9. A Fund's borrowings through the InterFund Program, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions for the preceding seven calendar days or 102% of a Fund's sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the InterFund Program must be consistent with its investment restrictions, policies, limitations and organizational documents.

12. The InterFund Program Team will calculate total Fund borrowing and lending demand through the InterFund Program, and allocate Interfund Loans on an equitable basis among the Funds, without the intervention of any portfolio manager. The InterFund Program Team will not solicit cash for the InterFund Program from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The InterFund Program Team will invest all amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions of the relevant portfolio manager or such remaining amounts will be invested directly by the portfolio managers of the Funds.

13. The InterFund Program Team will monitor the Interfund Loan Rate charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Boards concerning the participation of the Funds in the InterFund Program and the terms and other conditions of any extensions of credit under the InterFund Program.

14. Each Board, including a majority of its Independent Board Members, will:

(a) Review, no less frequently than quarterly, the participation of each Fund it oversees in the InterFund Program during the preceding quarter for compliance with the conditions of any order permitting such participation;

(b) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans;

(c) review, no less frequently than annually, the continuing appropriateness of the Bank Loan Rate formula; and

(d) review, no less frequently than annually, the continuing appropriateness of the participation in the InterFund Program by each Fund it oversees.

15. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction by it under the InterFund Program occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and the Interfund Loan Rate, the rate of interest available at the time each Interfund Loan is made on overnight repurchase agreements and Bank Borrowings, and such other information presented to the Boards of the Funds in connection with the review required by conditions 13 and 14.

16. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the interfund lending agreement, the Adviser to the lending Fund promptly will refer the loan for arbitration to an independent arbitrator selected by the Board of any Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[3] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Board of each Fund setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

17. The Advisers will prepare and submit to the Board for review an initial report describing the operations of the InterFund Program and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of the InterFund Program, the Advisers will report on the operations of the InterFund Program at each Board's quarterly meetings. Each Fund's chief compliance officer, as defined in rule 38a–1(a)(4) under the Act, shall prepare an annual report for its Board each year that the Fund participates in the InterFund Program, that evaluates the Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance. Each Fund's chief compliance officer will also annually file a certification pursuant to Item 77Q3 of Form N–SAR as such form may be revised, amended or superseded from time to time, for each year that the Fund participates in the InterFund Program, that certifies that the Fund and its Adviser have implemented procedures reasonably designed to achieve compliance with the terms and conditions of the order. In particular, such certification will address procedures designed to achieve the following objectives:

(a) That the Interfund Loan Rate will be higher than the Repo Rate but lower than the Bank Loan Rate;

(b) compliance with the collateral requirements as set forth in the application;

(c) compliance with the percentage limitations on interfund borrowing and lending;

(d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and

(e) that the Interfund Loan Rate does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

Additionally, each Fund's independent registered public accountants, in connection with their audit examination of the Fund, will review the operation of the InterFund Program for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the InterFund Program, upon receipt of requisite regulatory approval, unless it has fully disclosed in its registration statement on Form N–1A (or any successor form adopted by the Commission) all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–11534 Filed 5–16–16; 8:45 am]

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[3] If the dispute involves Funds that do not have a common Board, the Board of each affected Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77808; File No. SR–NYSEMKT–2016–51]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 98—Equities

May 11, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the

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

''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 2, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, 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 Rule 98—Equities to provide that when Designated Market Makers (''DMM'') enter interest for the purpose of facilitating the execution of customer orders, such orders would not be required to be designated as DMM interest. The proposed rule change is available on the Exchange's Web site at *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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 98—Equities (''Rule 98'') to provide that when DMMs enter interest on a proprietary basis for the purpose of facilitating the execution of customer orders, such orders would not be required to be designated as DMM interest.[4] This proposed rule change is based on a recently approved amendment to New York Stock Exchange LLC (''NYSE'') Rule 98.[5]

Background

In 2014, the Exchange amended Rule 98 to adopt a principles-based approach to prohibit the misuse of material nonpublic information by a member organization that operates a DMM unit and make conforming changes to other Exchange rules.[6] Those rule changes provide member organizations operating DMM units with the ability to integrate DMM unit trading with other trading units, while maintaining tailored restrictions to address that DMMs while on the Trading Floor may have access to certain Floor-based non-public information. By removing prescriptive restrictions, the 2014 Filing was designed to enable a member organization that engages in market-making operations on multiple exchanges to house its DMM operations together with the other market-making operations, even if such operations are customer-facing, or, to enable a member organization to consolidate all equity trading, including customer-facing operations and the DMM unit, within a single independent trading unit.

