

Additions: Underlined

Deletions: [Bracketed]

Rules of New York Stock Exchange LLC

Rule 7P EQUITIES TRADING

Section 3. Exchange Trading

Rule 7.35B. DMM-Facilitated Closing Auctions

(d) *Closing Imbalance.* A Closing Imbalance publication will include the Imbalance and the Side of the Imbalance. The Imbalance Reference Price for a Closing Imbalance is the Exchange Last Sale Price. The Exchange will not disseminate a Closing Imbalance if there is no Exchange Last Sale Price. A Closing Imbalance is disseminated to the securities information processor and a Regulatory Closing Imbalance is also disseminated to proprietary data feeds.

[(2) *Publication of Manual Closing Imbalance.* Beginning one hour before the scheduled end of Core Trading Hours up to the Closing Auction Imbalance Freeze Time, a DMM may disseminate a Manual Closing Imbalance only with prior Trading Official approval. Only a DMM can update a Manual Closing Imbalance publication.

(A) If a DMM disseminates a Manual Closing Imbalance, such publication must be updated at the Closing Auction Imbalance Freeze Time with either:

- i. a Regulatory Closing Imbalance, if the conditions specified in paragraph (d)(1) of this Rule are met; or
- ii. a “No Imbalance” publication if the conditions specified in paragraph (d)(1) of this Rule are no longer met.]

(e) *Auction Imbalance Information.*

(1) Time of Publication

- (B) Beginning two hours before the end of Core Trading Hours up to the Closing Auction Imbalance Freeze Time, the Exchange will make available Total Imbalance, Side of Total Imbalance, Paired Quantity, Unpaired Quantity, and Side of Unpaired Quantity, [and if published, Manual Closing Imbalance,]to Floor brokers for any security (i) in which a Floor broker has entered an order or (ii) as specifically requested by a Floor broker. This Auction Imbalance Information will be provided in a manner that does not permit electronic redistribution. Beginning at the Closing Auction Imbalance Freeze Time, all Closing Auction Imbalance Information will be made available to Floor Brokers.

Access to and Communication with Floor (Rules 35—38)

Rule 36. Communications Between Exchange and Members' Offices

.30_DMM Unit Telephones and Permitted Communications Devices[Post Wires—]

[With the approval of the Exchange, a DMM unit may maintain a telephone line at its stock trading post location to the off-Floor offices of the DMM unit, the unit's clearing firm, or to persons providing non-trading related services. Such telephone connection shall not be used for the purpose of transmitting to the Floor orders for the purchase or sale of securities. A DMM unit may also maintain wired or wireless devices that have been registered with the Exchange, such as computer terminals or laptops, to communicate only with the system employing the algorithms and with individual algorithms. The wired or wireless device will enable the DMM unit to activate or deactivate the system employing the algorithms or an individual algorithm or change such system's pre-set parameters. In addition, a DMM unit registered in an Investment Company Unit (as defined in Rule 5.2(j)(3)), or a Trust Issued Receipt (the "receipt") as that term is defined in Rule 8.200 may use a telephone connection or order entry terminal at the DMM unit's post to enter a proprietary order in the Unit or receipt in another market center, in a Component Security of such a Unit or receipt, or in an options or futures contract related to such Unit or receipt, and may use the post telephone to obtain market information with respect to such Units, receipts, options, futures, or Component Securities. If the order in the Component Security of the Unit or receipt is to be executed on the Exchange, the order must be entered and executed in compliance with Exchange Rule 112.20 and SEC Rule 11a2-2(T), and must be entered only for the purpose of hedging a position in the Unit or receipt.

DMM units must create and maintain records of all messages generated by the unit's wired or wireless devices to communicate with the system employing the unit's algorithms in compliance with NYSE Rule 440 and SEC Rules 17a-3 and 17a-4. Such records must be maintained in the format prescribed by the Exchange.

A DMM unit may maintain a telephone line at its trading post location to communicate with DMM unit personnel working in locations other than the off-Floor offices of the DMM unit, provided that the telephone numbers of such persons are provided to the Exchange in advance.

.31 DMM Electronically Transmitted Written Communications

(a) With the approval of the Exchange, and subject to the conditions set forth in this Supplementary Material .31, a DMM unit may install and maintain a wired or wireless device capable of sending and receiving written electronic communications through an Exchange-approved connection (a "Permitted Communications Device").

(b) A Permitted Communications Device shall only permit written electronic communications between individuals located at the DMM unit's post on the Floor and:

- (1) individuals with whom telephone communications are permitted under Rules 36.30 and 98 and subject to the same content restrictions set forth in those rules; or
- (2) the listed issuer representative designated under Rule 104(l)(1), subject to the same content restrictions set forth in that rule and provided that a DMM unit may not use a Permitted Communications Device for this purpose for the periods 9:15 a.m. Eastern Time until the security is opened and beginning 15 minutes before the scheduled closing time for a security until the security is closed.

(c) A DMM's member organization must maintain records of all written communications sent from or to the DMM via the Permitted Communications Device in accordance with NYSE Rule 440 and SEC Rule 17a-4(b)(4) and in such format as may be prescribed by the Exchange.

(d) A DMM's member organization must establish policies and procedures reasonably designed to ensure that use of the Permitted Communications Device is consistent with all SEC rules and Exchange rules, policies and procedures.]

