

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59613; File No. SR-NYSE-2009-27)

March 20, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 124 to Execute the Odd-Lot Portion of a Part of a Round-Lot Order Pursuant to the Same Pricing Methodology Used for Odd-Lot Orders

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 March 11, 2009, 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. 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 proposes to amend NYSE Rule 124 (Odd-Lot Orders) to execute the odd-lot portion of a part of a round-lot (“PRL”) order pursuant to the same pricing methodology used for odd-lot orders.

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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

New York Stock Exchange LLC (“NYSE” or the “Exchange”) proposes to amend Exchange Rule 124 (Odd-Lot Orders) to execute the odd-lot portion of a part of a round-lot (“PRL”) order pursuant to the same pricing methodology used for odd-lot orders.⁴

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE Alternext Exchange (formerly the American Stock Exchange).⁵

Background

Currently, odd-lot orders on the Exchange are processed in a separate system on the Exchange from the Exchange systems that execute round-lot orders. Odd-lots are executed systemically by Exchange systems designated solely for odd-lot orders (the “Odd-lot System”).⁶ The odd-lot System executes all odd-lot orders against the DMM as the contra party.⁷

⁴ PRL orders are for a size within the standard unit (round-lot) of trading, which is 100 shares for most stocks, but contains a portion that is smaller than the standard unit of trading, e.g. 199 shares. It should be noted that for certain securities trading on the NYSE the standard unit of trading is 10 shares.

⁵ See SR-NYSEALTR-2009-27 (to be filed March 11, 2009).

⁶ See NYSE Rule 124(a).

⁷ Id. Odd-lot orders are in effect netted against one another and executed; however, since the DMM is buying the same amount that he or she is selling, there is no economic consequence to the DMM in this type of pairing-off of orders. Any imbalance of buy or sell odd-lot market orders are executed against the DMM, up to the size of the round-lot transaction or the BID/OFFER size which ever is less.

Pursuant to NYSE Rule 124(c), after odd-lot market orders and marketable odd-lot limit orders are received by the Odd-lot System, they are automatically executed at the price of the next round-lot transaction in the subject security on the Exchange. Specifically, marketable odd-lot orders and marketable odd-lot limit orders are executed in time priority of receipt at the price of the next round-lot transaction, pursuant to the net process described in footnote 6 [sic]. The imbalance of marketable odd-lot orders that do not receive an execution as a result of the netting provision are executed in time priority of receipt at the price of the NBBO, subject to a volume limitation.⁸ Any imbalances of odd-lot limit orders that were non-marketable upon receipt that subsequently become marketable receive an execution at their limit price.⁹ Marketable odd-lot orders which would otherwise receive a partial execution pursuant to the volume limitation are executed in full.¹⁰

Any marketable odd-lot orders that do not receive an execution because of the volume limitation are executed, in time priority of receipt at the price of the next round-lot transaction, following pricing and execution procedures described above. Marketable

⁸ The volume limitation in section (c) of the rule is defined as the lesser of either the number of shares in the last round-lot transaction or the number of shares available at the national best bid (in the case of an odd-lot order to sell), or the national best offer (in the case of an odd-lot order to buy).

⁹ Pursuant to NYSE Rule 124(d) odd-lot limit orders that are non-marketable upon receipt that become marketable are eligible to be netted and executed at the price of the next round-lot transaction. If odd-lot limit orders do not receive an execution pursuant to the netting provision, then the orders are eligible to be executed, at its limit price, subject to the volume limitation of section (c) of the rule.

¹⁰ As with marketable odd-lot orders, non-marketable odd-lot limit orders which would otherwise receive a partial execution will be executed in full. Non-marketable odd-lot limit orders that become marketable, that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, except that the orders will be executed at its limit price.

odd-lot orders (including odd-lot limit orders that were non-marketable upon receipt and subsequently become marketable) that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, at the price of the NBBO (or at its limit price if the order is a non-marketable odd-lot limit order upon receipt that has become marketable). These orders are also subject to the volume limitation.

Marketable odd-lot orders and non-marketable odd-lot limit orders that have become marketable and remain unexecuted prior to the close of trading shall be executed, in time priority of receipt at the price of the closing transaction, subject to the netting provision and a volume restriction which is not to exceed the size of the closing transaction.

The round-lot portion of a PRL is executed in the Exchange's round-lot system and the odd-lot portion is executed in the Odd-lot System only if no round-lot portion of the initial PRL order is cancelled.¹¹ Where more than one round-lot transaction is required to effect the complete execution of the round-lot portion of a PRL, the odd lot portion is executed only if the entire round-lot portion(s) of the PRL order as received by the Exchange is executed. Thereafter, the odd-lot portion is executed at the same price as the last round-lot transaction that is needed to completely execute all round-lot portions of the PRL.

Example

An order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

¹¹ See NYSE Rule 124.40.

