

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-61559; File No. SR-NYSE-2010-08)

February 22, 2010

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending the Provisions of NYSE Rules 116 and 123C to Repeal the Temporary Provision that Allows the Exchange to Report Multiple Closing Prints to the Consolidated Tape When a Closing Transaction Exceeds 99,999,999 Shares

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on February 18, 2010, 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 and II 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 the provisions of NYSE Rules 116 (“Stop” Constitutes Guarantee) and 123C (Market On The Close Policy And Expiration Procedures) to repeal the temporary provision that allows the Exchange to report multiple closing prints to the Consolidated Tape when a closing transaction exceeds 99,999,999 shares. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.nyse.com](http://www.nyse.com).

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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

New York Stock Exchange LLC (“NYSE” or the “Exchange”) proposes to amend the provisions of NYSE Rules 116 (“Stop” Constitutes Guarantee) and 123C (Market On The Close Policy And Expiration Procedures) to repeal the temporary provision that allows the Exchange to report multiple closing prints to the Consolidated Tape when a closing transaction exceeds 99,999,999 shares.

The Exchange amended NYSE Rules 116.40(C) and 123C(3) to report multiple closing prints to the Consolidated Tape last sale reporting system in order to compensate for a temporary size limitation in a new market data distribution system.<sup>4</sup> At that time, Exchange’s market data distribution system was unable to support prints greater than 99,999,999 shares. Executions of greater than 99,999,999 shares had to be sent to the Consolidated Tape in multiple prints. The multiple prints reflected the cumulative volume of the single closing transaction.

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<sup>4</sup> See Securities Exchange Act Release No. 61235 (December 23, 2009), 75 FR 168 (January 4, 2010) (SR-NYSE-2009-126). The Exchange represented that it anticipated correction of the limitation no later than the end of February 2010. Id. at Footnote 3.

The Exchange's market data distribution system is now capable of reporting in a single transaction, executions that exceed 99,999,999 shares to the Consolidated Tape last sale reporting system in a single print.<sup>5</sup> The Exchange therefore seeks to remove the temporary amendments to Rules 116.40(C) and 123C(3) and once again require all closing transactions to be reported in a single print.

The Exchange also proposes to add an inadvertently omitted parenthesis in the second paragraph of Rule 123C(3)(A).

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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 Exchange believes the proposed rule change will facilitate the timely and efficient reporting of the closing transaction on the Exchange and thus ultimately serve to protect investors and the public interest.

### 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.

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<sup>5</sup> The size limitation was corrected as of January 25, 2010.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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 effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(5).<sup>9</sup>

The Exchange submits that the proposed rule change qualifies for immediate effectiveness in that it effects a change in an existing order-entry or trading system of a self-regulatory organization that does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) have the effect of limiting the access to or availability of the system. This proposed rule change simply seeks to remove a temporary amendment that was implemented to compensate for a systemic limitation in its market data distribution system. The resolution of the systemic limitation obviates the need for the work around implemented by the temporary rule. The instant filing simply reinstates provisions for printing the closing transactions to their original state now that the market data system is functioning correctly.

At any time within 60 days of the filing of such 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.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A) .

<sup>9</sup> 17 CFR 240.19b-4(f)(5) .

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2010-08 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-2010-08. 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,<sup>10</sup> 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 Web site 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 will also be available for inspection and copying at the

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<sup>10</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov>.

principal office of the self-regulatory organization. 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-2010-08 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.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).