(a) Telephones

(1) Registration. DMM units must register, prior to use, any new telephone, including cellular or wireless phones, to be used on the Trading Floor by submitting a request in writing to the Exchange in an acceptable format. In addition, no DMM unit may employ any alternative communication device (other than telephones as described herein) on the Trading Floor without prior Exchange approval.

(2) *Functionality.* When using a registered telephone or alternative communication device on the Trading Floor, a DMM may engage in direct voice communication to an off-Floor location with any individual with whom telephone communications are permitted under Rule 98. Registered telephones or alternative communication devices used by DMMs on the Trading Floor shall not be used for the purpose of transmitting orders for the purchase or sale of securities to a DMM or the DMM unit.

(3) *Records.* DMM units must maintain records of the use of telephones and all other approved alternative communication devices, including logs of calls placed, in compliance with NYSE Rule 440 and SEC Rules 17a-3 and 17a-4. The Exchange reserves the right to periodically inspect such records pursuant to Rule 8210.

(4) DMM units must establish policies and procedures reasonably designed to ensure that use of telephones and alternative communication devices is consistent with all SEC rules and Exchange rules.

(b) Permitted Communications Devices

(1) *Registration.* DMM units must register, prior to use, any other wired or wireless devices such as computer terminals or laptops used to communicate with (1) persons off the Trading Floor, or (2) the system employing the DMM unit's algorithms or with individual algorithms that enable the DMM unit to activate or deactivate the system employing the DMM unit's algorithms or an individual algorithm, or change such system's pre-set parameters (a "Permitted Communications Device").

(2) *Functionality.* A Permitted Communications Device may be used only for communications between individuals or systems located at the DMM unit on the Trading Floor and individuals or systems with whom communications are permitted under Rule 98.

(3) *Records.* DMM units must maintain records of the use of Permitted Communications Devices, including all communications sent to or from Permitted Communication Devices, in compliance with NYSE Rule 440 and SEC Rules 17a-3 and 17a-4. Such records must be maintained in a format prescribed by the Exchange. The Exchange reserves the right to periodically inspect such records pursuant to Rule 8210.

(4) DMM units must also establish policies and procedures reasonably designed to ensure that the use of Permitted Communications Devices are consistent with all SEC rules and Exchange rules.

(c) General

The Exchange may deny, limit or revoke registration of any device used on the Trading Floor whenever it determines, in accordance with the procedures set forth in Rule 9558, that use of such device is inconsistent with the public interest, the protection of investors, or just and equitable principles of trade, or such device has been or is being used to facilitate any violation of the Securities Exchange Act of 1934, as amended.

[.60 Telephone listings.—

A member or member organization may not permit a non-member to list the telephone number of a line terminating in a switchboard of the member or member organization in any type of telephone directory under the name of the non-member.]

Auction Market—Bids and Offers (Rules 63—80B)

Dealings and Settlements

Auction Market—Bids and Offers (Rules 63—80B)

Rule 76. “Crossing” Orders

[Supplementary Material .10 to this Rule is not applicable to trading UTP Securities on the Pillar trading platform.]

When a [member]Floor broker has an order to buy and an order to sell the same security, [he or she]the Floor broker shall offer such security at a price which is higher than [his or her]the Floor broker’s bid by the minimum variation permitted in such security before making a transaction with himself or herself. All such bids and offers shall be clearly announced to the [trading]Crowd before the member may proceed with the proposed "cross" transaction.

The provisions of this rule apply only to manual transactions.

(See Rule 91.)

• • • *Supplementary Material:*

.10 Cross Function —

(a) Floor brokers seeking to execute buy and sell orders pursuant to Rule 76 may enter such orders [from their wireless hand-held devices (“HHD”)]into [an]Exchange systems[-provided quote minder], which will monitor protected bids and offers to determine when the limit price assigned to the proposed crossed orders is such that the orders may be executed consistent with Rule 611 of Regulation NMS. When the trade can be effected at or between the protected bid and

offer, the [quote minder]Exchange systems will: (i) deliver an alert message to the [HHD]Floor broker indicating that the order may be crossed; (ii) capture a time-stamped quote at the time that the alert was sent[,]; (iii) commence a 20-second timer from the moment a cross trade may be executed at or between the protected bid and offer; and (iv) [enable a “print” key function in the HHD]permit[ting]the Floor broker to cross the orders and print the trade to the Tape within that 20-second time period. Upon receipt of an alert, Floor brokers using the cross function must first announce the bid and offer to the [trading]Crowd in compliance with this Rule and then cross the stock [using the “print” key function in the HHD]before the 20-second timer expires. [Quote minder]Exchange systems will not monitor protected bids and offers when the PBBO is crossed.

Members Dealing for Their Own Accounts (Rules 90—98A)

Rule 98. Operation of a DMM Unit

(b) Definitions

For purposes of this Rule, the following terms shall be defined as provided.

