality that would provide an execution opportunity for a resting D Order. Specifically, pursuant to Rule 7.31(d)(4)(C)(i), a D Order to buy (sell) would be triggered to exercise discretion if the price of an Aggressing Order to sell (buy) is above (below) the PBB (PBO) and at or below (above) the Midpoint Price (defined as the "discretionary price range").

Even though a CCO is not, by its terms, an Aggressing Order, the Exchange believes that a CCO should be eligible to provide liquidity if its limit price is in the discretionary price range of a resting D Order. A CCO that would trigger a resting D Order to exercise discretion will not receive execution priority over any resting orders that are on the same side as the CCO and are eligible to trade with the D Order because any such orders would have already traded with the D Order. Specifically, pursuant to Rule 7.31(d)(4)(C)(1), a D Order to buy (sell) will be triggered to exercise discretion if the price of an Aggressing Order to sell (buy) is above (below) the PBB (PBO) and at or below (above) the Midpoint Price, which is defined as the discretionary price range. This includes resting contra-side orders that become an Aggressing Order, e.g., an MPL that receives a new working price because of an update to the PBBO, because if such orders are within the discretionary price range of a D Order, the D Order would be triggered to exercise discretion by such Aggressing Order. Accordingly, if a CCO order arrives and is within the discretionary price range of a D Order, any other same-side resting orders eligible to trade with such D Order would have already executed. Because a CCO does not meet the terms of an Aggressing Order and therefore would not be addressed by Rule 7.31(d)(4)(C)(i), the Exchange proposes to specify this behavior separately in proposed Rule 7.31(d)(5)(A)(2). This would be new functionality on Pillar that the Exchange believes is consistent with the purpose of a CCO,

which is to provide additional liquidity that would not trade ahead of other orders eligible to trade at that price.

Proposed Rule 7.31(d)(5)(B) would provide that the working price of the CCO would be equal its limit price and sets forth when a COO would not be eligible to trade. Proposed Rule 7.31(d)(5)(B)(1) would provide that a buy (sell) CCO would not be eligible to trade if its limit price is equal to or higher (lower) than the PBO (PBB), NBO (NBB), Upper (Lower) Price Band, or the working price of any resting sell (buy) order on the Exchange Book. Proposed Rule 7.31(d)(5)(B)(2) would provide that a CCO would also not be eligible to trade when the PBBO or NBBO is locked or crossed. The Exchange believes that by making a CCO ineligible to trade in the above-described circumstances, the Exchange would reduce the potential to trade through the PBBO or BBO. This would be new functionality on Pillar and is not based on how CCS currently function. This proposed rule change is based in part on how Tracking Orders function, which are not eligible to trade when the PBBO is locked or crossed.[19]

Proposed Rule 7.31(d)(5)(C) would describe how CCOs would function when resting on the Exchange Book and would provide that multiple CCOs with the same limit price would be ranked by time. Proposed Rule 7.31(d)(5)(C)(1) would provide that at the same price, a CCO with a later working time would trade ahead of a CCO with an earlier working time that is not designated as eligible for a partial execution and cannot execute in full against the Aggressing Order. In such case, the CCO with a later working time would execute first because the CCO with the earlier working time chose to forego a partial execution in favor of executing against another incoming order that is large enough to execute against its total quantity. This would be new functionality on Pillar and is not based on how CCS currently function. This proposed rule

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[19]   See NYSE Arca Rule 7.31-E(d)(4) and NYSE National Rule 7.31(d)(4).

text is based in part on how Tracking Orders function, as described in the second sentence of NYSE Arca Rule 7.31-E(d)(4)(B) and NYSE National Rule 7.31(d)(4)(B).

Proposed Rule 7.31(d)(5)(C)(2) would describe how an Aggressing Order to buy (sell) with a Minimum Trade Size ("MTS") Modifier[20] would interact with a resting CCO. Rule 7.31(i)(3)(F) generally provides that if a sell (buy) order does not meet the MTS, the order with an MTS Modifier will not trade and will be ranked in the Exchange Book. Proposed Rule 7.31(d)(5)(C)(2) would provide that an Aggressing Order to buy (sell) with an MTS Modifier would ignore a resting CCO to sell (buy) if the CCO does not meet the order's MTS. This would be new functionality and is consistent with the operation of CCOs, which is to allow the DMM to provide additional, supplemental liquidity of last resort that is ranked behind all other displayed and non-displayed orders. If a CCO does not meet the MTS of the Aggressing Order, the order with an MTS would ignore the CCO and seek to execute against the next available order resting on the Exchange Book, which may be at another price.

