SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84183; File No. SR–NYSE–2018–28]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Make Permanent the Retail Liquidity Program Pilot, Which Is Set To Expire on December 31, 2018

September 18, 2018.

I. Introduction

On June 4, 2018, New York Stock Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to make permanent the Exchange's Retail Liquidity Program Pilot (the ''Program''). The proposed rule change was published for comment in the **Federal Register** on June 21, 2018.[3] On July 31, 2018, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] The Commission received no comment letters on the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Exchange Act [5] to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to make permanent Exchange Rule 107C, which sets forth the rules and procedures governing the Program. The Program was adopted to create a new class of market participants called Retail Liquidity Providers (''RLPs'') that would be able to provide potential price improvement to retail order flow. To do so, an RLP submits a Retail Price Improvement Order (''RPI''), which is a non-displayed order that is priced at least $0.001 better than the best protected bid (''PBB'') or best protected offer (''PBO'') (''PBBO''), as such terms are defined in Regulation NMS, and that is identified as such.[6] After an RPI is submitted, the Exchange disseminates an indicator through its proprietary data feeds or through the Consolidation Quotation System, known as the Retail Liquidity Identifier, indicating that such interest exists.[7] The Retail Liquidity Identifier reflects the symbol for the particular security and the side (buy or sell) of the RPI interest, but does not include the price or size of the RPI interest. In response to the Retail Liquidity Identifier, another class of market participants created under the Program, known as Retail Member Organizations (''RMOs''),[8] may submit a Retail Order [9] to interact with available contra-side RPIs.

To qualify as an RMO, a member organization must conduct a retail business or route retail orders on behalf of another broker-dealer.[10] A member organization must submit the following to the Exchange for approval: (i) An application form, (ii) supporting documentation, and (iii) an attestation that substantially all orders sumibtted as retail orders will qualify as such. The Program provides for an appeal process for a disapproved applicant, and a withdraw process for RMOs. RMOs must have written policies and procedures reasonably designed to assure that they will only designate orders as Retail Orders if all requirements of a Retail Order are met.

To qualify as an RLP, a member organization must submit an application form and supporting documentation to the Exchange for approval. A disapproved applicant may appeal or reapply 90 days after the disapproval notice. RLPs may only enter RPI orders electronically and directly into Exchange systems. In each of its assigned securities, RLPs must maintain certain requirements to have RPI Orders that are better than the PBB or PBO at least five percent of the trading day. RLPs may enter RPI Orders in non-assigned securities without regard to the five percent requirement.

RMOs could be disqualified if they submit Retail Orders that do not meet the requirements of Retail Orders. If disqualified, RMOs may appeal and reapply. RLPs could lose their assigned securities or be disqualified if they do not meet the five percent requirement for three consecutive months. If disqualified, the RLP could appeal or reapply. The Exchange has set up a Program Panel to review disapproval or disqualification.

Under the Program, there are three types of Retail Orders. A Type 1 Retail Order will interact only with available contra-side RPI Orders and Mid-Point Liquidity Orders (''MPL Orders''). A Type 1 Retail Order will not interact with other available contra-side interst or route to away markets. The unexecuted portion of a Type 1 Retail Order will be immediately cancelled. A Type 2 Retail Order will interact first with available contra-side RPI Orders and MPL Orders. Any remaining portion will be executed as a Regulation NMS-compliant immediate-or-cancel order.[11] A Type 3 Retail Order will interact first with contra-side RPI Orders and MPL Orders. Any remaining portion will be executed as an NYSE immediate-or-cancel order.[12]

The Program provides that RPI Orders will be ranked and allocated according to price-time priority. The Program considers all eligible RPI Orders and MPL Orders to determine the price to execute a Retail Order. If there are only RPI Orders, then execution occurs at the price level that completes the incoming order's execution. If there are only MPL Orders, then a Retail Order will executes at the mid-point of the PBBO. If both RPI and MPL Orders are present, the Exchange will evaluate at the price level at which an incoming Retail Order will execute in full (''clean up price''). If the clean up price is equal to the mid-point of the PBBO, RPI Orders will receive priority over MPL Orders, and Retail Orders will execute against both RPI and Mid-Point Liquidity Orders at the midpoint. If the clean up price is worse than the mid-point of the PBBO, a Retail Order will execute first with the MPL Orders at the midpoint of the PBBO, and any remaining Retail Orders will execute with the RPI Orders at the clean up price. If the clean up price is better than the mid-point of the PBBO, then a Retail Order will execute against RPI Orders at the clean up price and will ignore the MPL Orders.

---

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83454 (June 15, 2018), 83 FR 28874 (''Notice'').

