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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve or disapprove such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

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);
- Send an email to rule-comments@sec.gov. Please include File Number SR–NASDAQ–2015–089 on the subject line.

Paper Comments
- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549.


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

Brent J. Fields, Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 79A To Delete Supplementary Material .20 Requiring Prior Floor Official Approval Before a Designated Market Maker Can Initiate Certain Trades More Than One or Two Dollars Away From the Last Sale

August 13, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, notice is hereby given that on July 29, 2015, 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 published 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 Rule 79A to delete Supplementary Material .20, which requires prior Floor Official approval for certain DMM dealer trades more than one or two dollars away from the last sale, and to make conforming amendments to Rules 48, 80C and 9217 to delete references to Rule 79A.20.

Background

Currently, except with respect to inactively traded securities the Exchange shall from time to time identify, Rule 79A.20(a) requires DMMs to obtain prior Floor Official approval for all transactions in stocks by the DMM as dealer (when the market is slow) or transactions in which the DMM as dealer is reaching across the market (when the market is fast) that are made at (i) $1.00 or more away from the last sale when such last sale is under $20 per share or (ii) $2.00 or more away from the last sale when such last sale is at $20 per share or over. The Rule also provides that in unusual market situations, a Floor Governor, Senior Floor Official, or Executive Floor Official

Official has the discretion to determine that a different price parameter other than that required in subdivision (a) of the Rule is appropriate when the last sale is at $100 per share or over. The principles embodied in Rule 79A.20 were originally aimed at preventing undue price dislocation by the specialist at the opening. Gradually, the rule was extended to all trades significantly away from the last sale. The rule also functioned in part as a safeguard against market manipulation by specialists and Floor brokers as well as a control on price volatility by requiring a Floor Official who was not party to the transaction to review and approve all proposed transactions exceeding the rule’s parameters before the trade was published to the consolidated tape, thereby ensuring that specialists were maintaining appropriate price continuity and depth, and that Floor brokers were not transacting in the trading crowd at unduly wide variations from the last sale.

In 2006, the Commission approved the Exchange’s adoption of a “hybrid market” under which Exchange systems assumed the function of matching and market orders in a manner that improved the quality of the opening and closing auctions by introducing a real-time order imbalance information data feed (“Order Imbalance Information”). Further, DMMs now also have the ability to electronically open and close trading on the Exchange, which was not available to specialists in 2007.

In 2012, the Exchange replaced Rule 79A.20 to remove references to these Exchange-specific volatility mechanisms. Rule 79A.20 had previously required Floor Official review and approval of DMMs dealer trades one or two points away from the last sale following these intra-day “slow” market scenarios. Finally, also in 2015, the Exchange amended Rule 1000 to reject marketable orders of over 1,000,000 shares upon arrival. Such orders were ineligible for automatic execution and caused the Exchange to suspend automatic executions and disseminate a “slow” quote condition.

Proposed Rule Change

The Exchange proposes to delete Rule 79A.20. As discussed below, the situations where the Rule would be invoked are now limited to the opening, reopenings and the close, where market transparency and existing safeguards render the Rule unnecessary and duplicative of other rules requiring Floor Official approval.

As noted above, the recent elimination of LRPs and the Gap Quote Policy removed the remaining intra-day events when the Exchange’s market was “slow” and DMM pricing decisions that could trigger Rule 79A.20 approvals. As such, trading circumstances warranting Rule 79A.20 review are now limited to manual DMM participation when a security moves one or two dollars from the last sale (based on whether the security is under $20 or $20 and over) at either the open, close or, more rarely, intraday during reopenings.

In light of the transparency surrounding the open and close and the involvement of Floor Officials in those processes, the Exchange believes that there is no longer a need for Floor Officials to separately approve individual DMM transactions under Rule 79A.20. First, as described above, the Exchange significantly enhanced the transparency surrounding the open and close with the introduction of real-time Order Imbalance Information data feed in 2008. This proprietary data feed, disseminated prior to the open pursuant to Rule 15(e)(1) and prior to close pursuant to Rule 123C(6), reflects real-time order imbalances that accumulate prior to the opening and closing.
transactions on the Exchange and the price at which interest eligible to participate in the opening or closing transactions may be executed in full.

Second, in addition to disseminating Order Imbalance Information, the Exchange’s Rules require the timely communication of price dislocations and unusual market situations, including delayed openings, to the marketplace. Rule 15(a) provides that if the opening transaction in a security will be at a price that represents a change of more than the “applicable price change” specified in the Rule (representing a numerical or percentage change from the security’s closing price per share or, in the case of an IPO, the security’s offering price), the DMM arranging the opening transaction or the Exchange must issue a pre-opening indication (a “Rule 15 Indication”), which represents a range of where a security may open. The Rule 15 Indication is a price range that is published on the Exchange’s proprietary data feed prior to the scheduled opening time. A Rule 15 Indication includes the security and the price range within which the DMM anticipates the opening transaction will occur, and would include any orally-represented Floor broker interest for the open.

