

• Send an email to *rule-comments@sec.gov*. Please include File Number SR-BX-2013-046 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-BX-2013-046. This file number should be included on the subject line if email 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 Web site 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 the 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-BX-2013-046 and should be submitted on or before August 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70096; File No. SR-NYSE-2013-48]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period for the Exchange's Retail Liquidity Program for an Additional 12 Months, To Expire on July 31, 2014

August 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 30, 2013, 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 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 extend the pilot period for the Exchange's Retail Liquidity Program (the "Retail Liquidity Program" or the "Program"), which is currently scheduled to expire on July 31, 2013, for an additional 12 months, to expire on July 31, 2014. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://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 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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of this filing is to extend the pilot period of the Retail Liquidity Program,<sup>3</sup> currently scheduled to expire on July 31, 2013, for an additional 12 months, until July 31, 2014.

##### Background

In July 2012, the Commission approved the Retail Liquidity Program on a pilot basis.<sup>4</sup> The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than \$1.00 per share. Under the Program, Retail Liquidity Providers ("RLPs") are able to provide potential price improvement in the form of a non-displayed order that is priced better than the Exchange's best protected bid or offer ("PBBO"), called a Retail Price Improvement Order ("RPI"). When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, indicating such interest exists. Retail Member Organizations ("RMOs") can submit a Retail Order to the Exchange, which would interact, to the extent possible, with available contra-side RPIs.

The Retail Liquidity Program was approved by the Commission on a pilot basis. Pursuant to NYSE Rule 107C(m), the pilot period for the Program is scheduled to end on July 31, 2013.

##### Proposal To Extend the Operation of the Program

The Exchange established the Retail Liquidity Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit RPIs to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that

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

<sup>4</sup> See *id.*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>7</sup> 17 CFR 200.30-3(a)(12).

the Exchange has committed to provide.<sup>5</sup> As such, the Exchange believes that it is appropriate to extend the current operation of the Program.<sup>6</sup> Through this filing, the Exchange seeks to amend NYSE Rule 107C(m) and extend the current pilot period of the Program until July 31, 2014.<sup>7</sup>

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>9</sup> 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 Exchange believes that extending the pilot period for the Retail Liquidity Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

### 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. The proposed rule change simply extends an established pilot program for an additional 12 months, thus allowing the Retail Liquidity Program to enhance competition for retail order flow and

contribute to the public price discovery process.

### 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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, 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 and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>12</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>13</sup> the Commission may 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 so that the proposal may become operative immediately 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 allow the pilot program to continue uninterrupted. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.<sup>14</sup>

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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.

## 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2013-48 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-NYSE-2013-48. This file number should be included on the subject line if email 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 Web site 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

<sup>5</sup> See *id.* at 40681.

<sup>6</sup> Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the undisplayed RPIs. See Letter from Janet M. McGinness, EVP & Corporate Secretary, NYSE Euronext to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission dated July 30, 2013.

<sup>7</sup> The Exchange is also making a technical, non-substantive amendment to Rule 107C(m) to fix a typographical error.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

publicly available. All submissions should refer to File Number SR-NYSE-2013-48 and should be submitted on or before August 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70099; File No. SR-NYSE-2013-54]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend NYSE Rule 49, Which Addresses the Exchange's Emergency Powers

August 2, 2013.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on July 22, 2013, 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 NYSE Rule 49, which addresses the Exchange's Emergency Powers. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://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 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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend NYSE Rule 49, which addresses the Exchange's emergency powers. As explained in more detail below, the proposed rule change would amend Rule 49 to better delineate the self-regulatory organization ("SRO") functions of the Exchange and NYSE Arca, Inc. ("NYSE Arca") during an emergency condition, reflect the operational preferences of the industry, and reflect the current structure of member organization connectivity to and system coding for exchange systems.

##### Current Rule

In 2009, the Exchange adopted Rule 49 to provide the Exchange with the authority to declare an emergency condition<sup>4</sup> with respect to trading on or through the systems and facilities of the Exchange and to act as necessary in the public interest and for the protection of investors.<sup>5</sup> The authority in Rule 49 may be exercised when, due to an emergency condition, the Exchange's systems and facilities located at 11 Wall Street, New York, New York, including the NYSE Trading Floor, cannot be utilized. If such an emergency condition is declared, a qualified Exchange officer may designate NYSE Arca, the Exchange's affiliate, to serve as a backup facility to receive and process bids and offers and to execute orders on behalf of the Exchange so that the Exchange, as

<sup>4</sup> The definition of "emergency" is the one used in Section 12(k)(7) of the Act and is also used by other exchanges and the Securities and Exchange Commission ("Commission"). Section 12(k)(7) defines an emergency to mean "(A) a major market disturbance characterized by or constituting—(i) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or (ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or (B) a major disturbance that substantially disrupts, or threatens to substantially disrupt—(i) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or (ii) the transmission or processing of securities transactions." 15 U.S.C. § 78l(k)(7).

<sup>5</sup> See Securities Exchange Act Release No. 61177 (December 16, 2009), 74 FR 68643 (December 28, 2009) (SR-NYSE-2009-105).

an SRO, can remain operational.<sup>6</sup> During such an emergency condition, NYSE Arca also would continue to operate simultaneously. To date, the Exchange has not invoked the rule.

Under Rule 49, during the emergency condition, the Exchange would halt all trading conducted on the Exchange's systems and facilities. Unexecuted orders would remain on the Exchange's systems unless cancelled. The Exchange would open trading on the systems and facilities of NYSE Arca as soon thereafter as possible, but not earlier than at least the next trading day. As soon as practicable following the commencement of trading on the systems and facilities of NYSE Arca, any unexecuted orders would be purged from the Exchange's own systems and facilities.

Quotes or orders of Exchange-listed securities entered or executed on or through the systems and facilities of NYSE Arca would be reported to the Consolidated Quotation System ("CQS") as bids and offers, or to the Consolidated Tape Association ("CTA") as executions, made on or through the systems and facilities of the Exchange, not NYSE Arca. Members and member organizations would be required to have contingency plans for changing the routing instructions for their order entry systems and to take such other appropriate actions as instructed by the Exchange to accommodate the use of the systems and facilities of NYSE Arca to trade Exchange-listed securities.

Exchange members, member organizations and Sponsored Participants would be permitted to enter bids and offers and to execute orders on or through the systems and facilities of NYSE Arca, regardless of whether they were members or sponsored participants of NYSE Arca at the time the emergency condition was declared. Such bids and offers would be deemed to be bids and offers of the Exchange. Exchange member organizations registered as Designated Market Makers ("DMMs") that were designated as temporary members of NYSE Arca in accordance with NYSE Arca Equities Rules would, for the duration of such designation, not be considered DMMs for the purposes of the Exchange's rules but rather "Market Makers" pursuant to NYSE Arca Equities rules for the purposes of trading Exchange-listed securities on

<sup>6</sup> NYSE Arca trades equity securities on the systems and facilities of its wholly owned subsidiary, NYSE Arca Equities, Inc., referred to as the "NYSE Arca Marketplace." For the purposes of this filing and in the text of proposed NYSE Rule 49, these shall be referred to collectively as the systems and facilities of NYSE Arca, or simply NYSE Arca.

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.