

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69927; File No. SR-NYSE-2013-46)

July 3, 2013

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List to Add Greater Specificity Related to the Applicable “Tier 3” Supplemental Liquidity Provider Rate and the Member Organization Tier 1 and Tier 2 Adding Credit Rates

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 June 20, 2013, New York Stock Exchange LLC (the “Exchange” or “NYSE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 its Price List to add greater specificity related to (i) the applicable “tier 3” Supplemental Liquidity Provider (“SLP”) rate and (ii) the member organization Tier 1 and Tier 2 Adding Credit rates. The Exchange proposes to implement the fee change effective July 1, 2013. The text of the proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to add greater specificity related to (i) the applicable "tier 3" SLP rate and (ii) the member organization Tier 1 and Tier 2 Adding Credit rates. The Exchange proposes to implement the fee change effective July 1, 2013.

SLP Credits³

SLPs are eligible for certain credits when adding liquidity to the Exchange. The amount of the credit is determined by the "tier" that the SLP qualifies for, which is generally based on the SLP's level of quoting and the average daily volume ("ADV") of liquidity added by the SLP in assigned securities, excluding early closing days. Since October 1, 2012, a \$0.0025 credit has been available under "tier 3" for an SLP that adds liquidity to the NYSE in securities with a per share price of \$1.00 or more if the SLP (i) meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B (quotes of an SLP-Prop and an SLMM of the same member organization are not aggregated), (ii) adds liquidity for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same member organization) of an ADV of more than 0.22% of NYSE consolidated ADV ("CADV"), (iii) adds

³ The SLP program provides incentives for quoting and adds competition to the existing group of liquidity providers. An SLP can either be a proprietary trading unit of a member organization (an "SLP-Prop") or a registered market maker at the Exchange (an "SLMM"). See Rule 107B.

liquidity for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same member organization) of an ADV during the billing month that is at least an 0.18% increase over the SLP's September 2012 Adding ADV⁴ ("SLP Baseline ADV"), and (iv) has a minimum provide ADV for all assigned SLP securities of 12 million shares.⁵

Unlike the other SLP tiers, the Price List does not currently specify the applicable tier 3 rate for a Non-Displayed Reserve Order that adds liquidity to the Exchange.⁶ The Exchange hereby proposes to specify that the rate for a Non-Displayed Reserve Order that adds liquidity to the Exchange for an SLP that qualifies for tier 3 is a credit of \$0.0020. The Exchange notes that, as is currently the case for the other SLP tiers, the proposed rate of \$0.0020 for Non-Displayed Reserve Orders would be \$0.0005 less than the otherwise applicable rate of \$0.0025.

Member Organization Tier 1 and 2 Adding Credits

Member organizations are currently eligible for the Non-Tier Adding Credit when adding liquidity to the Exchange, including both displayed and non-displayed. The applicable rate for the Non-Tier Adding Credit is \$0.0015 per share, or \$0.0010 if a Non-Displayed Reserve Order. Executions of displayed liquidity of certain member organizations may instead be eligible for the Tier 1⁷ or Tier 2⁸ Adding Credit based on the member organization's level of activity during a

⁴ Adding ADV is ADV that adds liquidity to the NYSE during the billing month. Adding ADV excludes any liquidity added by a Designated Market Maker.

⁵ See Securities Exchange Act Release No. 68021 (October 9, 2012), 77 FR 63406 (October 16, 2012) (SR-NYSE-2012-50).

⁶ A Non-Displayed Reserve Order is a limit order that is not displayed, but remains available for potential execution against all incoming automatically executing orders until executed in full or cancelled. See NYSE Rule 13 (Definitions of Orders).

⁷ A member organization currently qualifies for the Tier 1 Adding Credit by adding displayed liquidity to the Exchange if (i) the member organization has ADV Adding ADV (which excludes any liquidity added by a Designated Market Maker) that is at least 1.5% of NYSE CADV, and executes market at-the-close ("MOC") and limit at-the-close ("LOC") orders of at least 0.375% of NYSE CADV, (ii) the member organization has

month.⁹ The Price List currently specifies that the rate for the Tier 1 Adding Credit is \$0.0018 and that the rate for the Tier 2 Adding Credit is \$0.0017. The Exchange proposes a technical change to add the \$0.0010 per share rate for Non-Displayed Reserve Orders to the Tier 1 and Tier 2 Adding Credits. In this regard, a member organization that qualifies for the Tier 1 or Tier 2 Adding Credit currently receives a credit of \$0.0010 per share for Non-Displayed Reserve Orders pursuant to the Non-Tier Adding Credit. The Exchange also proposes a conforming change to remove the existing reference to “displayed” from the Tier 1 and Tier 2 Adding Credit descriptions.

