

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76400; File No. SR-NYSE-2015-56)

November 9, 2015

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List to Modify Certain Fees for Transactions that Remove Liquidity from the Exchange

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on November 2, 2015, New York Stock Exchange LLC (“NYSE” or “Exchange”) 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 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 its Price List to modify certain fees for transactions that remove liquidity from the Exchange, effective November 2, 2015. 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 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 its Price List to increase certain fees that remove liquidity from the Exchange, effective November 2, 2015. The proposed change would only apply to transactions in securities priced \$1.00 or more.

In particular, the Exchange currently charges \$0.0027 per share for non-Floor broker transactions that remove liquidity from the Exchange, including those of Designated Market Makers ("DMM"). The Exchange proposes to increase this fee to \$0.00275 per share.

Similarly, the Exchange currently charges \$0.0027 per share for all Midpoint Passive Liquidity ("MPL") Orders⁴ that remove liquidity from the Exchange and are not designated with a Retail Modifier as defined in Rule 13. The Exchange proposes to increase the fee for executions of MPL Orders that remove liquidity from the NYSE to \$0.00275 per share.

The Exchange currently charges \$0.0024 per share or \$0.0027 if an MPL Order for all other Floor broker transactions that remove liquidity from the Exchange. MPL orders designated with a Retail Modifier as defined in Rule 13 are not charged a fee. The Exchange proposes to increase the \$0.0027 per share fee for Floor broker MPL Orders that take liquidity from the NYSE to \$0.00275 per share. The current \$0.0024 per share fee for Floor broker transactions that take liquidity from the Exchange would remain unchanged.

The proposed change is not otherwise intended to address any other issues, and the

⁴ MPL Order is defined in Rule 13 as an undisplayed limit order that automatically executes at the mid-point of the protected best bid or offer ("PBBO").

Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁶ 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 fee increase for non-Floor broker transactions that remove liquidity is reasonable because non-Floor brokers would continue to receive credits for their transactions that provide liquidity on the Exchange, including (i) for member organizations that add liquidity that satisfies certain thresholds under the Tier Adding Credits, (ii) for DMMs under the DMM credits, and (iii) for MPL Orders under various pricing categories in the Price List. The resulting fee also is equitable and not unfairly discriminatory because it would continue to be consistent with, and in some cases lower than, the applicable rate on other marketplaces. For example, the standard fee for removing liquidity from NASDAQ in both NASDAQ-listed and NYSE-listed securities is \$0.0030 per share, which is higher than the proposed \$0.00275 per share fee.⁷

The Exchange believes that the proposed increase to the fee for executions of MPL

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4) and (5).

⁷ See, e.g., NASDAQ Rule 7018(d). The fee for removing liquidity on NYSE Arca is also \$0.0030. See NYSE Arca Equities, Inc., Schedule of Fees and Charges, available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.

Orders, including Floor broker MPL orders, that remove liquidity from the Exchange is reasonable because the charge would be the same as the \$0.00275 per share fee proposed for all other non-Floor broker transactions that take liquidity from the NYSE. The proposed fee is also reasonable because it would be lower than the applicable rate on other marketplaces. For example, NASDAQ charges \$0.0030 per share to execute against resting midpoint liquidity, which is greater than both the existing \$0.0027 per share rate and the proposed \$0.00275 per share rate that would apply to MPL Orders.⁸

The Exchange believes that the proposed fee increase for MPL Orders, including Floor broker MPL orders, that remove liquidity from the Exchange is equitable and not unfairly discriminatory because MPL Orders may provide opportunities for market participants to interact with orders priced at the midpoint of the PBBO, thus providing price improving liquidity to market participants and thereby increase the quality of order execution on the Exchange's market, which benefits all market participants. The Exchange also believes the proposed fee is equitable and not unfairly discriminatory because all market participants that use the MPL Order type will pay the same proposed fee.

The Exchange also believes it is equitable and not unfairly discriminatory to continue to charge Floor brokers that take liquidity a lower fee (\$0.0024) than non-Floor brokers that take liquidity because Floor brokers have slower access to the Exchange (via handheld technology) than non-Floor brokers and are prohibited from routing directly to other market centers from handheld devices, which prevents them from accessing any associated pricing opportunities that might exist at those away markets.

Finally, the Exchange believes that it is subject to significant competitive forces, as

⁸ See, e.g., NASDAQ Rule 7018(a).

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,⁹ the Exchange believes that the proposed rule change would not 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 would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

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 or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will

⁹ 15 U.S.C. 78f(b)(8).

impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

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)¹⁰ of the Act and subparagraph (f)(2) of Rule 19b-4¹¹ 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)¹² 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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

¹² 15 U.S.C. 78s(b)(2)(B).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2015-56 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSE-2015-56. 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 such 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-2015-56 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

Robert W. Errett
Deputy Secretary

¹³ 17 CFR 200.30–3(a)(12).