

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62791; File No. SR-NYSE-2010-60)

August 30, 2010

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 107B to Revise the Quoting Requirements and Add a Volume Requirement

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on August 26, 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 NYSE Rule 107B (“Supplemental Liquidity Providers”) (“SLPs”), which is a pilot program, to revise the quoting requirements and add a volume requirement. The text of the proposed rule change is available on the Exchange’s website at www.nyse.com, at the Exchange’s principal office, at the Commission’s Public Reference Room, and on the Commission’s website at www.sec.gov.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

The Exchange proposes to amend Rule 107B, which is a pilot program, to increase the quoting requirement applicable to SLPs and add a requirement that the SLP provide average daily volume (“ADV”) of more than 10 million shares for all assigned SLP securities on a monthly basis. In connection with this proposed change, the Exchange also proposes to revise the non-regulatory penalties associated with the SLP program to align them with the new quoting and volume requirements. The Exchange also proposes to clarify which mnemonics that a member organization may use for the SLP trading activity to enable a member organization to use the same mnemonic for non-SLP trading activity.

Background

Rule 107B, which was adopted as a pilot program in October 2008, established a new class of market participants referred to as Supplemental Liquidity Providers or “SLPs.”³ Approved Exchange member organizations are eligible to be an SLP. SLPs supplement the liquidity provided by Designated Market Makers (“DMMs”). SLPs have monthly quoting requirements that may qualify them to receive SLP rebates, which are larger than the general rebate available to non-SLP market participants.

Proposed Amendments to Rule 107B

³ See Securities Exchange Act Release No. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR-NYSE-2008-108) (establishing pilot program for market participants referred to as “Supplemental Liquidity Providers” or “SLPs.”). The pilot is currently scheduled to end on September 30, 2010.

1. Proposed Modification of SLP Quoting Requirements

The goal of the SLP program is to encourage participants to quote more often and to add displayed liquidity to the market. Thus, Rule 107B(a) requires that an SLP maintain a bid and/or an offer at the NBB or NBO (e.g., the “inside”) averaging at least 5% of the trading day for each assigned security. The Exchange proposes to increase this quoting requirement to require SLPs to maintain a bid and/or offer at the inside an average of at least 10% of the trading day. The Exchange notes that SLPs are already operating at this volume of trading for many of the assigned securities and have been notified that the Exchange intends to increase the quoting requirement for all SLP securities. Accordingly, the Exchange proposes to increase the quoting requirement set forth in the rule to ensure that SLPs continue trading at this level or higher.

2. Proposed SLP Monthly Volume Requirement

Currently, as set forth in the NYSE Price List, an SLP can receive additional credit if it adds liquidity of an ADV of more than 10 million shares in the applicable month. The Exchange proposes to amend Rule 107B to make the ADV fee structure an ongoing volume requirement. The Exchange therefore proposes to add to section (a) of the rule that an SLP must provide an ADV of more than 10 million shares for all assigned SLP securities on a monthly basis. Meeting this volume requirement will enable an SLP to receive the basic SLP rebate (currently \$0.0020 per executed share) on security-by-security basis and to maintain their SLP status.⁴ An SLP will not receive the SLP rebate for any assigned SLP securities if it fails to also meet the volume requirement for all assigned SLP securities.

As proposed, Rule 107B’s volume requirement will be calculated by aggregating all liquidity an SLP provides in all of its assigned SLP securities each month and calculating the

⁴ The Exchange may, from time to time, change the amounts of the scaled SLP rebates by filing a proposed rule change under Rule 19b-4(f)(2) of the Act. 17 CFR 240.19b-4(f)(2).

ADV by dividing the total aggregated providing volume by the number of trading days in the applicable month.⁵ For example, if an SLP provides liquidity of 200 million shares in Security X and 200 million shares in Security Y in a month with 20 regular trading days, the SLP would meet the month's volume requirement pursuant to Rule 107B because the ADV is 20 million shares (200 plus 200, divided by 20 days).

As further proposed, days on which the Exchange ends the regular trading hours early (i.e., earlier than 4:00 p.m.) will not be included in the ADV for the applicable month. The Exchange believes that these trading days, i.e., the day after Thanksgiving, should not be included because there is less trading time and trading is typically light and therefore the low volume numbers may distort the ADV calculation for the SLP.

An SLP does not have to meet this volume requirement for each individual SLP assigned security in a given month. This is an aggregated amount of shares for all assigned securities of an SLP. The Exchange notes that in assigning securities to SLPs, the SLP Liaison Committee will take into consideration this volume requirement to ensure that the SLP are assigned securities for which they would be able to meet this volume requirement. Similar to the quoting requirement, the volume requirement will not be in effect for the first calendar month that an SLP begins operations.