- (1) "DMM unit" means a trading unit within a member organization that is approved pursuant to Rule 103 to act as a DMM unit.
- (2) "DMM securities" means any securities allocated to the DMM unit pursuant to Rule 103B or other applicable rules.
- (3) "DMM rules" means any rules that govern [DMM or]DMM unit conduct or trading.
- (4) ["Floor-based non-public order" any order, whether expressed electronically or verbally, or any information regarding a reasonably imminent non-public transaction or series of transactions entered or intended for entry or execution on the Exchange and which is not publicly available on a real-time basis via an Exchange-provided datafeed, such as NYSE OpenBook® or otherwise not publicly available. Non-public orders include order information at the opening, re-openings, the close, and order information in Exchange systems that is not available via NYSE OpenBook®.
- (5)]"Investment banking department" means any department or division, whether or not specifically identified as such, that performs any investment banking services on behalf of a member organization.
- [[6]5] "Research department" means any department or division, whether or not specifically identified as such, that is responsible for preparing the substance of a research report on behalf of a member organization.
- [[7]6] "Related products" means any derivative instrument that is related to a DMM security, including options, warrants, hybrid securities, single-stock futures, security-based swap agreement, a forward contract, or any other instrument that is exercisable into or whose price is based upon or derived from a security traded at the Exchange, other than an

Exchange Traded Product listed under NYSE Rules 5.2(j)(3), Supplementary Material .01(a); 5.2(j)(6)(B)(I); 5.2(j)(8)(e)(1)(B); 8.100, Supplementary Material .01(a)(A); 8.600 Supplementary Material .01(a); 8.601; or 8.900.

(c) Operation of a DMM unit.

(2) A member organization seeking approval to operate a DMM unit pursuant to this rule must maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of such member organization's business, (i) to prevent the misuse of material, non-public information by such member organizations or persons associated with such member organization and (ii) to ensure compliance with applicable federal laws and regulations and with Exchange rules.

(3) Member organizations operating a DMM unit and DMMs shall not misuse material, non-public information. For purposes of this Rule, conduct constituting the misuse of material, non-public information includes, but is not limited to:

(A) Trading in any securities issued by a corporation, or in any related product, while in possession of material-non-public information concerning the issuer; or

(B) Trading in a security or related product, while in possession of material non-public information concerning imminent transactions in the security or related product; or

(C) Disclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related product for the purpose of facilitating the possible misuse of such material, non-public information.

~~(3)~~4) Restrictions on trading for member organizations operating a DMM unit.

(A) [A member organization shall protect against the misuse of Floor-based non-public order information. Only Floor-based employees of the DMM unit and individuals responsible for the direct supervision of the DMM unit's Floor-based operations may have access to Floor-based non-public order information.

(B)]While on the Trading Floor of the Exchange, employees of the DMM unit:

(i) may trade DMM securities only on or through the systems and facilities of the Exchange at the DMM unit's assigned stock trading post location and as permitted by Exchange rules.

- (ii) may not trade any security that is a related product of its DMM securities.
 - (iii) [except as provided for in Rule 36.30,]may only[not]communicate with individuals or systems responsible for making trading decisions for related products or for away-market trading in their assigned DMM securities consistent with this Rule.
 - (iv) shall not have access to customer order information, [or the DMM unit's position in related products.
- (C) When a Floor-based employee of a DMM unit moves to a location off of the Trading Floor of the Exchange or if any person that provides risk management oversight or supervision of the Floor-based operations of the DMM unit is aware of Floor-based non-public order information, he or she shall not (1) make such information available to customers, (2) make such information available to individuals or systems responsible for making trading decisions in DMM securities in away markets or related products, or (3) use any such information in connection with making trading decisions in DMM securities in away markets or related products.
- (D) A DMM unit may make available to a Floor broker associated or affiliated with an approved person or member organization any information that the DMM would be permitted to provide under Exchange rules to an unaffiliated Floor broker.]
- ([4]5) Any proprietary interest entered into Exchange systems by the DMM unit in DMM securities must be identifiable as DMM unit interest, unless such proprietary interest is for the purposes of facilitating the execution of an order received from a customer (whether the DMM's own customer or the customer of another broker-dealer) and is on a riskless principal basis, or on a principal basis to provide price improvement to the customer (a "customer-driven order"). A DMM unit must use a unique identifier that identifies to the Exchange its customer-driven orders in DMM securities. An identifier used to identify a DMM's customer-driven orders in DMM securities may not be used for trading activity at the Exchange in DMM securities that are not customer-driven orders, but may be used for trading activities in securities not assigned to the DMM.
- ([5]6) [The member organization must daily provide the Exchange with net position information in DMM securities by the DMM unit and any independent trading unit of which it is part for such time periods and in the manner prescribed by the Exchange.
- (A) The phrase "net position information in DMM securities" in subsection (c)(5) means the DMM unit's inventory of securities exclusive of pending, unexecuted orders and, as used in this Rule, is independent of any reference to position information in connection with an interpretation of Rule 7.16 or Regulation SHO. Consistent with Rule 7.16(c), a member organization must mark all sell orders as "long," "short" or "short exempt" in

accordance with the provisions of Rule 200 of Regulation SHO and related SEC FAQs 2.5, 2.5A, 2.5B, 2.5C and 2.6.

- (6)]The DMM unit may not operate as a specialist or market maker on the Exchange or the NYSE American LLC equities or options trading floors in related products, unless specifically permitted in Exchange rules.
- (7) The member organization shall maintain information barriers between the DMM unit and any investment banking or research departments of the member organization. No DMM or DMM unit may be directly supervised or controlled by an individual associated with an approved person or the member organization who is assigned to any investment banking or research departments.