Time of Execution	Number of Shares	Price of Execution	Customer receives
12:00:01	100	\$30.22	Report of Execution 100 shares at a price of \$30.22
12:01:00	100	\$30.21	Report of Execution 100 shares at a price of \$30.22
12:01:47	100	\$30.22	Report of Execution 199 shares at a price of \$30.22
12:01:47	99	\$30.22	

Proposed Amendment to Partial Round Lot Pricing

The Exchange believes that the most appropriate way to execute odd-lot orders is to represent them in the round-lot auction market where they would interact with all other market interest and be priced in accordance with supply and demand dynamics. The Exchange is committed to the goal of integrating odd-lots into the round-lot market; however, the technical changes required to offer its customers the speed of electronic trading while preserving the benefits of having human-moderated trading did not afford the Exchange the ability to modify its systems to integrate odd-lots in the round-lot market.

The pricing methodology of Exchange Rule 124 has been amended as an interim measure to accommodate the pricing and execution of odd-lot orders in a manner based on the prevailing market.¹² More recently in 2007, when the Exchange modified its odd-lot pricing, Exchange systems were unable to execute the odd-lot portions of PRL orders consistent with odd-lot orders that do not contain a round-lot component. Specifically, in order to price the odd-lot portion of a PRL order pursuant to NYSE Rule 124, Exchange legacy systems responsible for sequencing order execution needed, but were unable to

¹² See Securities Exchange Act No. 56551 (September 27, 2007), 73 FR 56415 (October 3, 2007)(SR-NYSE-2007-82); See also Securities Exchange Act No. 49536 (April 7, 2004), 69 FR 19890, 19893 (April 14, 2004) (SR-NYSE-2003-37); Securities Exchange Act No. 49745 (May 20, 2004), 69 FR 29998 (May, 26, 2004) (SR-NYSE-2003-37).

handle a number of variables necessary to track the odd-lot portion of a PRL order in the event a customer sought to cancel or replace his or her PRL. This systemic impediment required the Exchange to handle the execution of the odd-lot portion of a PRL differently from other odd-lot orders to ensure that customers were able to efficiently execute their PRL orders and receive timely information about the orders' status. Today, significant upgrades to the Exchange's technology¹³ now make it possible for Exchange systems to price all odd-lot orders consistent with the provisions NYSE Rule 124(c) and (d).

The Exchange therefore proposes to amend NYSE Rule 124.40 to allow the odd-lot portion of PRLs to be executed in the Odd-lot System pursuant to the pricing provisions of NYSE Rule 124. The Exchange will continue to execute the odd-lot component of a PRL only if the entire round-lot portion(s) of the order as received by Exchange system is executed. The odd-lot portion of the PRL will retain the time stamp of its original entry as a PRL and would be sequenced for execution based on its initial entry time. Once all round lot components of the PRL are fully executed, the odd-lot portion of the order will be executed at a price consistent with other odd-lot orders subject to the provisions of NYSE Rule 124(c) and (d).

Example

A marketable order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of Execution	Number of Shares	Price of Execution	Customer receives
12:00:01	100	\$30.22	Report of Execution 100 shares at a price of \$30.22

¹³ See Securities Exchange Act Release No. 58184 (July 17, 2008), 73 FR 42853 (July 23, 2008) (SR-NYSE-2008-46). (One of the key changes was enhancing the Exchange's technology.)

12:01:00	100	\$30.21	Report of Execution 100 shares at a price of \$30.21
12:01:47	100	\$30.22	Report of Execution 100 shares at a price of \$30.22
12:01:48	99	\$30.23 ¹⁴	Report of Execution 99 shares at a price of \$30.23

The Exchange proposed amendment to NYSE Rule 124.40, will ensure that all odd-lots executed on the Exchange receive consistent pricing regardless of whether the order is received as an odd-lot order or a PRL.

The Exchange will commence implementation of the proposed systemic change to execute the odd-lot portion of a PRL order pursuant to the same pricing methodology used for odd-lot orders on or about March 16, 2009. The Exchange intends to progressively implement this systemic change for PRLs on a security by security basis as it gains experience with the new technology until it is operative in all securities traded on the Floor. During the implementation, the Exchange will identify on its website which securities have been transitioned to the new system.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)¹⁵ that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The instant proposal is in keeping with these principles in that it seeks to price the execution of all odd-lot orders pursuant to one pricing methodology

¹⁴ This example assumes that the odd-lot portion of the PRL had priority of execution in the Odd-lot system because its original order entry time was 12:00:00.

¹⁵ 15 U.S.C. 78f(b)(5).

now that the Exchange systemic impediments to the implementation of one pricing methodology are removed.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

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

The proposed rule change is filed pursuant to paragraph (A) of Section 19(b)(3)¹⁶ and Rule 19b-4(f)(5).¹⁷ This proposed rule change effects a change in an existing order entry or trading system of a self-regulatory organization that: (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) does not have the effect of limiting the access to or availability of the system. The proposed filing does not in any way limit access to the Exchange's odd-lot system; rather, the changes are the result of technological advancements which remove the systemic impediments that previously restricted the Exchange's ability to execute all odd-lots pursuant to a the same pricing methodology. In so far as, the proposal ensures that all odd-lot orders are priced in the same manner, it

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(5).

promotes the protection of investors and serves the public interest without imposing a significant burden on competition.

At any time within 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.

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-2009-27 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSE-2009-27. 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 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; 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-2009-27 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.¹⁸

Florence E. Harmon
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12).