



August 13, 2004

**Via E-Mail:** rule-comments@sec.gov

Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, DC 20549-0609

Attention: Jonathan G. Katz, Secretary

**Re: File Number SR-NYSE-2004-32**

Ladies and gentlemen:

Bloomberg L.P. (“Bloomberg”) hereby submits to the Commission its comments on amendment no. 1 to the proposed rule change by the New York Stock Exchange, Inc. (the “NYSE”) relating to NYSE Liquidity Quote Exhibit C, which the Commission published for comment in Securities Exchange Act Release No. 50040 (July 20, 2004) (the “Release”).

Attached is a copy of the July 7, 2004 letter we submitted to Annette L. Nazareth, Director, Division of Market Regulation, commenting on the NYSE’s Rule 19b-4 filing with the Commission (File No. SR-NYSE-2004-32) relating to Exhibit C of the Liquidity Quote Agreement (the “Rule 19b-4 Filing”). Please consider that letter as our comment in response to the Release.

We appreciate the opportunity to comment on the NYSE’s amended Liquidity Quote filing and we hope our comments are useful to the Division in evaluating the NYSE filing. If you should have any questions, please let me know.

Respectfully submitted,

*Thomas F. Secunda* by R.D.B.

cc(w/att): The Hon. William H. Donaldson, Chairman  
The Hon. Paul S. Atkins, Commissioner  
The Hon. Cynthia A. Glassman, Commissioner  
The Hon. Harvey J. Goldschmid, Commissioner  
The Hon. Roel C. Campos, Commissioner

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Securities and Exchange Commission

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July 7, 2004

**Via E-Mail:** nazaretha@sec.gov

Annette L. Nazareth, Esq.  
Director, Division of Market Regulation  
U.S. Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, DC 20549

**Re: SR-NYSE-2004-32**  
**Relating to Exhibit C of Liquidity Quote Agreement**

Dear Ms. Nazareth:

We are commenting on the above-captioned filing (“the NYSE Filing”), which the New York Stock Exchange, Inc. (the “NYSE”) made on Form 19b-4 under the Securities Exchange Act of 1934 (the “Exchange Act”) by letter of June 23, 2004 to Nancy J. Sanow of the Division.

In a number of aspects, the NYSE Filing is a marked improvement over the NYSE’s previous efforts in this area and that is most welcome development. There are two issues, however, we wish to bring to your attention in connection with this new filing.

1. Number-of-Shares Requirement. The NYSE has wisely dropped four out of the five display requirements the Commission set aside in its January order, Securities Exchange Act Release No. 49076 (January 14, 2004) (Admin. Proc. file 3-11129). The remaining one is still problematic, though, and is not necessary or appropriate to prevent investor confusion<sup>1</sup> or to differentiate appropriately between the NYSE’s Liquidity Quote data and other

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<sup>1</sup> We note the NYSE specifically exempts its members from providing non-complying screen shots to their registered representatives and traders. See Exhibit C, Agreement for Receipt and Use of Market Data: Additional Provisions, at Paragraph 21(e):

(e) INTERNAL DISPLAYS — The Liquidity Quote display requirements set forth in Paragraph 21(d) shall not apply insofar as Customer provides displays to its officers, partners and employees or to those of its Customer Affiliates.

*(Footnote continued)*

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data Bloomberg may wish to present in a quotation montage. The Number-of-Shares Requirement would prevent Bloomberg from presenting a screen it currently presents, which gives aggregated numbers and then allows the investor seeking more detailed information to “toggle” to the next screen, which breaks out the data by market center.

Bloomberg’s aggregated screen, which would be outlawed by the Number-of-Shares Requirement, is a summary screen showing all the published liquidity at prices inferior to the NBBO without breaking the data out by market center. It gives a trader a quick scan of how deep the available liquidity may be in all the market centers and then permits the trader to toggle to a detailed screen showing exactly where the liquidity resides. For traders dealing in a fast or moving market, the summary screen is a valuable aid that can guide their investment decision-making. Traders that have “smart” order routers may not need to know exactly where individual pockets of liquidity reside since the machine will handle the order-routing mechanics. Perhaps that is what underlies the NYSE’s wish to hang on to this last, anticompetitive element — it may in fact promote greater intermarket competition. The Commission should not allow the NYSE to impose this anticompetitive measure, which is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

2. Analytics and Derived Data. We are concerned that the NYSE proposes to retain its “aggregated display and “attribution” requirements in Paragraph (d)(i) and (iii) of Exhibit C (referred to below respectively as the “Aggregated Display requirement” and the “Attribution” requirement”):

(i) AGGREGATED DISPLAYS — Insofar as Customer aggregates Liquidity Quote bids and offers with Other Bids and Offers in its displays (an ‘Aggregated Display’), Customer shall cause the Aggregated Display to indicate the number of shares attributable to the Liquidity Quote bids and offers.