(e) Failure to Maintain Confidentiality

- (1) In the event that a DMM unit receives [from the member organization or approved person]non-public information about a security that is allocated to the DMM unit (with the exception of aggregate order information provided by the Exchange as set forth in Rules 104(a)(2) and (3)), that DMM unit shall promptly communicate that fact to the person responsible for compliance with the securities laws and regulations within the DMM unit (compliance officer) and shall seek a determination from such compliance officer as to whether the DMM should cease acting as a DMM in the security involved.

(f) Reporting Obligations

- (3) A DMM unit shall promptly report to the Exchange any failure to maintain the confidentiality of [Floor-based]non-public [order]information, as required by section_(c) of this Rule.
- (4) In the event a DMM unit, member organization, or approved person becomes aware of any trading activity that may be a result of a breach of (i) the DMM unit's internal controls or surveillances as required by section (c) of this Rule, or (ii) the requirement to maintain the confidentiality of [Floor-based]non-public [order]information, as required by section (c) of this Rule, the DMM unit, member organization, or approved person shall:

- (A) Promptly conduct an internal investigation into any such actual or potential breach to determine whether such breach occurred and if there was a breach, how such breach occurred;
- (B) Promptly take any and all necessary remedial measures to prevent and detect such breaches from recurring; and
- (C) On a quarterly basis, for any ongoing internal investigation required by section (f)(4)(A) of this Rule, report in writing to the Exchange:
 - (i) The commencement of the internal investigation;
 - (ii) The quarterly progress of each open investigation (report by the 15th day of the month following the quarter); and
 - (iii) The completion of the investigation, including the methodology and results of the investigation, remedial actions taken, any internal disciplinary action taken, and any referral of the matter to the Exchange, another self-regulatory organization, the Securities and Exchange Commission or another Federal agency.

(g) Any failure by the DMM unit to maintain confidentiality of [Floor-based]non-public [order]information or any breach of any internal controls established to protect such information, may result in the imposition of appropriate regulatory sanctions, including a withdrawal of the registration of one or more securities of the DMM unit or the withdrawal of the approval to operate a DMM unit.

DMMs, Odd-Lot Brokers, and Registered Traders (Rules 99—114)

Rule 103. Registration and Capital Requirements of DMMs and DMM Units

(c)(i) Before approval of registration as a DMM, an individual is required to be a member of the Exchange and pass an examination prescribed by the Exchange, unless such examination is waived by the Exchange. Applications for this examination should be submitted to the Exchange.

(i) A member previously qualified as a specialist may act as a DMM without being required to pass an examination prescribed by the Exchange.

(ii) DMMs are permitted to conduct business for the DMM unit on the Floor of the Exchange, such as entering orders and quotations for the account of the DMM unit. DMMs may conduct business only on behalf of the DMM unit with which the DMM is associated.

[(d) As a condition of a member organization's registration as a DMM unit in one or more securities the Exchange may at any time require such DMM unit to act as an odd-lot dealer in such securities as provided under the rules of the Exchange.]

[(e)d] All DMM units registered at the Exchange will be required to pay such registration fees as are determined and made known by the Exchange.

Rule 103B. Security Allocation and Reallocation

(III) ALLOCATION

(A) Issuer Selection of DMM Unit by Interview

(2) Interview Between the Issuer and DMM Units

- (b) Within five business days after the issuer selects the eligible DMM units to be interviewed (unless the Exchange has determined to permit a longer time period in a particular case), the issuer shall meet with representatives of each of the DMM units. At least one representative of the listing company must be a senior official of the rank of Corporate Secretary or above of that company, or a designee of such senior official. In the case of the listing of a structured product, a senior officer of the issuer may be present in lieu of the Corporate Secretary. Representatives of each DMM unit must participate in the meeting, each of whom must be employees of the member organization operating a DMM unit[, and one of whom must be the individual DMM who is proposed to trade the company's security. If the DMM is unavailable to appear in person, a telephone interview with that DMM is acceptable]. Meetings shall normally be held at the Exchange, unless the Exchange has agreed that they may be held elsewhere.

(C) [DMM One Year Obligation

The individual DMM who is assigned the proposed security is required to remain the assigned DMM for one year from the date that the issuer begins trading on the Exchange. The DMM unit may designate a different individual DMM within the year by notifying the Exchange of the change in DMM and setting forth the reasons for the change with the consent and approval of the issuer.

(D)]Foreign listing considerations

VI. POLICY NOTES

(H) *Allocation Sunset Policy*

Allocation decisions shall remain effective with respect to any initial public offering listing company which lists on the Exchange within eighteen months of such decision. In situations in which the selected DMM unit merges or is involved in a combination [or the individual DMM who is proposed to trade the company's security is no longer with the selected DMM unit]within the eighteen-month period, the company may choose whether to stay with the selected DMM unit, or be referred to allocation. [If an individual DMM chosen to trade the company's security is no longer with the selected DMM unit, the issuer may interview a replacement DMM from that DMM unit prior to deciding whether to stay with the selected DMM unit or be referred to allocation.]If a listing company does not list within eighteen months, the matter will be referred for allocation through the allocation process pursuant to NYSE Rule 103B, Section III.