Similarly, Rule 123D Mandatory Indications are required for an opening that will result in a “significant” price change from the previous close. For securities priced under $10, indications are required under Rule 123D(1) if the price change is one dollar or more; for securities between $10 and $99.99, indications are required for price movements of the lesser of 10% or three dollars; and for securities over $100, indications are required for price movements of five dollars or more. Rule 123D(1) requires DMMs to disseminate one or more indications in connection with any delayed opening where a security has not opened or been quoted by 10 a.m. (“Rule 123D Mandatory Indication”). The DMM is responsible for publishing the Rule 123D Mandatory Indication and, when determining the price range for the indication, take into consideration Floor broker interest that has been orally entered and what, at a given time, the DMM anticipates the dealer participation in the opening transaction would be. Rule 123D Mandatory Indications are published to the Consolidated Tape.

Importantly, all Rule 123D Mandatory Indications require the supervision and approval of a Floor Official. Rule 123D approval of Floor Official approvals under Rule 79A.20 also occur in situations where a mandatory indication was published pursuant to Rule 123D. In these circumstances, requiring the Floor Official to separately approve a price movement under Rule 79A.20 would be duplicative.

The Exchange further notes that the Floor Official approval requirements of Rule 79A.20 impede the ability of a DMM to open or close a security electronically at the Exchange if the security were to open one or two points away from the last sale. As a practical matter, the only way for Floor Officials to approve trades more than one or two dollars away from the last sale in the case of an electronic open or close would be to turn a fast market into a “slow” one and potentially open the security after 9:30 a.m., which was one of the rationales for eliminating virtually all Rule 79A.20 approvals in 2007. With respect to the separate Rule 79A.20 requirement that the DMM obtain Floor Official approvals when the market is fast and the DMM as dealer is reaching across the market, i.e., selling at the bid and buying at the offer, the Exchange similarly believes that such approvals are unnecessary and duplicative of other safeguards. As noted above, the application of Rule 79A.20 is limited to the opening, reopenings and the close, where this scenario would not arise. Moreover, the Exchange believes that obtaining Floor Official approval when a DMM is reaching across a fast market is impractical in today’s marketplace because, especially in the most actively traded Exchange securities, the automated marketplace simply moves too fast.

Even if obtaining Floor Official approvals were practical, the Exchange believes that the combination of volatility and system controls in place that were unavailable in 2007 render such approvals unnecessary. DMM dealer trades one or two points away from the last sale that reach across the market would continue to be subject to the Limit Up/Limit Down (“LULD”) price controls, as provided for in Rule 80C(a)(4), the Trading Collars, as provided for in Rule 1000(c), and the numerical guidelines for determining whether a clearly erroneous execution has occurred under Rule 128. In addition, as the Exchange noted in a different context, as the marketplace has become more electronic, DMM units have increased their utilization of technology to reduce risk exposure by using algorithms to adjust prices quickly in response to market dynamics, which in turn has contributed to reducing the potential for significant and/or rapid movements in the market and help DMMs satisfy their obligation to maintain a fair and orderly market in assigned securities pursuant to Rule 104, particularly in times of market stress. The Exchange believes that these risk controls provide a further significant limitation on the ability of DMMs to initiate a move of more than one or two dollars away from the last sale trade in fast markets, especially in light of the tight spreads on the Exchange. Finally, DMM pricing decisions at the open and close and during fast markets are subject to specific DMM obligations with respect to the quality of the markets in securities to which they are assigned. In general, transactions on the Exchange by a DMM for the DMM’s account must be effected in a reasonable manner and orderly manner in relation to the condition of the general market and the market in the particular stock.

As noted, DMMs have affirmative obligations under Rule 104(a) to engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. Specifically, Rule 104(f)(ii) sets forth the DMM’s obligation to act as reasonably necessary to ensure appropriate depth and maintain reasonable price variations between transactions (also known as price continuity) and prevent unexpected variations in trading. Further, under Rule 123D(1), openings and reopenings must be fair and orderly, reflecting the DMM’s professional assessment of market conditions at the time, and appropriate consideration of the balance of supply and demand as reflected by orders represented in the market. The Exchange also supplies DMMs with suggested Depth Guidelines for each security in which a DMM is registered, and DMMs are expected to quote and trade with reference to the Depth Guidelines. Further, the DMM’s affirmative obligation includes obligations to re-enter the market when reaching across to execute against available interest. For instance, under Rule 104(b), DMMs can engage in conditional transactions that establish or increase a position and that reach across the market without restriction.

See Release No. 56209, supra note 8 at 45291.

provided such transactions are followed by appropriate re-entry on the opposite side of the market commensurate with the size of the DMM’s transaction. The Exchange issues guidelines, called price participation points (“PPP”), that identify the price at or before which a DMM is expected to re-enter the market after effecting a conditional transaction. DMM trading activity on the Exchange is actively monitored for compliance with each of these obligations.