Proposed Rule 7.31(d)(5)(D) would provide that a CCO may be designated with a Self Trade Prevention ("STP") Modifier and would be rejected if combined with any other modifiers. This proposed functionality is new, as CCS interest cannot currently be designated with an STP Modifier.[21] The Exchange believes that making STP Modifiers available for CCOs would provide DMMs with more tools to reduce the potential for two orders to interact if they are from the same entity. By specifying that CCOs cannot be combined with other modifiers, the rule

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[20]   In sum, an order with an MTS Modifier would only trade with contra-side orders that, either individually or in the aggregate, satisfy the order's minimum trade size condition. See Rule 7.31(i)(3) for a full description of the MTS Modifier.

[21]   See Rule 13(f)(3)(B) (stating that the STP modifier is not available for d-Quotes or DMM interest).

provides transparency that a CCO cannot be combined with other modifiers defined in Rule 7.31(i).

Rule 7.16 establishes requirements relating to short sale orders. Rule 7.16(f)(5) sets forth how short sale orders are processed during a Short Sale Period, which is defined in Rule 7.16(f)(4). Proposed new Rule 7.16(f)(5)(E) would provide that, during a Short Sale Period, the working price of CCOs would not be adjusted and that CCOs would not trade at or below the NBB. This proposed text is based on how Tracking Orders function during a Short Sale Period, as described in NYSE Arca Rule 7.16-E(f)(5)(E) and NYSE National Rule 7.16(f)(5)(E), which both provide that, during a Short Sale Period, the working price of Tracking Orders will not be adjusted and that Tracking Orders will not be eligible to trade at or below the NBB.

Rule 7.37(b) describes how an Aggressing Order is allocated among contra-side orders at each price. The Exchange maintains separate allocation wheels on each side of the market for displayed and non-displayed orders at each price. The Exchange proposes to amend Rule 7.37(b) to set forth how CCOs would participate in the allocation process.

Consistent with the proposed amendment to Rule 7.36(e), described above, to add a new Priority category for CCOs, the Exchange proposes to amend Rule 7.37(b)(1) to add that CCOs would be allocated after all other interest at that price.[22] Multiple CCOs at that price would be

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[22]   Rule 7.37(b)(1) sets forth the following allocation sequence: (1) Market Orders trade first based on time; (2) orders with Setter Priority as described in Exchange Rule 7.36(h) receive an allocation; (3) orders ranked Priority 2 - Displayed Orders are allocated on parity by Participant; (4) orders ranked Priority 3 - Non-Display Orders, other than Mid-Point Liquidity ("MPL") Orders with an MTS Modifier, are allocated on parity by Participant; (5) MPL Orders with an MTS Modifier are allocated based on MTS size (smallest to largest) and time; (6) D Orders trading at a discretionary price will be allocated on parity by Floor Broker Participant; (7) the display quantity of orders ranked Priority 4 - Yielding Orders will be allocated based on time; and then (8) the non-display quantity of orders ranked Priority 4 - Yielding Orders will allocated based on time.

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allocated on time. To effect this change, the Exchange proposes to amend Rule 7.37(b)(1) to add

new sub-paragraph (I) to provide that next, CCOs ranked Priority 5 - CCOs would be allocated

based on time. This proposed functionality is based in part on how CCS functions, as CCS

interest yields to all other interest when trading at the Exchange BBO or at prices outside the

BBO.

Orders Not Available to Designated Market Makers

The Exchange proposes to amend Rule 7.31(a)(1), which describes Market Orders, and

Rule 7.31(i)(4), which describes the Last Sale Peg Modifier, to specify that neither of these order

types would be available to DMMs when the Exchange transitions Exchange-listed securities to

Pillar. These proposed changes are based on Rule 104(b)(vi), which states that DMMs may not

enter Market Orders or Buy Minus Zero Plus instruction[23] in Exchange-listed securities.