[4] *See* Securities Exchange Act Release No. 83749, 83 FR 38393 (August 6, 2018). The Commission designated September 19, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* NYSE Rule 107C(a)(4).

[7] *See* NYSE Rule 107C(j).

[8] *See* NYSE Rule 107C(a)(2).

[9] *See* NYSE Rule 107C(a)(3).

[10] Conducting a retail business includes carrying retail custsomer accounts on a fully disclosed basis. *See* NYSE Rule 107C(b)(1).

[11] A Regulation NMS compliant immediate-or-cancel order will be automatically executed against the displayed quotation up to its full size and sweep the Exchange book without routing away. Portions not executed will be immediately cancelled. *See* NYSE Rule 13(b)(2)(A).

[12] An NYSE immediate-or-cancel order will be automatically executed against the displayed quotation up to its full size and sweep the Exchange book, with portions routed to away markets if an execution would trade through a protected quotation in compliance with Regulation NMS. Portions not executed will be immediately cancelled. *See* NYSE Rule 13(b)(2)(B).

A more detailed description of how the Program operates, including, but not limited to, how a member organization may qualify and apply to become a RMO; the requirements of RLPs; different types of Retail Orders; and prioriy and order allocation of RPI orders is more fully set forth in the Notice.[13]

In July 2012, the Commission approved the Program on a pilot basis (''RLP Approval Order'').[14] As set forth in the RLP Approval Order, the Commission approved the Program on a pilot basis to allow the Exchange and market participants to gain valuable practical experience with the Program during the pilot period, and to allow the Commission to determine whether modifications to the Program were necessary or appropriate prior to any Commission decision to approve the Program on a permanent basis.[15] Indeed, the Exchange has modified aspects of Exchange Rule 107C on several occasions during the pilot period.[16] Additionally, as part of the RLP Approval Order, the Exchange agreed to provide the Commission with a significant amount of data to assist the Commission's evaluation of the Program.[17] Specifically, the Exchange represented that it would ''produce data throughout the pilot, which will include statistics about participation, the frequency and level of price improvement provided by the Program, and any effects on the broader market structure.'' [18] The Commission expected the Exchange to monitor the scope and operation of the Program and study the data produced during that time with respect to such issues.[19]

Although the pilot period was originally scheduled to end on July 31, 2013, the Exchange filed to extend the operation of the pilot on several occasions, with the most recent extension being to provide more time for the Exchange to prepare this proposed rule change.[20] The pilot is currently set to expire on December 31, 2018.

The Exchange represents that as part of its assessment of the Program's potential impact, it has posted core weekly and daily summary data on its website for public investors to review, and that it has provided additional data to the Commission regarding potential investor benefits, including the level of price improvement provided by the Program.[21] In addition, the Notice includes statistics about participation, frequency and level of price improvement and effective and realized spreads, upon which the Exchange relies to summarize its overall assessment of the Program.[22] As more fully set forth in the Notice, the Exchange concludes that the Program has achieved its goal of attracting retail order flow and allowing such order flow to receive potential price improvement.[23] Additionally, the Exchange concludes that the data relating to the Program ''demonstrates that the Program had an overall negligible impact on broader market structure.'' [24]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSE–2018–28 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act [25] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,[26] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Sections 6(b)(5) [27] and 6(b)(8) [28] of the Exchange Act. Section 6(b)(5) of the Exchange Act requires that the rules of a national securities exchange be designed, among other things, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Exchange Act requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Commission received numerous comment letters expressing concerns with respect to the Program when it was first proposed and eventually approved

[13] *See* Notice, *supra* note 3, at 28875–78.

[14] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673, 74 (July 10, 2012) (SR–NYSE–2011–55). In addition to approving the Program on a pilot basis, the Commission granted the Exchange's request for exemptive relief from Rule 612 of Regulation NMS, 17 CFR 242.612 (''Sub-Penny Rule''), which among other things prohibits a national securities exchange from accepting or ranking orders priced greater than $1.00 per share in an increment smaller than $0.01. *See id.* The Sub-Penny Rule exemption coincedes with the Program's expiration date.

