SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57792; File No. SR-NYSE-2008-36)

May 7, 2008

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Expand the Reserve Order Pilot Program Currently Operating in 100 Securities Traded on the Exchange to Include All Equity Securities Traded on the Exchange

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 May 6, 2008, the 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b-4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. 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 is proposing to expand the Reserve Order pilot program currently operating in 100 securities traded on the NYSE[5] to include all equity securities traded on the Exchange. The text of the proposed rule change is available at www.nyse.com, the Exchange,

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 15 U.S.C. 78s(b)(3)(A).

4 17 CFR 240.19b-4(f)(6).

5 See Securities Exchange Act Release No. 57688 (April 18, 2008), 73 FR 22194 (April 24, 2008) (SR-NYSE-2008-30) ("Reserve Order Notice").

and 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, NYSE 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 these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Through this proposed rule change, the Exchange seeks to expand the Reserve Order pilot program currently operating pursuant to Exchange Rule 13. On April 23, 2008, the Exchange implemented a new order type that allows off-Floor participants the ability to enter reserve interest into Exchange systems ("Reserve Order").[6]

The Reserve Order is a limit order for which a portion of the order is to be displayed and a portion of the order, at the same price, is not displayed (i.e., is held in "reserve").[7] Market participants that choose to enter Reserve Orders must enter specified order information in relation to the price and size of the order and the amount to be displayed. The displayed portion

6 See id.

7 The Exchange represents that this functionality is equivalent to the functionality currently available to Floor brokers and specialists with respect to entry of reserve interest. In order for Floor brokers' reserve interest not to be visible by the specialists, a Floor broker must designate his or her reserve interest as "Do Not Display" interest. Reserve Orders in contrast are never shown to the specialist except when included in aggregate quantities for manual executions.

of a Reserve Order is published in NYSE OpenBook®[8] and is available to the specialist on the Floor. Both the displayed and the non-displayed portion are available for automatic execution against incoming contra-side orders. Displayed and non-displayed interest of Reserve Orders is available for manual executions as well.[9]

To afford the Exchange and its customers the ability to gain systemic experience with the new Reserve Order type, the Exchange implemented the amendment to Exchange Rule 13 allowing off-Floor participants to enter Reserve Orders on a pilot basis. The pilot currently operates in 100 securities traded on the Floor of the Exchange.

Pilot Results and Expansion

The Exchange has determined that the technology modifications that were required to allow off-Floor participants the ability to enter Reserve Orders are operating successfully. The Exchange states that, to date, there have been no system problems associated with Reserve Orders.

In addition, entry of Reserve Orders in the securities approved to operate in the pilot program has been steadily increasing throughout the pilot period. Moreover, Exchange customers continue to request the ability to send Reserve Orders in all securities traded on the NYSE.

Given the customer demand and the fact that no technological impediments to the operation of Reserve Orders have arisen, the Exchange now proposes to expand the Reserve

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8 NYSE OpenBook® provides aggregate limit order volume that has been entered on the Exchange at price points for all NYSE-traded securities.

9 See Reserve Order Notice, supra note 5, for a detailed description of Reserve Orders and their functionality; see also NYSE Information Memo No. 08-24 (April 22, 2008) (both documents are available on the Exchange's Web site at www.nyse.com). The Exchange will issue a revised Information Memo to the Floor providing notice of the expansion of the Reserve Order pilot to include all equity securities traded on the Exchange.

Order pilot program operating pursuant to Exchange Rule 13 to all Exchange-traded equity securities.[10]

Conclusion

The Exchange believes that by providing all market participants with the ability to maintain non-displayed liquidity on the Display Book in all equity securities traded on the Exchange, market participants will be encouraged to post liquidity and thus offer Exchange customers additional opportunities for price improvement by expanding the interest available to execute against incoming orders at a single price.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[11] in general, and furthers the objectives of Section 6(b)(5) of the Act[12] in particular, in that it is designed 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 proposed rule change also is designed to support the principles of Section 11A(a)(1)[13] in that it seeks to assure economically efficient execution of securities transactions, fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and provide an opportunity for investors' orders to be executed without the participation of a dealer. The

[10] The expansion of the pilot program to operate in all equity securities traded on the Floor of the Exchange does not change the expiration date of the Reserve Order pilot established pursuant to the Reserve Order Notice (supra note 5). The Reserve Order pilot program is scheduled to expire no later than the earlier of September 30, 2008 or the effective date of Commission approval of a proposed rule change to make the pilot program permanent.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78k-1(a)(1).

Exchange believes that the instant proposal is in keeping with these objectives in that extending Reserve Order functionality will provide an opportunity for all market participants to receive efficient, low cost executions available through the use of this order type, and promote fair competition among markets which already provide for entry of Reserve Orders by all market participants in all equity securities traded on the Exchange.

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 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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 Act[14] and Rule 19b-4(f)(6) thereunder.[15]

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)[16] permits the

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14 15 U.S.C. 78s(b)(3)(A).

15 17 CFR 240.19b-4(f)(6).

16 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change,

Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay set forth in Rule 19b-4(f)(6)(iii) under the Act, which would make the rule change operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would immediately allow off-Floor participants to directly enter orders that use reserve functionality for all equity securities traded on the Exchange. The Exchange represents that, to date, there have been no system problems associated with the Reserve Orders pilot program, and that Exchange customers have requested the ability to send Reserve Orders in all securities traded on the Exchange. Finally, the proposed reserve functionality is currently available on other exchanges.[17] Accordingly, the Commission designates the proposal to be operative upon filing with the Commission.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

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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. NYSE has satisfied the pre-filing notice requirement.

17 See, e.g., Nasdaq Rule 4751(f)(2); Securities Exchange Act Release No. 54155 (July 14, 2006), 71 FR 41291 (July 20, 2006) (SR-NASDAQ-2006-001).

18 For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-2008-36 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSE-2008-36. 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 Web site (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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. 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-2008-36 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.[19]

Florence E. Harmon
Deputy Secretary

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[19] 17 CFR 200.30-3(a)(12).