Implementation

Subject to approval of this proposed rule change, the Exchange proposes to implement

this proposed rule change when the Exchange transitions NYSE-listed securities to the Pillar

trading platform, which is anticipated to begin in the third quarter of 2019.[24]

2.   Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[25] in

general, and furthers the objectives of Sections 6(b)(5) of the Act,[26] in particular, because it is

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

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[23]   The Last Sale Peg Modifier is based on the Buy Minus Zero Plus instruction. See Rule 13(f)(4). See also Securities Exchange Act Release No. 85158 (February 15, 2019), 84 FR 5794 (February 22, 2019) (SR-NYSE-2018-52) (Approval Order).

[24]   See supra note 5.

[25]   15 U.S.C. 78f(b).

[26]   15 U.S.C. 78f(b)(5).

principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Proposed Capital Commitment Order

The Exchange believes that the proposed CCO would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because it would provide DMMs with functionality currently available on the Exchange when Exchange-listed securities transition to Pillar. The proposed CCO would therefore promote continuity for the DMMs in the tools they have available to meet their affirmative obligation to maintain depth and continuity. The proposed rule change is based on existing functionality with differences in rule text to reflect Pillar terminology and to streamline and simplify the operation of CCOs as compared to CCS interest.

The proposed CCO is based in part on current CCS functionality, including that it would only be available to DMMs in their assigned securities and would be non-displayed liquidity of last resort at a price. Like CCS interest, the CCO would enable DMMs to provide additional liquidity at specific price points in their assigned securities when NYSE-listed securities transition to Pillar. The Exchange notes that there is no need to offer this modifier to non-DMMs because they are the only member organizations on the Exchange with the affirmative obligation to engage in a course of dealings for their own accounts to assist in the maintenance, so far as practicable, of a fair and orderly market, including the maintenance of price continuity with

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reasonable depth.[27] Specifically, DMMs have an obligation to use their own capital when lack of price continuity, lack of depth, or disparity between supply and demand exists or is reasonably to be anticipated.[28] Like CCS interest, the CCO would allow DMMs to trade in their assigned securities at the CCO's working price without contributing to visible depth of market.[29]

The Exchange believes that the proposed differences to how the CCO would function as compared to CCS would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed differences are designed to streamline the functionality and simplify the operation of such liquidity, while still achieving the same goal to provide the DMMs with a tool to meet their unique affirmative obligations. To achieve this goal, the Exchange proposes that the CCO would function similarly to Tracking Orders, as described in NYSE Arca Rule 7.31-E(d)(4) and NYSE National Rule 7.31(d)(4), in that a CCO would be a Limit Order that is not displayed, it would not trade on arrival, and instead would be triggered to trade by a contra-side Aggressing Order that has exhausted all other interest eligible to trade at the CCO's working price and is equal to or less than the size of the CCO. Also similar to the Tracking Order, a CCO with a later working time would trade ahead of a CCO with an earlier working time (which can only be from the same DMM) if not designated for a partial execution and could not execute in full against the Aggressing Order. The Exchange believes it promotes just and equitable principles of trade for the CCO with the later working time to trade ahead of a same-priced CCO Order with an earlier working time if the earlier CCO chose to

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[27] See Rule 104(f)(ii).

[28] Id.

[29] See Securities Exchange Act Release Nos. 75578 (July 31, 2015), 80 FR 47008, 47013 at n. 61 (August 6, 2015) (SR-NYSE-2015-26) (Order Granting Approval of a Proposed Rule Change Making Permanent the Rules of the NYSE New Market Model Pilot and the NYSE Supplemental Liquidity Providers Pilot).

forgo the option for a partial execution, particularly since all CCOs in a security are entered by the same DMM. For similar reasons, the Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system for an Aggressing Order with an MTS to ignore a CCO because if an Aggressing Order with an MTS has a condition that it is not eligible to trade, the Exchange does not believe that the Aggressing Order with an MTS should be denied an opportunity to trade if the MTS could otherwise be met by other orders on the Exchange Book.