[15] *See id.*

[16] *See* Securities Exchange Act Release Nos. 68709 (January 23, 2013) 78 FR 6160 (January 29, 2013) (NYSE–2013–04) (amending Exchange Rule 107C to clarify that RLPs may act in a non-RLP capacity for those securities to which RLP is not assigned, and as a result, may submit RPI Orders for those securities); 69513 (May 3, 2013) 78 FR 27261(May 9, 2013) (NYSE–2013–08) (allowing an RMO to attest that ''substantially all'' orders submitted to the Program will qualify as Retail Orders); 69103 (March 11, 2013) 78 FR 16547 (March 15, 2013) (NYSE–2013–20) (amending Rule 107C to clarify that an RMO may submit Retail Orders to the Program in a riskless principal capacity as well as in an agency capacity, provided that (i) the entry of such riskless principal orders meets the requirements of FINRA Rule 5320.03, including that the RMO maintains supervisory systems to reconstruct, in a time-sequenced manner, all Retail Orders that are entered on a riskless principal basis; and (ii) the RMO does not include non-retail orders together with the Retail Orders as part of the riskless principal transaction); 71330 (January 16, 2014) 79 FR 3895 (January 23, 2014) (NYSE–2013–71) (incorporating Midpoint Passive Liquidity Orders into the Program); and 76553 (December 5, 2015 80 FR 46607 (December 9, 2015) (NYSE–2015–59) (amending Rule 107C to distinguish between orders routed on behalf of other broker-dealers and orders routed on behalf of introduced retail accounts that are carried on a fully disclosed basis).

[17] *See* RLP Approval Order, supra note 15, at 40681.

[18] *See id.*

[19] *See id.*

[20] *See* Securities Exchange Act Release Nos. 83540 (June 28, 2018), 83 FR 31234 (July 3, 2018) (SR–NYSE–2018–29) (extending pilot until December 31, 2018); 82230 (December 7, 2017), 82 FR 58667 (December 13, 2017) (SR–NYSE–2017–64) (extending pilot until June 30, 2018); 80844 (June 1, 2017), 82 FR 26562 (June 7, 2017) (SR–NYSE–2017–26) (extending pilot until December 31, 2017); 79493 (December 7, 2016), 81 FR 90019 (December 13, 2016) (SR–NYSE–2016–82) (extending pilot until June 30, 2017); 78600 (August 17, 2016), 81 FR 57642 (August 23, 2016) (SR–NYSE–2016–54) (extending pilot until December 31, 2016); 77426 (March 23, 2016), 81 FR 17533 (March 29, 2016) (SR–NYSE–2016–25) (extending pilot until August 31, 2016); 5993 (September 28, 2015), 80 FR 59844 (October 2, 2015) (SR–NYSE–2015–41) (extending pilot until March 31, 2016); 74454 (March 6, 2015), 80 FR 13054 (March 12, 2015) (SR–NYSE–2015–10) (extending pilot until September 30, 2015); 72629 (July 16, 2014), 79 FR 42564 (July 22, 2014) (NYSE–2014–35) (extending pilot until March 31, 2015); and No. 70096 (Aug. 2, 2013), 78 FR 48520 (Aug. 8, 2013) (SR–NYSE–2013–48) (extending pilot until July 31, 2014).

[21] *See* Notice, *supra* note 3, at 28878.

[22] *See id.* at 28878–83

[23] *See id.* at 28879.

[24] *See id.*

[25] 15 U.S.C. 78s(b)(2)(B).

[26] *Id.*

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78f(b)(8).

on a pilot basis.[29] The Program was intended to create additional price improvement opportunities for retail investors by segmenting retail order flow on the Exchange.[30] When the Commission initially approved the Program on a pilot basis, it explained that it would monitor the Program throughout the pilot period for its potential effects on public price discovery and on the broader market structure.[31] The Commission expressed its view that the Program should not cause a major shift in market structure, but instead, it would closely replicate the trading dynamics that exist in the over-the-counter markets to present another competitive venue for retail order flow execution.[32] As explained above, the Exchange provides an analysis of what it considers to be the economic benefits for retail investors and the marketplace flowing from operation of the Program.[33] The Exchange also concludes, among other things, that the Program had an overall negligible impact on the broader market structure.[34]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.'' [35] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[36] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[37] Moreover, ''unquestioning reliance'' on an SRO's representations in a proposed rule change would not be sufficient to justify Commission approval of a proposed rule change.[38]

The Commission questions whether the information and analysis provided by the Exchange in the Notice support the Exchange's conclusions that the Program has achieved its goals, including whether the Program has had an overall negligible impact on broader market structure. The Commission seeks additional information and analysis concerning the Program's impact on the broader market; for example, additional information to support the view that the Program has not had a material adverse impact on market quality, and consideration of any effects that fees and rebates may have had on the operation of the Program. The Commission believes it is appropriate to institute proceedings to allow for additional consideration and comment on the issues raised herein, any potential response to comments or supplemental information provided by the Exchange, and any additional independent analysis by the Commission. The Commission believes that these issues raise questions as to whether the the Exchange has met its burden to demonstrate, based on the data and analysis provided, that permanent approval of the Program is consistent with the Act, and specifically, with its requirements that the Program be designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest, and not be unfairly discriminatory; or not impose an unnecessary or inappropriate burden on competition.[39]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Sections 6(b)(5) and 6(b)(8), or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[40]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by October 15, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 29, 2018.