Rule 104. Dealings and Responsibilities of DMMs and DMM Units

(a) DMM[s] units registered in one or more securities traded on the Exchange must engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. The maintenance of a fair and orderly market means the maintenance of price continuity with reasonable depth, to the extent possible consistent with the ability of participants to use permitted DMM order types, and the minimizing of the effects of temporary imbalances between supply and demand. In connection with the maintenance of a fair and orderly market, DMM units should engage to a reasonable degree under existing circumstances in dealings for the DMM unit's own account when lack of price continuity, lack of depth, or disparity between supply and demand exists or is to be reasonably anticipated.

The Exchange will supply DMM units with suggested minimum Depth Guidelines for each security in which a DMM unit is registered. The administration of the Depth Guidelines will be contained in notices periodically issued to all DMM units. In connection with a DMM unit's responsibility to maintain a fair and orderly market, DMM units will be expected to quote and trade with reference to the Depth Guidelines where necessary provided, however, compliance with the suggested minimum Depth Guidelines does not by itself establish maintenance of a fair and orderly market.

The responsibilities and duties of a DMM unit specifically include, but are not limited to, the following:

- (1) Assist the Exchange by providing liquidity as needed to provide a reasonable quotation and by maintaining a continuous two-sided quote with a displayed size of at least one round lot.
 - (A) Two-Sided Obligation. With respect to maintaining a continuous two-sided quote with reasonable size for securities in which the DMM unit is registered, DMM units must maintain a bid or an offer at the National Best Bid and National Best Offer ("inside") (i) at least 15% of the trading day for securities that are not ETPs with a consolidated average daily volume of less than one million shares, (ii) at least 10% of the trading day for securities that are not ETPs with a consolidated average daily volume equal to or greater than one million shares, and (iii) at least 25% of the trading day for ETPs. Time at the inside is calculated as the average of the percentage of time the DMM unit has a bid or offer at the inside. In calculating whether a DMM is meeting the respective percentage measure, credit will be given for executions for the liquidity provided by the DMM. Reserve or other non-displayed orders entered by the DMM will not be included in the inside quote calculations.
 - (B) Pricing Obligations. For NMS stocks (as defined in Rule 600 under Regulation NMS) a DMM unit shall adhere to the pricing obligations established by this Rule during the trading day; provided, however, that such pricing obligations (i) shall not commence during any trading day until after the first regular way transaction on the primary listing market in the security, as reported by the responsible single plan processor, and (ii) shall be suspended during a trading halt, suspension, or pause, and shall not re-commence until after the first regular way transaction on the primary listing market in the security following such halt, suspension, or pause, as reported by the responsible single plan processor.
 - (i) Bid and Offer Quotations. At the time of entry of the DMM unit's bid (offer) interest, the price of the bid (offer) interest shall be not more than the Designated Percentage away from the then current National Best Bid (Offer), or if no National Best Bid (Offer), not more than the Designated Percentage away from the last reported sale from the responsible single plan processor. In the event that the National Best Bid (Offer) (or if no National Best Bid (Offer), the last reported sale) increases (decreases) to a level that would cause the bid (offer) interest to be more than the Defined

Limit away from the National Best Bid (Offer) (or if no National Best Bid (Offer), the last reported sale), or if the bid (offer) is executed or cancelled, the DMM unit shall enter new bid (offer) interest at a price not more than the Designated Percentage away from the then current National Best Bid (Offer) (or if no National Best Bid (Offer), the last reported sale), or identify to the Exchange current resting interest that satisfies the DMM unit's Two-Sided [o]Obligation[according paragraph (1)(A), above].

- (ii) The National Best Bid and Offer shall be determined by the Exchange in accordance with its procedures for determining protected quotations under Rule 600 under Regulation NMS.
- (iii) For purposes of this Rule, the "Designated Percentage" shall be 8% for Tier 1 NMS Stocks under the Limit Up-Limit Down Plan ("Tier 1 NMS Stocks"), 28% for Tier 2 NMS Stocks under the Limit Up – Limit Down Plan ("Tier 2 NMS Stocks") with a price equal to or greater than \$1.00, and 30% for Tier 2 NMS Stocks with a price lower than \$1.00, except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 80C is not in effect, the Designated Percentage shall be 20% for Tier 1 NMS Stocks, 28% for Tier 2 NMS Stocks with a price equal to or greater than \$1.00, and 30% for Tier 2 NMS Stocks with a price lower than \$1.00. For purposes of this paragraph, rights and warrants will be considered Tier 2 NMS Stocks.
- (iv) For purposes of this Rule, the "Defined Limit" shall be 9.5% for Tier 1 NMS Stocks, 29.5% for Tier 2 NMS Stocks with a price equal to or greater than \$1.00, and 31.5% for Tier 2 NMS Stocks with a price lower than \$1.00, except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 80C is not in effect, the Defined Limit shall be 21.5% for Tier 1 NMS Stocks, 29.5% for Tier 2 NMS Stocks with a price equal to or greater than \$1.00, and 31.5% for Tier 2 NMS Stocks with a price lower than \$1.00. For purposes of this paragraph, rights and warrants will be considered Tier 2 NMS Stocks.