The Exchange believes that the proposed changes would result in greater specificity in the Price List. The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations, including SLPs, would have in complying with the proposed change.

Adding ADV that is at least 0.8% of NYSE CADV, executes MOC and LOC orders of at least 0.12% of NYSE CADV, and adds liquidity to the NYSE as an SLP for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same member organization) of more than 0.15% of NYSE CADV, or (iii) the member organization has ADV that adds liquidity in customer electronic orders to the NYSE (“Customer Electronic Adding ADV,” which excludes any liquidity added by a Floor broker, Designated Market Maker, or SLP) during the billing month that is at least 0.5% of NYSE CADV, executes MOC and LOC orders of at least 0.12% of NYSE CADV, and has Customer Electronic Adding ADV during the billing month that, taken as a percentage of NYSE CADV, is at least equal to the member organization’s Customer Electronic Adding ADV during September 2012 as a percentage of CADV in NYSE-listed securities during September 2012 plus 15%.

⁸ A member organization currently qualifies for the Tier 2 Adding Credit by adding displayed liquidity to the NYSE if the member organization has Adding ADV that is at least 0.20% of NYSE CADV and executes MOC and LOC orders of at least 0.10% of NYSE CADV.

⁹ The Tier 1 and Tier 2 Adding Credits became effective October 1, 2012 pursuant to the same proposed rule change that implemented SLP tier 3. *See supra* note 6. The criteria applicable to the Tier 1 Adding credit was subsequently changed effective November 1, 2012. *See* Securities Exchange Act Release No. 68150 (November 5, 2012), 77 FR 67431 (November 9, 2012) (SR-NYSE-2012-56).

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹¹ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable because, unlike the other SLP tiers, the Price List does not specify the applicable tier 3 rate for Non-Displayed Reserve Orders that add liquidity to the Exchange. The proposed change is also reasonable because, as is currently the case for the other SLP tiers, the proposed rate for Non-Displayed Reserve Orders would be \$0.0005 less than the otherwise applicable rate of \$0.0025.

The Exchange believes that this proposed change is also equitable and not unfairly discriminatory because it would apply to any SLP that qualifies for tier 3. The proposed change is also equitable and not unfairly discriminatory because it would add specificity to the Price List regarding the applicable rate for Non-Displayed Reserve Orders.

The Exchange also believes that the proposed change is reasonable because the technical change to add the \$0.0010 per share rate for Non-Displayed Reserve Orders to the Tier 1 and Tier 2 Adding Credits would result in greater specificity regarding the applicable rate for qualifying member organizations. The Exchange believes that this proposed change is also equitable and not unfairly discriminatory because such greater specificity would benefit all

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) and (5).

readers of the Price List, including member organizations that qualify for the Tier 1 or Tier 2 Adding Credit.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,¹² 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. Instead, the Exchange believes that the proposed change will add greater specificity within the Price List. Specifically, the proposed change related to SLP tier 3 would add specificity to the Price List regarding the applicable rate for Non-Displayed Reserve Orders. In this regard, the Exchange notes that, as is currently the case for the other SLP tiers, the proposed rate of \$0.0020 for Non-Displayed Reserve Orders would be \$0.0005 less than the otherwise applicable rate of \$0.0025. Additionally, the proposed change related to the Tier 1 and Tier 2 Adding Credits would be a technical change, and such greater specificity would benefit all readers of the Price List, including member organizations that qualify for the Tier 1 or Tier 2 Adding Credit.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this

¹² 15 U.S.C. 78f(b)(8).

competitive environment.

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹³ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁴ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

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-

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(2).

¹⁵ 15 U.S.C. 78s(b)(2)(B).

2013-46 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-2013-46. 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-2013-46 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.¹⁶

Elizabeth M. Murphy
Secretary

¹⁶ 17 CFR 200.30-3(a)(12).