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.* Please include File Number SR–NYSE–2018–28 on the subject line.

Paper Comments

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

All submissions should refer to File Numbers SR–NYSE–2018–28. 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 website (*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 website 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 these filings also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All

[29] *See* RLP Approval Order, supra note 15, at 40673 n.4.

[30] *See id.,* at 40679.

[31] *See id.,* at 40680.

[32] *See id.*

[33] *See supra* notes 24–26, and Notice, *supra* note 3, at 28878–83.

[34] *See id.*

[35] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[36] *See id.*

[37] *See id.*

[38] *See Susquehanna Int'l Group, LLP* v. *Securities and Exchange Commission,* 866 F.3d 442, 446–47 (D.C. Cir. 2017) (rejecting the Commission's reliance on an SRO's own determinations without sufficient evidence of the basis for such determinations).

[39] *See* 15 U.S.C. 78f(b)(4), (5), and (8).

[40] Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

submissions should refer to File Number SR–NYSE–2018–28 and should be submitted on or before October 15, 2018. Rebuttal comments should be submitted by October 29, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20658 Filed 9–21–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84180; File No. SR–Phlx–2018–58]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1080(A)(I)(C) Relating to Options Floor Based Management System

September 18, 2018.

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 7, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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 Rule 1080(a)(i)(C) relating to Options Floor Based Management System (''FBMS'') in connection with offering an interface to submit orders to a particular Floor Broker on the options floor.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.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 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.

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

1. Purpose

The Exchange proposes to offer a new FBMS FIX interface which connects to FBMS (''FBMS FIX Interface'')[3] to allow members and non-members to submit orders directly[4] to a Floor Broker on the Exchange's trading floor. Today, a market participant desiring to submit an order to the trading floor may contact a Floor Broker telephonically, electronically using an external order management system, or via instant message.[5] An order submitted via the FBMS FIX Interface would be created by the sender and routed to a Floor Broker. This order would be systematized so that the Floor Broker[6] automatically receives the order and may then represent the order for execution. A member or non-member would not be able to send the order directly to the trading system for execution. Orders entered via the FBMS FIX Interface will require the interaction of a Floor Broker. Orders will continue to be represented in the trading crowd, regardless of the method in which the order was received. Orders would be executed in the matching engine using FBMS, after all requirements for exposure have been met. The proposed new FBMS FIX Interface will allow the following types of orders to be submitted directly to a Floor Broker: Simple Orders, Multi-leg Orders, Cross and Non-Cross Orders, Simple Cancels, Cancel and Replacement Orders and Floor Qualified Contingent Cross Orders.

The Exchange believes this new feature will enhance the workflow of a Floor Broker by permitting orders to be directly submitted into FBMS for handling. The Exchange believes that this new functionality will offer market participants another method to direct liquidity to a Floor Broker on the trading floor. The Exchange proposes to amend Rule 1080(a)(i)(C) to add the following sentence to the description of the FBMS protocol, ''In addition, a non-member or member may utilize an FBMS FIX interface to create and send an order into FBMS to be represented by a Floor Broker for execution.''

Implementation

The Exchange proposes to implement this functionality in Q1 of 2019. Market participants will be notified of the deployment date by way of an Options Trader Alert, which will be posted on the Exchange's website.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] 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, by proposing another method for market participants to submit orders to a particular Floor Broker on the Exchange's trading floor.

The proposal would offer market participants an alternative to the current methods of submitting an order to a Floor Broker which include: (i) Calling a Floor Broker; (ii) electronically using an external order management system, or (iii) utilizing instant message. The Exchange believes that this proposal will promote more efficient work flow and provide ease in sending liquidity to the Exchange's trading floor. The Exchange notes that the requirements for submission of orders for execution within FBMS will continue to exist. The Exchange believes that this proposal is consistent with the Act because it will continue to remove impediments to and perfect the mechanism of a free and open market and a national market system by continuing to require a Floor Broker to expose these orders in the trading crowd prior to execution. A Floor Broker would continue to submit any orders to the matching engine for execution using FBMS, after all requirements for exposure have been met. Finally, this proposal is consistent with the Act because it protects investors and the public interest by

[41] 17 CFR 200.30–3(a)(57).

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

[2] 17 CFR 240.19b–4.

[3] This new interface is a separate and distinct connection from the existing FIX interface, which allows members to send orders to the electronic match engine.

[4] The interface would allow the market participant to designate a particular Floor Broker through the use of a FIX tag.

[5] An audit trail is maintained today for all orders received by a Floor Broker.

[6] A Floor Broker's employee may also send an order into FBMS or the System on behalf of the Floor Broker.

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

[8] 15 U.S.C. 78f(b)(5).