Nothing in this Rule shall preclude a DMM unit from quoting at price levels that are closer to the National Best Bid and Offer than the levels required by this Rule.

- (2) Facilitate openings and reopenings, including the Midday Auction, for each of the securities in which the DMM unit is registered as required under Exchange rules. This may include supplying liquidity as needed. (See Rule 7.35A for additional responsibilities of DMM[s] units with respect to Core Open Auctions and Trading Halt Auctions.) DMM and DMM unit algorithms will have access to aggregate order information in order to comply with this requirement as needed and only (a) before the open or until a security opens for trading, or (b) while trading is halted and only until a security is reopened for trading.

- (3) Facilitate the close of trading for each of the securities in which the DMM unit is registered as required by Exchange rules. This may include supplying liquidity as needed. (See Rule 7.35B for additional responsibilities of DMM[s] units with respect to Closing Auctions.) DMM and DMM unit algorithms will have access to non-public aggregate order information in order to comply with this requirement as needed and only outside Core Trading Hours.
- (4) The Exchange may make systems available to a DMM at the post that display the following information about securities in which the DMM is registered: (A) aggregate order information; and (B) post-trade information. A DMM may not use any information provided by Exchange systems pursuant to this subparagraph in a manner that would violate Exchange rules or federal securities laws or regulations. Except as provided in subparagraph (5) below, aggregate order information may only be used by DMMs and DMM units to satisfy the responsibilities and duties set forth in Rule 104(a)(1)-(3), and may only be disseminated to (i) employees of DMM units, and (ii) the individuals responsible for direct supervision of DMM units.
- (5) The DMM may provide the information described in subparagraph (4) in response to an inquiry from a Floor broker, provided that aggregate order information can only be provided in response to a Floor broker inquiry before the open or until a security opens for trading, or while trading is halted and only until a security is reopened for trading. A Floor broker may not submit an inquiry pursuant to this subparagraph (5) by electronic means and the DMM may not use electronic means to transmit market information to a Floor broker in response to a Floor broker's inquiry pursuant to this subparagraph (5).

(c) Functions of DMMs

- (1) Any member who expects to act as a DMM in any listed security must be registered as a DMM. See Rule 103 for registration requirements for DMMs.
- (2) [The function of a member acting as a DMM on the Floor of the Exchange includes the maintenance, in so far as reasonably practicable, of a fair and orderly market on the Exchange in the securities in which he or she is so acting. The maintenance of a fair and orderly market implies the maintenance of price continuity with reasonable depth, to the extent possible consistent with the ability of participants to use reserve orders, and the minimizing of the effects of temporary disparity between supply and demand. In connection with the maintenance of a fair and orderly market, it is commonly desirable that a member acting as DMM engage to a reasonable degree under existing circumstances in dealings for the DMM's own account when lack of price continuity, lack of depth, or disparity between supply and demand exists or is reasonably to be anticipated.
- (3) The Exchange will supply DMMs with suggested Depth Guidelines for each security in which a DMM is registered. The administration of the Depth Guidelines will be contained in notices periodically issued to all DMMs. In connection with a DMM's responsibility to

maintain a fair and orderly market, DMMs will be expected to quote and trade with reference to the Depth Guidelines where necessary.

(4) DMMs and DMM units are designated as market maker on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder.

[(5)The requirements Rule 104(c)(2) and (3) will be operative with respect to ETPs upon implementation of the applicable Depth Guidelines by the Exchange, but in any event no later than eighteen weeks after ETPs listed on the Exchange pursuant to Rules 5P and 8P begin trading.]

(d) Transactions by DMM Units

(1) Transactions on the Exchange [by a DMM]for the DMM unit's account are to be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular security.

(A) An “Aggressing Transaction” is a DMM unit transaction that:

- (i) is a purchase (sale) that reaches across the market to trade as the contra-side to the Exchange published offer (bid); and
- (ii) is priced above (below) the last [differently-priced]consolidated trade [on the Exchange and above (below) the last differently-priced published offer (bid) on the Exchange].

[(B) *Prohibited Transactions.* Aggressing Transactions during the last ten minutes prior to the scheduled close of trading that would result in a new high (low) price for a security on the Exchange for the day at the time of the DMM's transaction are prohibited, unless such transaction would match another market's better bid or offer price, bring the price of that security into parity with an underlying or related security or asset, or would liquidate or decrease the position of the DMM unit.

- (i) The phrase “the position of the DMM unit” in subsection (g)(1)(B) means the DMM unit's inventory of securities exclusive of pending, unexecuted orders and has the same meaning as “net position information in DMM securities” in Rule 98(c)(5).]

(2) *Re-Entry Obligations.* The DMM unit's obligation to maintain a fair and orderly market may require re-entry on the opposite side of the market after effecting one or more transactions. Such re-entry should be commensurate with the size of the transaction(s) and the immediate and anticipated needs of the market, provided that:

(A) Following an Aggressing Transaction, the DMM unit must re-enter the opposite side of the market at or before the applicable Price Participation Point (“PPP”) for that security [commensurate with]in the same size of the Aggressing Transaction.

