

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54559; File No. SR-NYSE-2006-63)

October 2, 2006

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 19 (Locking or Crossing Protected Quotations in NMS Stocks)

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 September 28, 2006, the New York Stock Exchange LLC (“NYSE” or “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 NYSE has filed the proposed rule change, pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ 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 Substance of the Proposed Rule Change

The Exchange is proposing to adopt Exchange Rule 19 in order to require its members to reasonably avoid displaying quotations that lock or cross any protected quotations in a Regulation NMS (“NMS”) stock or any quotation, protected or not in an NMS stock that is disseminated pursuant to an effective national market system plan.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The Exchange requested the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay, as specified in Rule 19b(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

The text of the proposed rule change is below. Proposed new language is underlined.

Rule 19.

Locking or Crossing Protected Quotations in NMS Stocks.

(a) Definitions. For purposes of this Rule, the following definitions shall apply:

(1) The terms automated quotation, effective national market system plan, intermarket sweep order, manual quotation, NMS stock, protected quotation, regular trading hours, and trading center shall have the meanings set forth in Rule 600(b) of Regulation NMS under the Securities Exchange Act of 1934.

(2) The term crossing quotation shall mean the display of a bid for an NMS stock during regular trading hours at a price that is higher than the price of an offer for such NMS stock previously disseminated pursuant to an effective national market system plan, or the display of an offer for an NMS stock during regular trading hours at a price that is lower than the price of a bid for such NMS stock previously disseminated pursuant to an effective national market system plan.

(3) The term locking quotation shall mean the display of a bid for an NMS stock during regular trading hours at a price that equals the price of an offer for such NMS stock previously disseminated pursuant to an effective national market system plan, or the display of an offer for an NMS stock during regular trading hours at a price that equals the price of a bid for such NMS stock previously disseminated pursuant to an effective national market system plan.

(b) Prohibition. Except for quotations that fall within the provisions of paragraph (d) of this Rule, members of the Exchange shall reasonably avoid displaying, and shall not engage in a pattern or practice of displaying, any quotations that lock or cross a protected quotation, and any

manual quotations that lock or cross a quotation previously disseminated pursuant to an effective national market system plan.

(c) Manual quotations. If a member of the Exchange displays a manual quotation that locks or crosses a quotation previously disseminated pursuant to an effective national market system plan, such member of the Exchange shall promptly either withdraw the manual quotation or route an intermarket sweep order to execute against the full displayed size of the locked or crossed quotation.

(d) Exceptions.

(1) The locking or crossing quotation was displayed at a time when the trading center displaying the locked or crossed quotation was experiencing a failure, material delay, or malfunction of its systems or equipment.

(2) The locking or crossing quotation was displayed at a time when a protected bid was higher than a protected offer in the NMS stock.

(3) The locking or crossing quotation was an automated quotation, and the member of the Exchange displaying such automated quotation simultaneously routed an intermarket sweep order to execute against the full displayed size of any locked or crossed protected quotation.

(4) The locking or crossing quotation was a manual quotation that locked or crossed another manual quotation, and the member of the Exchange displaying the locking or crossing manual quotation simultaneously routed an intermarket sweep order to execute against the full displayed size of the locked or crossed manual quotation.

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

In its filing with the Commission, NYSE 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 these statements may be examined at the places specified in Item IV below. The NYSE 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange seeks to amend its rules to include Rule 19 in order to comply with its obligation to establish, maintain and enforce written rules that require NYSE members to reasonably avoid displaying quotations that lock or cross any protected quotations in an NMS stock or any quotation, protected or not in an NMS stock that is disseminated pursuant to an effective national market system plan.⁶

Generally, the proposed rule provides that members of the Exchange shall not display any quotations that lock or cross a protected quotation unless an exception applies. Paragraph (d) sets forth the four exceptions under the rule. Pursuant to the rule, a locking or crossing quotation does not violate the prohibition when: (i) the trading center displaying the locked or crossed quotation is experiencing system malfunction; (ii) the protected bid was higher than the protected offer; (iii) the locking or crossing quotation was an automated quotation and the member simultaneously routed an intermarket sweep order to execute against the full displayed size of any locked or crossed quotation; or (iv) a manual quotation locks and crosses another manual

⁶ See, 17 C.F.R. § 242.610(d)(1)

quotation and the member that caused the lock or cross simultaneously routed an intermarket sweep order to execute against the full displayed size of the locked or crossed manual quotation.

Exchange Rule 19 addresses intentional locks or crosses because it is understood that inadvertent locks or crosses will occur. It does not specify how market centers should reconcile locks or crosses between two automated quotations. The Commission's interpretation of the rule suggests that the market centers should continue trading and natural market forces will reconcile the locks or crosses. However, if a manual quotation locks or crosses a previously disseminated automated quotation to a national market system plan, the member that disseminated the manual quotation is required pursuant to paragraph (c) of the rule to, "...promptly either withdraw the manual quotation or route an intermarket sweep order to execute against the full displayed size of the locked or crossed quotation."

In addition to the proposal of Rule 19, it should be noted that the Exchange's technology will automatically route an intermarket sweep order to execute against the full displayed size of any participating market center that would be locked or crossed by an Exchange quotation prior to quoting.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, in that it is 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 NYSE believes that the proposed rule change is consistent

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

with these objectives in that it enables the Exchange to meet its obligations pursuant to Regulation NMS, which serves to modernize and strengthen the national market system.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder because the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A)(iii) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

NYSE has requested that the Commission waive both the five-day pre-filing requirement and the 30-day delayed operative delay.¹³ The Commission is exercising its authority to waive the five-day pre-filing notice requirement and believes that the waiver of the 30-day operative

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

delay is consistent with the protection of investors and the public interest. Waiver of the five-day pre-filing and 30-day operative periods will allow NYSE to adopt its uniform locking and crossing rule for NMS stocks similar to those adopted by other self-regulatory organizations and approved by the Commission.¹⁴ Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁵

At any time within sixty (60) days of the filing of the proposed rule change, the Commission may summarily abrogate 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.¹⁶

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-2006-63 on the subject line.

Paper Comments:

¹⁴ See Securities Exchange Act Release No. 54391 (August 31, 2006), 71 FR 52836 (September 7, 2006) (File No. SR-NSX-2006-08).

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁶ See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

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

All submissions should refer to File Number SR-NYSE-2006-63. 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 Web site (<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 inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. 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-2006-63 and should be submitted on or before [insert date 21 days from date of publication].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Nancy M. Morris
Secretary

¹⁷ 17 CFR 200.30-3(a)(12).