...

(iii) ATTRIBUTION — Customer shall associate the identifier ‘NYSE Liquidity Quote’ or ‘NYLQ’ with each element or line of Liquidity Quote Information that it includes in an Aggregated Display, Montage or other integrated display.

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*(Continued footnote)*

As we have previously noted in the proceeding leading to the Commission’s January order, if the NYSE were truly concerned about investor confusion, the opportunity for confusion among the NYSE members’ sales traders, and derivatively and indirectly, the investors the sales traders solicit, would likely be greater than the opportunity for confusion among skilled professional traders and others who would see and use the screens directly in making trading decision.

In discussions with the NYSE last year, we were told that the Aggregation Requirement would mean that Bloomberg could not present the summary screen it currently presents — which presents aggregated data in summary form without breaking out the NYSE data but invites the viewer to toggle to the detail screen immediately behind. The detail screen does contain a complete and fully identified break-out of NYSE Liquidity Quote data. The use of the summary screen with the detail screen toggle has not led to any investor confusion. In addition, we understand the Attribution Requirement (particularly the words “or other integrated display”) would apply to analytics, including charts, graphs and other derived data presentations as well as to montages. That, we understand, would mean that Bloomberg would have to put the NYSE’s identifier on all its analytics regardless of whether the identifier would be necessary to prevent investor confusion. For the reasons we gave earlier, these requirements are unduly burdensome and anticompetitive:

The NYSE’s demands that vendors festoon their displays with repetitive notations about Liquidity Quote, notations that serve the NYSE’s advertising interests but not investors’ interests, would serve to ‘hog the real estate,’ and crowd out from computer screens information that other competing market centers might wish to have displayed concerning any data they may choose to release to compete with Liquidity Quote. . . .

If required to comply with the Restrictions, Bloomberg would be giving the NYSE considerably more attribution than it gives any other exchanges or market centers. Bloomberg could not build its analytics or construct any readable displays if it were required to provide equally elaborate attribution to even a few of the other market centers that compete with the NYSE. Consequently, the NYSE’s Restrictions would disadvantage other market centers, and block entry by would-be competitors, by denying them necessary screen space. For this reason alone, they are inconsistent with the requirement in Exchange Act Section 6(b)(5) that the NYSE’s rules be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.<sup>2</sup>

We remain concerned that these effects will result if the NYSE Filing is approved. We respectfully suggest the Commission should require the NYSE to clarify that the attribution requirement is limited to montages that array the raw NYSE Liquidity Quote data alongside other data from the NYSE and other exchanges so as to identify the NYSE Liquidity Quote data and prevent confusion.

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<sup>2</sup> Memorandum of Bloomberg L.P. in Matter of the Application of Bloomberg L.P. for Review of Action Taken by the New York Stock Exchange, Inc., Admin. Proc. File No. 3-11129 (July 1, 2003) at 27.

We would suggest that the NYSE's provisions be amended by deleting entirely the Aggregated Display requirement and by amending the Attribution requirement to read as follows:

(iii) ATTRIBUTION — Customer shall associate the identifier 'NYSE Liquidity Quote' or 'NYLQ' identifier with each element or line of NYSE Liquidity Quote Information that it includes in an Display or Montage, but need not do so if the Liquidity Quote Information is aggregated with other quotation or depth-of-market information from the NYSE or other market centers or is presented in charts, graphs or other analytics or derived information products.

We appreciate the opportunity to bring these matters to your attention and we hope our comments are useful to the Division in evaluating the NYSE filing. If you should have any questions, please let me know.

Sincerely yours,

*Thomas F. Secunda* by R.D.B.

cc: Robert L. D. Colby, Esq., Deputy Director  
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