(B) Following an Aggressing Transaction that (1) is 10,000 shares or more or has a market value of \$200,000 or more and (2) exceeds 50% of the published offer (bid) size, the DMM unit must immediately re-enter the opposite side of the market at or before the applicable PPP for that security commensurate with the size of the Aggressing Transaction. [

(3) *PPP Guidelines.*

(A)](C) The Exchange will periodically issue PPP Guidelines that identify the price at or before which a DMM unit is expected to re-enter the market following an Aggressing Transaction. [PPPs are only minimum guidelines and compliance with them does not guarantee that a DMM unit is meeting its obligations.

(B) Notwithstanding that a security may not have reached the PPP, the DMM unit may be required to re-enter the market immediately after an Aggressing Transaction based on the price and/or volume of the DMM unit's trading in reference to the market in the security at the time of such trading. In such situations, DMM units may or may not rely on the fact and circumstance that there may have been one or more independent trades following the DMM unit's trading to justify a failure to re-enter the market.

(e) Trading Floor Functions of DMMs

(i) DMM may perform the following Trading Floor functions:

(A) maintain order among Floor brokers manually trading at the DMM's assigned panel;

(B) bring Floor brokers together to facilitate trading, which may include the DMM as a buyer or seller;

(C) assist a Floor broker with respect to an order by providing information regarding the status of a Floor broker's orders, helping to resolve errors or questioned trades, adjusting errors, and cancelling or inputting Floor broker agency interest on behalf of a Floor broker; and

(D) research the status of orders or questioned trades on his or her own initiative or at the request of the Exchange or a Floor broker when a Floor broker's handheld device is not operational, when there is activity indicating that a potentially erroneous order was entered or a potentially erroneous trade was executed, or when there otherwise is an indication that improper activity may be occurring.

(ii) The Exchange may make systems available to a DMM at the post that display the following information about securities in which the DMM is registered: (A) aggregated buying and selling interest; and (B) post-trade information. A DMM may not use any

information provided by Exchange systems pursuant to this subparagraph (ii) in a manner that would violate Exchange rules or federal securities laws or regulations.

- (iii) The DMM may provide market information that is available to the DMM at the post as described in subparagraph (e)(ii) to: (A) respond to an inquiry from a Floor broker in the normal course of business; or (B) visitors to the Trading Floor for the purpose of demonstrating methods of trading; provided, however, that a Floor broker may not submit an inquiry pursuant to this subparagraph (e)(iii) by electronic means and the DMM may not use electronic means to transmit market information to a Floor broker in response to a Floor broker's inquiry pursuant to this subparagraph (e)(iii).

(f) Temporary DMMs.

In the event of an emergency, such as the absence of the DMM, or when the volume of business in the particular stock or stocks is so great that it cannot be handled by the DMMs without assistance, a Trading Official may authorize a member of the Exchange who is not registered as a DMM in such stock or stocks, to act as temporary DMM for that day only.

A member who acts as a temporary DMM by such authority is required to file with the Exchange, at the end of the day a report showing (a) the name of the stock or stocks in which he so acted, (b) the name of the regular DMM, (c) the time of day when he so acted, and (d) the name of the Trading Official who authorized the arrangement. The necessary forms may be obtained at the Information Desk.

The Trading Official will not give such authority for the purpose of permitting a member not registered as DMM habitually to relieve another DMM at lunch periods, etc.

If a temporary DMM substitutes for a DMM, and if no DMM is present, the temporary DMM is expected to assume the obligations and responsibilities of DMMs for the maintenance of the market.]

([g]e) Communication with Issuers of Listed Securities.

- (1) On at least a quarterly basis, each DMM unit must communicate with one or more senior officials of each issuer of listed securities in whose securities DMMs associated with the DMM unit are registered, with the exception of ADRs. The senior official designated by the listed issuer for these contacts must be of the rank of Corporate Secretary or above, or a designee thereof, and must not be involved in market or trading operations for or on behalf of the listed issuer or with respect to the listed security.
- (A) If a DMM unit does not have contact information for a listed issuer, the DMM unit will seek to communicate with the Corporate Secretary most recently named on a public filing by such issuer.

- (2) The communication requirement may be met by in-person meetings, telephone calls, or written communications.
- (A) During the required communication, employees of the DMM unit must comply with the requirements of Rule 98 with respect to the information that may be shared with the listed issuer contact.
- (B) An employee of a DMM unit may [not]communicate with a listed issuer contact from the Trading Floor via telephone[, but may, while on the Trading Floor,]or use written electronic communications to communicate with a listed issuer contact from the Trading Floor, [subject to]consistent with Rule 36.30[1] and Rule 98.
- (C) DMM units must establish written policies and procedures reasonably designed to ensure that DMMs are in compliance with the requirements of this Rule.
- (3) If a DMM unit fails to initiate the required communication with the listed issuer for a single quarter, the Exchange will issue an initial warning letter to the DMM unit. If a DMM unit fails to initiate the required communication with the listed issuer for a two or more quarters, that DMM unit will be ineligible to participate in the allocation process for a minimum of one month following the second quarter of its failure to meet its contact requirement.

