

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60251; File No. SR-NYSE-2009-55)

July 7, 2009

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Accelerated Approval to a Proposed Rule Change Amending Rule 70.25 to Permit All Available Contra-Side Liquidity to Trigger the Execution of a d-Quote

On June 2, 2009, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Rule 70.25 to permit all available contra-side liquidity to trigger the execution of a d-Quote. The proposed rule change was published for comment in the Federal Register on June 11, 2009.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change on an accelerated basis.

The Exchange proposes to amend Rule 70.25 to expand the categories of liquidity that would be considered when determining whether the contra-side volume is within the discretionary size range of the d-Quote.⁴ Currently, only displayed interest is considered by Exchange systems in determining whether the d-Quote is triggered. Under the proposed rule change, all available contra-side interest at a possible execution price of the d-Quote, including undisplayed liquidity, would be considered.

In its filing, the Exchange stated that this rule change would provide Floor brokers with a similar functionality that was previously available to Floor brokers with a CAP-DI order under

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60045 (June 4, 2009), 74 FR 27854 (“Notice”).

⁴ A d-Quote is an e-Quote for which a Floor Broker enters discretionary instructions as to size and/or price. See NYSE Rule 70.25(a)(i). An e-Quote is a broker agency interest file that a Floor broker places within the Display Book system. See NYSE Rule 70(a)(i).

former Rule 123A.30(a).⁵ Under that former rule, an elected CAP-DI order would automatically execute against any contra-side volume available at the electing price, and was eligible to participate in a sweep.⁶ The Exchange also noted that, at the time the CAP order was eliminated, the Exchange did not have the technology to replicate a similar functionality with d-Quotes.⁷ Since that time, the Exchange has introduced two new order types, the Minimum Display Reserve Order, and the Non-Displayed Reserve Order.⁸ With the proposed rule change, these two order types would be considered when determining whether there is sufficient contra-side volume to trigger a d-Quote.

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁹ including, in particular, Section 6(b)(5) of the Act,¹⁰ which requires that an exchange have rules 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, protect investors and the public interest.

Because it would provide a d-Quote with access to both displayed and undisplayed liquidity, the proposed rule change benefits Floor brokers by allowing their d-Quotes to be triggered more often. This proposal should also benefit customers by providing them with more opportunities to have their non-displayed reserve orders receive executions.

⁵ See Notice at 27855.

⁶ Id.

⁷ Id.

⁸ Id. See also NYSE Rule 13 (Definitions of Orders).

⁹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78f(b)(5).

The Commission also finds good cause to approve the proposed rule change prior to the thirtieth day after publication in the Federal Register. The Commission notes that no comments were received during the 21-day comment period. The Commission believes that the Exchange has provided reasonable support for its representation that the proposed rule change provides Floor brokers with a functionality similar to that previously available with CAP-DI orders. In addition, the potential benefits of this proposal to customers, such as the increased opportunities for the execution of customer non-displayed reserve orders, would be available sooner by approving this proposed rule change on an accelerated basis. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹¹ to approve the proposed rule change on an accelerated basis.

¹¹ 15 U.S.C. 78s(b)(2).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSE-2009-55) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Elizabeth M. Murphy
Secretary

¹² 17 CFR 200.30-3(a)(12).