SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58629; File No. SR-NYSE-2008-85)

September 24, 2008

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending NYSE Rule 1000 ("Automatic Execution of Limit Orders Against Orders Reflected in NYSE Published Quotation")

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 September 17, 2008, New York Stock Exchange LLC ("NYSE" or the "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 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 Exchange Rule 1000(a)(iv)(C) to modify the current LRP value ranges. The text of the proposed rule change is available at NYSE, www.nyse.com, 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, the Exchange 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. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

2 17 CFR 240.19b-4.

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 Exchange Rule 1000(a)(iv)(C) (Liquidity Replenishment Point) to widen the value ranges for the calculation of liquidity replenishment points ("LRPs").

Background

Pursuant to NYSE Rule 1000(a)(iv), LRPs are pre-determined price points that function to moderate volatility, improve price continuity, and foster market quality in a particular security by temporarily converting the electronic market to an auction market and permitting new orders, the Crowd, or the specialist, to add liquidity.[3]

Pursuant to NYSE Rule 60, Autoquote is suspended when an LRP is reached and resumes in no more than five to ten seconds after the LRP is reached.[4] Autoquote resumes unless there is interest on the NYSE Display Book® system[5] that would lock or cross the market.

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3 See also NYSE Rules 60(e)(i). It is important to note that not all securities on the NYSE are eligible for automatic executions. In accordance with Exchange Rule 1000(a)(vi) those securities that are priced at or more than $1000 per share are defined as "high-priced" and do not receive automatic executions and, therefore, are not assigned an LRP value ranges.

4 See NYSE Rule 60(e)(ii)(C). Currently, in an effort to increase the availability of NYSE quotes eligible for automatic execution, the NYSE will revert to auto-quoting in situations where the LRP has been hit but the market is not locked or crossed in five seconds. See Liquidity Replenishment Points (LRPs) Timer Pilot (August 20, 2008), NYSE Trader Updates available at: http://traderupdates.nyse.com/2008/08/liquidity_replenishment_points_2.html.

5 The Display Book® system is an order management and execution facility. The Display Book system receives and displays orders to the specialists, contains the Book, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

In such case, Autoquote will resume with a manual transaction.[6]

LRPs are calculated by adding and subtracting a value to the security's last sale price. The LRP values are based on an examination of trading data and vary based on the security's NYSE average daily volume ("ADV"), price, and volatility. The values used to calculate the LRP's range do not change intraday and are disseminated daily by the Exchange on its Web site.

Modification to LRP Value Ranges

The Exchange proposes to amend NYSE Rule 1000(a)(iv)(C) to double the current LRP ranges in order to limit the number of times that an LRP is reached and the total number of times during the trading day that automatic execution is suspended as a result of an LRP being triggered. In this way the Exchange will allow for more continuous automatic executions of securities. While the purpose of the LRP is to dampen volatility and to provide market participants with time to react, the Exchange believes that the proposed amendment is necessary to lessen artificial limitations on trading and will ultimately provide beneficial trading opportunities for its customers. As a means of controlling volatility, LRPs are intended to be triggered infrequently, i.e., when the market is experiencing a large price movement (based on a security's typical trading characteristics or other market conditions) over short periods of time during the trading day. If an LRP is triggered too frequently trading in the security is overly restrained and does not meet the competitive needs of NYSE customers. As such the NYSE believes that doubling the current LRP value ranges will better facilitate the natural trading pattern of a particular security.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the

[6] See NYSE Rule 60(e)(ii)(C).

objectives of Section 6(b)(5)[7] of the Act, in that it is designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms 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)[8] in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer. The Exchange's proposal to double the current LRP ranges is consistent with these objectives in that it is intended to limit the number of times that an LRP is reached and the total number of times during the trading day that automatic execution is suspended as a result of an LRP being triggered.

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 that is 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

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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b-4(f)(6) thereunder[10] because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k-1(a)(1).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b-4(f)(6).

significant burden on competition; and (3) by its terms, does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.[11] However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),[12] which would make the rule change effective and 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 the proposal is designed to benefit market participants and customers by providing for more continuous automatic executions of securities traded on the Exchange.[13] Specifically, the proposed rule change seeks to maintain LRPs as a mechanism to moderate volatility, but proposes to adjust the current LRP ranges in order to limit the number of times during the trading day that automatic execution is suspended as a result of an LRP being triggered. Accordingly, the Commission designates the proposed rule change effective and operative upon filing with the Commission.

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

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11 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, 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 this requirement.

12 17 CFR 240.19b-4(f)(6)(iii).

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

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2008-85 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSE-2008-85. 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 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 publicly available. All submissions should refer to File Number SR-NYSE-2008-85 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.[14]

Florence E. Harmon
Acting Secretary

[14] 17 CFR 200.30-3(a)(12).