Rule 104A. [DMMs—General

••• *Supplementary Material:*

.50 Equity Trading Reports.—Every DMM unit (including relief DMMs) must keep a record of purchases and sales initiated on the Floor in stocks in which he or she is registered, for an account in which he or she has an interest. DMM units must also maintain records of purchases and sales in the Exchange's off-hours trading sessions. Such record must show the sequence in which each transaction actually took place, the time thereof, and whether such transaction was at the same price or in what respect it was at a different price in relation to the immediately preceding transaction in the same stock. The price designations for transactions made in another market center are to be determined from the immediately preceding transaction price on the Exchange. DMM units and relief DMMs are required to report such transactions in such automated format and with such frequency as may be prescribed by the Exchange.

Paragraph 104.12 sets forth circumstances under which DMMs who maintain investment accounts in registered securities are required to submit an equity trading data report.

Options and single stock futures trading data reports.—Every DMM unit (including relief DMMs) must keep a record of all options and single stock futures purchases and sales to hedge its registered securities positions as permitted by Rule 105 and must report such transactions in such automated format and with such frequency as may be prescribed by the Exchange.

Foreign securities reports—Every DMM unit (including relief DMMs) must keep a record of all purchases and sales of foreign securities (as defined in Rule 36.30) for an account in which he or she has an interest. DMM units and relief DMMs are required to report such transactions in such automated format and with such frequency as may be prescribed by the Exchange.]

Rule 104B. DMM Unit Commissions

No [DMM or]DMM unit may charge a commission for the execution of a trade in any of [his or her]their registered securities[, including Investment Company Units pursuant to Exchange Rule 1100, Trust Issued Receipts pursuant to Exchange Rule 1200, and streetTRACKS® Gold Shares pursuant to Exchange Rule 1300, Currency Trust Shares pursuant to Exchange Rule 1300A, Commodity Trust Shares pursuant to Exchange Rule 1300B or any security governed by Exchange Rule series 1100, 1200, 1300, 1300A or 1300B].

Rule 104B. DMM Unit Introductory Program in ETPs

(a) Eligibility. All member organizations in good standing registered as a non-DMM Market Maker or an SLP on the Exchange are eligible for the DMM Introductory Program in ETPs (the “Program”). The Program is limited to trading listed ETPs and is designed to provide eligible member organizations accepted into the Program with a 12-month ramp up period to becoming fully operational, Trading Floor-based DMM units.

(b) Qualifications. To qualify for the Program, an eligible member organization must meet the registration and capital requirements set forth in Rule 103 and have:

- (1) adequate technology to support all electronic DMM unit obligations through the systems and facilities of the Exchange during the initial 12-month period;
- (2) MPIDs that identify to the Exchange trading activity in assigned securities;
- (3) adequate trading infrastructure to support trading activity, which includes support and administrative staff to maintain operational efficiencies in the Program; and
- (4) a disciplinary history that is consistent with just and equitable business practices.

Individuals to be registered as DMMs are required to be members of the Exchange and pass the qualifying examination for DMMs. Applications for this examination should be submitted to the Exchange.

(c) Applications. To participate in the Program, an eligible member organization must submit a Rule 103 application to the Exchange with all supporting documentation. The Exchange will determine whether an applicant is qualified for the Program based on the qualifications described in Section (b) above and will notify the applicant of its decision in writing. In the event an

application is disapproved, the applicant may re-apply for the Program at least three calendar months following notification by the Exchange of disapproval. Once approved for the Program, a DMM unit and their DMMs will be subject to the obligations as set forth in subsection (e) of this Rule during the 12-month duration of the Program.

(d) *Voluntary Withdrawal.* At any time during the 12-month duration of the Program, a DMM unit may withdraw by giving notice to the Exchange in writing. Such withdrawal shall become effective when the ETPs assigned to the withdrawing DMM unit are reassigned. The Exchange will reassign such securities as soon as practicable but no later than 30 days from the date said notice is received by the Exchange. In the event the reassignment takes longer than the 30-day period, the withdrawing DMM unit will have no obligations under this Rule and will not be held responsible for any matters concerning its previously assigned ETPs upon termination of this 30-day period.

(e) *Obligations.* During the 12-month Program period, DMM units and their DMMs will be subject to the duties and responsibilities set forth in Rules 104 and 98. DMMs operating in the Program will be permitted to conduct business for the DMM unit such as entering orders and quotations for the account of the DMM unit during the Program. DMMs may conduct business only on behalf of the DMM unit with which the DMM is associated.

In addition, during the 12-month Program period, DMM units:

- (1) will not be required to comply with the requirements of Rule 35.20 regarding personnel available to DMM units on the Floor;
- (2) will be ineligible to compete for new listings pursuant to Rule 103B; and
- (3) will be eligible for pricing incentives set forth in the Exchange's Price List unless specifically provided therein.

(f) *General.* All DMM units must transition to being fully operational on the Trading Floor and meet all Exchange requirements for DMM units within the 12-month period. DMM units failing to fully transition as provided herein would forfeit all symbols and be ineligible to re-apply for the Program or become DMM units for a 12-month period. Member organizations disputing Exchange determinations under this Rule should follow the appeal procedures for SLPs set forth in Rule 107B(k).

[Rule 106A. Taking Book or Order of Another Member

When a member temporarily takes the book of a DMM or an order from another member, he or she shall, while he or she is in possession of that book or order and for the remainder of the day, stand in the same relationship to the book or order as the DMM or other member.]