The Exchange believes that the availability and dissemination of Order Imbalance Information, Rule 15 Indications and 123D Mandatory Indications, together with the DMM’s existing affirmative and other obligations pursuant to Rule 104, provide an appropriate framework in today’s market structure for ensuring that opening or closing transactions that occur at a price significantly away from the last sale price are communicated to all market participants. In particular, because of this transparency, the open and close are subject to greater scrutiny by all market participants, which in of itself serves as a check on where a DMM opens or closes a security. The Exchange therefore believes that the need for a Floor Official to review a DMM’s actions at the open or close, which was adopted in a time when there was no market-wide transparency regarding pricing of the open or close, is redundant of existing oversight of the open and close.

For all of these reasons, the Exchange believes that requiring separate Floor Official approvals for one and two dollar price movements is no longer necessary. The Exchange also proposes to delete references to Rule 79A.20 from Rules 48, 80C and 9217. In the case of Rule 48, the majority of Rule 79A.20 approvals would not be inconsistent with the public interest and the protection of investors because the transparency surrounding the open and close and the information available to the marketplace enables investors and the public to assess whether a security would open or close outside the one or two point parameter, thereby obviating the need for a single Floor Official to oversight the open and close. Further, the Exchange believes that eliminating Rule 79A.20 approvals would not be inconsistent with the public interest and the protection of investors because other safeguards will remain in place to ensure that DMMs maintain appropriate price continuity and depth and do not transact at unduly wide price variations, thereby establishing substantially the same result. As noted above, pursuant to Rule 123D, Floor Officials would remain involved in supervising when the open would occur at a price significantly away from the last sale, which is when the majority of Rule 79A.20 approvals currently occur, and DMM trading will also remain subject to Exchange rules, including the obligation to maintain a fair and orderly market under Rule 104.

The Exchange further believes that deleting corresponding references to Rule 79A.20 in other rules would remove impediments to and perfects the mechanism of a free and open market by reducing potential confusion and adding transparency and clarity to the Exchange’s rules, thereby ensuring that members, regulators and the public can more easily navigate and understand the Exchange’s rulebook.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, and further the objectives of section 6(b)(5) of the Act, in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. In particular, the Exchange believes that eliminating Rule 79A.20 would remove impediments to and perfect the mechanism of a free and open market and a national market system by eliminating redundant approvals from the remaining manual processes at the open and close of trading. The Exchange believes that eliminating Rule 79A.20 approvals would not be inconsistent with the public interest and the protection of investors because the transparency surrounding the open and close and the information available to the marketplace enables investors and the public to assess whether a security would open or close outside the one or two point parameter, thereby obviating the need for a single Floor Official to oversee the open and close. Further, the Exchange believes that eliminating Rule 79A.20 approvals would not be inconsistent with the public interest and the protection of investors because other safeguards will remain in place to ensure that DMMs maintain appropriate price continuity and depth and do not transact at unduly wide price variations, thereby establishing substantially the same result.

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)(i)(II) of the Act and Rule 19b–4(f)(6) thereunder. 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) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.

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:

32 See Rule 104(h)(iii). Immediate re-entry is required after certain Conditional Transactions.
33 See NYSE Rule 104(h)(iii)(A).
34 See note 11 supra.
SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31760; 812–14500]

Nile Capital Investment Trust, et al.;
Notice of Application

August 13, 2015.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Nile Capital Investment Trust (the “Trust”), Nile Capital Management, LLC (the “Manager”) and Northern Lights Distributors, LLC (the “Distributor”).

SUMMARY OF APPLICATION: Applicants request an order (“Order”) that permits: (a) Actively managed series of certain open-end management investment companies to issue shares (“Shares”) redeemable in large aggregations only (“Creation Units”); (b) secondary market transactions in Shares to occur at the next-determined net asset value plus or minus a market-determined premium or discount that may vary during the trading day; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to create and redeem Shares in kind in a master-feeder structure. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (“Reference Order”).

FILING DATE: The application was filed on June 29, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 8, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.


FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, or Dalia Osman Blass, Assistant Chief Counsel, at (202) 551–6821 [Division of Investment Management, Chief Counsel’s Office].

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or for an applicant using the Company name box, at http://www.sec.gov/search/search.htm or by calling (202) 551–8090.

Applicants

1. The Trust is registered as an open-end management investment company under the Act and is a statutory trust organized under the laws of Delaware. Applicants seek relief with respect to two Funds (as defined below, and those Funds, the “Initial Funds”). The portfolio positions of each Fund will consist of securities and other assets selected and managed by its Adviser or Subadviser (as defined below) to pursue the Fund’s investment objective.

2. The Adviser, a limited liability company organized under the laws of Delaware, will be the investment adviser to the Initial Funds. An Adviser (as defined below) will serve as investment adviser to each Fund. The Adviser is, and any other Adviser will