3. Proposed Modifications of SLP Non-Regulatory Penalties

Rule 107B imposes certain non-regulatory penalties if an SLP fails to meet the quoting requirements. The Exchange seeks to modify these non-regularity penalties to align them with the new quoting and volume requirements for SLPs.

⁵ Pursuant to the NYSE Equities Price List, SLPs will receive a higher rebate when they provide liquidity that is executed in excess of the specified levels of ADV in the applicable month aggregated across all of their assigned SLP securities.

Currently, if an SLP fails to meet a 3% average quoting requirement in its assigned securities, the SLP is not eligible for SLP rebates on executions for that month. Further, if an SLP fails to meet its 5% average quoting requirement in its assigned securities for three (3) consecutive months (not including the first month of SLP operation), the SLP Liaison Committee may, in its discretion, impose the following non-regulatory penalties: (1) revocation of the affected security(ies); (2) each time a security(ies) is revoked for failure to meet the quoting requirement for a particular security, revocation of an additional unaffected security; and/or (3) disqualification from the SLP program.

The Exchange proposes to eliminate the ability of an SLP to earn a rebate if it maintains a quote in assigned SLP securities at the NBB or NBO at least 3%, up to, but not including 5% of the time. Instead, to align the rebate with the 10% quoting requirement set forth in Rule 107B(a), as proposed, an SLP would not be able to earn a rebate unless it maintained a quote at the NBB or NBO an average of 10% of the trading day. The Exchange proposes to make conforming amendments to Rule 107B(i)(1)(A) and (B) by deleting the last sentence of each paragraph as no longer necessary. The Exchange believes that this proposed change strengthens the SLP program by ensuring that rebates are paid only if the SLP meets the minimum quoting requirement of an SLP.

In addition, the Exchange proposes to add that to be eligible for a financial rebate for an SLP security for which the SLP has met the 10% quoting requirement, the SLP would first need to meet the minimum 10 million share ADV requirement for all assigned securities. If the SLP fails to meet the volume requirement, it would not be eligible for any rebates, notwithstanding that it may have met the quoting requirement for one or more assigned SLP securities. If the SLP meets the volume requirement for all assigned securities, but does not meet the 10% quoting

requirement in any securities, the SLP would not receive any financial rebates. The Exchange believes that adding the volume requirement as a condition to receive a financial rebate further strengthens the SLP program by aligning the financial rebate incentive not only with the new quoting requirements, but also with the new volume requirement.

4. Proposed Amendments to SLP Qualifications

Rule 107B requires a member organization to meet several qualifications prior to obtaining approval of their SLP application and obtaining SLP status. These pre-qualifications have both operational and regulatory aspects.

With respect to the operational pre-qualifying requirements, among other things, the Exchange requires pursuant to Rule 107B(c)(1) that an SLP use a unique mnemonic for its SLP business, which enables the Exchange to identify SLP transactions for billing and regulatory purposes. The Exchange proposes to revise this requirement to clarify that the member organization must identify to the Exchange mnemonics that identify the SLP trading activity in assigned SLP securities. As proposed, because all order flow in an assigned SLP security using that mnemonic will be treated as SLP volume, a member organization may not use such identified mnemonics for trading activity at the Exchange in assigned SLP securities that is not SLP trading activity. However, to enable the member organization to use the same mnemonic for both SLP and non-SLP trading activity in different securities, an SLP may use mnemonics used for SLP trading for trading activity in securities not assigned to the SLP. As further proposed, the rule would specify that if the member organization does not identify such mnemonics to the Exchange, the member organization will not receive credit for such SLP trading.

In addition to the above proposed changes, the Exchange proposes to make clarifying amendments to Rule 107B. First, because FINRA now conducts all market regulation functions on behalf of the Exchange, the Exchange proposes to delete references to the “Division of Market Surveillance,” and replace it with a reference to FINRA (see Section (e) of the Rule). Second, the Exchange proposes to revise section (g)(2)(A) of the rule (now proposed Rule (h)(2)(A)), to provide that a DMM unit shall not also act as an SLP in the same securities in which it is registered as a DMM. The Exchange does not need to spell out the term “designated market maker” as it, and the term DMM unit, are defined terms in Rule 2.

The Exchange proposes to implement the changes to the quoting requirement and add the volume requirement effective October 1, 2010.⁶

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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 is consistent with these principles in that it seeks to increase the trading performance of SLPs, which will benefit all market participants.

⁶ As noted above, the SLP program is a pilot program currently set to expire on September 30, 2010. The Exchange intends to file to make the program permanent or extend the pilot program so that it can continue past September 30, 2010.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

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

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement.

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-2010-60 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-2010-60. 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 website (<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 website 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 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-2010-60 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.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).