The Exchange believes it would remove impediments to and perfect the mechanism of a free and open market and a national market system to retain the optional functionality currently available for CCS for a CCO to provide a partial execution to an incoming order, as such option would provide for more execution opportunities at the Exchange. Similarly, the Exchange believes it would remove impediments to and perfect the mechanism of a free and open market and a national market system for an arriving CCO to trigger a resting D Order to trade because it would provide for additional execution opportunities for D Orders. Because CCOs would trade at their limit price, the Exchange believes that the proposal to make such orders ineligible to trade if the limit price is equal to or through the PBBO, NBBO, Price Bands, or resting orders on the Exchange Book, or if the PBBO or NBBO is crossed, would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would reduce the potential for a CCO to trade through the PBBO, NBBO or resting orders on the Exchange Book.

The Exchange believes that the proposed processing of sell short CCOs during a Short Sale Period under proposed Rule 7.16(f)(5)(E) would remove impediments to and perfect the mechanism of a fair and orderly market because it would provide that CCOs would not trade at

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or below the NBB during a Short Sale Period in violation of Rule 201 of Regulation SHO.

Proposed Rule 7.16(f)(5)(E) is also based on NYSE Arca Rule 7.16-E(f)(5)(E) and NYSE

National Rule 7.16(f)(5)(E) for Tracking Orders.

Lastly, the Exchange believes the proposed changes to Rules 7.36 and 7.37 describing

how CCOs would be ranked and allocated would remove impediments to, and perfect the

mechanisms of, a free and open market and a national market system because having CCOs as an

interest of last resort is consistent with how CCS currently functions when trading at prices equal

to the BBO or outside the BBO. Prioritizing CCOs behind Yielding Orders[30] complies with

subsection (G) of Section 11(a)(1)[31] of the Act (the "G Rule") because CCOs represent DMM

interest only. In sum, the G Rule requires orders entered by DMMs or Floor Brokers to yield

priority to all orders entered by non-members of the Exchange at the same price. Therefore, the

G Rule does not require that Yielding Orders yield priority to CCOs, which may only be entered

by DMMs.

Orders Not Available to Market Makers

The Exchange believes the proposed changes to Rule 7.31(a)(1) to specify that Market

Orders would not be available to DMMs and Rule 7.31(i)(4) to specify that the Last Sale Peg

Modifier would not be available to DMMs would promote just and equitable principles of trade

because these changes would provide additional transparency by specifying that Market Orders

and the Last Sale Peg Modifier would not be available to DMMs when the Exchange transitions

Exchange-listed securities to Pillar. These proposed changes are based on current functionality,

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[30]   Rule 7.31(i)(5). Yielding Orders aid Floor brokers in complying with the G Rule when
        trading on Pillar by yielding priority to all displayed and non-displayed orders at the same
        price.

[31]   15 U.S.C. 78k(a)(1)(G).

as described in Rule 104(d)(iv), which states that Market Orders and the Buy Minus Zero Plus modifier are not available to DMMs trading in Exchange-listed securities.

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

In accordance with Section 6(b)(8) of the Act,[32] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change would provide DMMs with functionality currently available on the Exchange when Exchange-listed securities transition to Pillar. The Exchange does not believe that the proposed CCO would impose any burden on competition that is not necessary or appropriate because such orders are designed to provide additional liquidity on the Exchange without providing DMMs with any execution priority for CCOs over other orders. This order type thus does not confer any execution priority benefits to DMMs, but rather, would assist the DMM in meeting its affirmative obligation to maintain depth and continuity in its assigned securities. The proposed rule change also specifies that Market Orders and the Last Sale Peg Modifier would continue to be unavailable to DMMs when Exchange-listed securities transition to Pillar, as is the case today under Rule 104(d)(iv). The Exchange does not believe this proposed rule change would impose any burden on competition because these order types are not necessary for the DMMs to meet their affirmative obligations pursuant to Rule 104 and are not currently available to DMMs.

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.

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[32]   15 U.S.C. 78f(b)(8).

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 up to 90 days (i) as the Commission may designate 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, as modified by Amendment No. 1, 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-2019-22 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2019-22. 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, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment

submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-NYSE-2019-22 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.[33]

                              Eduardo A. Aleman
                              Deputy Secretary

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[33]   17 CFR 200.30-3(a)(12).