

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-82228; File No. SR-NYSE-2011-55)

December 7, 2017

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS In Connection With the Exchange's Retail Liquidity Program Until June 30, 2018

On July 3, 2012, the Securities and Exchange Commission ("Commission") issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule")<sup>1</sup> that granted the New York Stock Exchange LLC ("NYSE" or "Exchange") a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Liquidity Program ("Program").<sup>2</sup> The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt the Program for a one-year pilot term.<sup>3</sup> The exemption was

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<sup>1</sup> 17 CFR 242.612(c)

<sup>2</sup> See Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR-NYSE-2011-55) ("RLP Approval Order").

<sup>3</sup> See id. The Sub-Penny Exemption was originally granted by the Commission concurrently with the approval of the Program. See id. On July 30, 2013, the Exchange requested an extension of the exemption for the Program. See Letter from Janet McGinness, SVP and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated July 30, 2013. The pilot period for the Program was extended until July 31, 2014. See Securities Exchange Act Release No. 70096 (August 2, 2013), 78 FR 48520 (August 8, 2013) (NYSE-2013-48). On July 30, 2014, the Exchange requested a second extension of the exemption for the Program. See Letter from Martha Redding, Chief Counsel, NYSE, to Kevin M O'Neill, Deputy Secretary, Commission, dated July 30, 2014. The pilot period for the Program was extended until March 31, 2015. See Securities Exchange Act Release No. 72629 (July 16, 2014), 79 FR 42564 (July 22, 2014) (NYSE-2014-35). On February 27, 2015, the Exchange requested a third extension of the exemption for the Program. See Letter from Martha Redding, Senior Counsel, NYSE, to Brent J. Fields, Secretary, Commission, dated February 27, 2015. The pilot period for the Program was extended until September 30, 2015. See Securities Exchange Act Release No. 74454 (March 6, 2015), 80 FR 13054 (March 12, 2015) (SR-NYSE-2015-10). On September 17, 2015, the Exchange requested a fourth extension of the exemption for the Program. See Letter from Martha Redding, Senior Counsel, NYSE, to Brent J. Fields, Secretary, Commission, dated September 17, 2015. The pilot period for the Program was extended until March 31, 2016. See Securities Exchange Act

granted coterminous with the effectiveness of the pilot Program; both the pilot Program and exemption, as previously extended, are scheduled to expire on December 31, 2017.<sup>4</sup>

The Exchange now seeks to further extend the exemption until June 30, 2018.<sup>5</sup> The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program through the same date.<sup>6</sup> In its request to extend the exemption, the Exchange notes that participation in the program has increased recently.<sup>7</sup> Accordingly, the Exchange has asked for additional time to allow the Exchange and the Commission to analyze more data concerning the Program, which the Exchange committed to provide to the

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Release No. 75993 (September 28, 2015), 80 FR 59844 (October 2, 2015) (SR-NYSE-2015-41). On March 17, 2016, the Exchange requested a fifth extension of the exemption for the Program. See Letter from Martha Redding, Senior Counsel, NYSE, to Brent J. Fields, Secretary, Commission, dated March 17, 2016. The pilot period for the Program was extended until August 31, 2016. See Securities Exchange Act Release No. 77426 (March 23, 2016), 81 FR 17533 (March 29, 2016) (SR-NYSE-2016-25). On August 8, 2016, the Exchange requested a sixth extension of the exemption for the Program. See Letter from Martha Redding, Associate General Counsel, NYSE, to Brent J. Fields, Secretary, Commission, dated August 8, 2016. The pilot period for the Program was extended until December 31, 2016. See Securities Exchange Act Release No. 78600 (August 17, 2016), 81 FR 57642 (August 23, 2016) (SR-NYSE-2016-54). On November 28, 2016, the Exchange requested a seventh extension of the exemption for the Program. See Letter from Martha Redding, Associate General Counsel, NYSE, to Brent J. Fields, Secretary, Commission, dated November 28, 2016. The pilot period for the Program was extended until June 30, 2017. See Securities Exchange Act Release No. 79493 (December 7, 2016), 81 FR 90019 (December 13, 2016) (SR-NYSE-2016-82). On May 23, 2017, the Exchange requested an eighth extension of the exemption for the Program. See Letter from Martha Redding, Associate General Counsel, NYSE, to Brent J. Fields, Secretary, Commission, dated May 23, 2017. The pilot period for the Program was extended until December 31, 2017. See Securities Exchange Act Release No. 80844 (June 1, 2017), 82 FR 26562 (June 7, 2017) (SR-NYSE-2017-26).

<sup>4</sup> See Securities Exchange Act Release No. 80844 (June 1, 2017), 82 FR 26562 (June 7, 2017) (SR-NYSE-2017-26).

<sup>5</sup> See Letter from Martha Redding, Assistant Secretary, NYSE, to Brent J. Fields, Secretary, Commission, dated November 30, 2017 (“NYSE Letter”).

<sup>6</sup> See SR-NYSE-2017-64.

<sup>7</sup> See NYSE Letter, supra note 5 at 3.

Commission.<sup>8</sup> For this reason and the reasons stated in the Order originally granting the limited exemption, the Commission finds, pursuant to its authority under Rule 612(c) of Regulation NMS, that extending the exemption is appropriate in the public interest and consistent with the protection of investors.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612 of Regulation NMS that allows it to accept and rank orders priced equal to or greater than \$1.00 per share in increments of \$0.001, in connection with the operation of its Retail Liquidity Program, until June 30, 2018.

The limited and temporary exemption extended by this Order are subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934.

Responsibility for compliance with any applicable provisions of the Federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>8</sup> See RLP Approval Order, supra note 2, 77 FR at 40681.

<sup>9</sup> 17 CFR 200.30-3(a)(83).