Rule 98(c) sets forth specified restrictions to operating a DMM unit.[7] Among other requirements, Rule 98(c)(4) provides that any interest entered into Exchange systems by the DMM unit in DMM securities [8] must be identifiable as DMM unit interest. Current Rule 98(c)(4) was designed to ensure that all trading activity by a DMM unit in DMM securities at the Exchange is available for review. As discussed below, under Rule 98(c)(5), DMMs would continue to be required to submit information to the Exchange to make available to the Exchange for review all trading activity by a DMM unit in DMM securities. The Exchange did not specify which system(s) a DMM unit must use because, as the Exchange's trading systems continue to evolve, the manner by which interest would be identified as DMM interest could change. Accordingly, the current rule requires any trading for the account of the DMM unit in DMM securities at the Exchange to be identifiable as DMM interest.

Rule 98(c)(5) provides that a member organization must provide the Exchange with real-time net position information for trading in DMM securities by the DMM unit and any independent trading unit of which it is a part, at such times and in the manner prescribed by the Exchange. Rule 98(d) further specifies that the DMM rules [9] will apply only to a DMM unit's quoting or trading in its DMM securities for its own accounts at the Exchange. Accordingly, the DMM rules do not apply to any customer orders that a member organization that operates a DMM unit sends to the Exchange as agent.[10]

Because Rule 98(c)(4) currently requires that any interest entered into Exchange systems by the DMM unit in DMM securities be identifiable as DMM interest, a DMM unit integrated with a customer-facing unit that would send customer orders in DMM securities to the Exchange as proprietary interest must identify it as DMM interest. As a result, although agency orders are not subject to DMM rules, customer-driven interest entered on a proprietary basis is subject to all DMM rules.

To date, none of the member organizations operating a DMM have integrated a DMM unit with a customer-facing trading unit and the Exchange believes that the current rule requiring customer-driven orders that are represented on a proprietary basis be designated as DMM interest has served as a barrier to achieving such integration.[11] Specifically, there are certain scenarios when the rules governing DMMs may conflict with a member organization's obligations to its customers. For example, DMMs are not permitted to enter Market Orders, MOO Orders, CO Orders, MOC Order, LOC Orders, or orders with Sell ''Plus''—Buy ''Minus'' Instructions.[12] But to meet

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] As defined in Rule 2(i)—Equities, the term ''DMM'' means an individual member, officer, partner, employee or associated person of a Designated Market Maker Unit who is approved by the Exchange to act in the capacity of a DMM.

[5] *See* Securities Exchange Act Release No. 77708 (April 26, 2016) (SR–NYSE–2016–16) (NYSE Rule 98 Approval Order).

[6] *See* Securities Exchange Act Release Nos. 72535 (July 3, 2014), 79 FR 39024 (July 9, 2014) (Approval Order) and 71838 (April 1, 2014), 79 FR 19131 (April 7, 2014) (''2014 Notice'') (SR–NYSEMKT–2014–22) (''2014 Filing'').

[7] As defined in Rule 98(b)(1), the term ''DMM unit'' means a trading unit within a member organization that is approved pursuant to Rule 103—Equities to act as a DMM unit.

[8] As defined in Rule 98(b)(2), the term ''DMM securities'' means any securities allocated to the DMM unit pursuant to Rule 103B—Equities or other applicable rules.

[9] As defined in Rule 98(b)(3), the term ''DMM rules'' means any rules that govern DMM or DMM unit conduct or trading.

[10] *See* 2014 Notice, *supra* note 5 [sic] at 19137 (specifying that Rule 98(d) was added because DMM rules are not applicable to any customer orders routed to the Exchange by a member organization as agent).

[11] The Exchange understands it is a common practice among market makers that operate as wholesalers, and thus have their own customer orders as well as retail order flow from another broker dealer, to facilitate the execution of customer order flow by representing it on a proprietary basis when such orders are routed to an exchange. Once a customer-driven order that has been represented on a proprietary basis on an exchange has been executed, the market maker uses the position acquired on the Exchange to fill the customer order either on a riskless-principal basis or with price improvement to the customer.

[12] *See* Rule 104(b)(vi)—Equities.

customer instructions, a customer-driven order entered by a member organization on a proprietary basis may need to be one of these order types. As another example, DMMs are restricted from engaging in specified trading in the last ten minutes of trading before the close of trading.[13] But a member organization may have a best execution obligation to route a customer-driven order to the Exchange in the last ten minutes of trading.

Proposed Amendments

The Exchange proposes to amend Rule 98 to better reflect how member organizations that integrate DMM unit operations with customer-facing operations may facilitate customer-driven order flow to the Exchange in DMM securities. As noted above, one of the intended goals of the 2014 Filing was to permit member organizations to integrate DMM unit operations with other market-making operations, including customer-facing units. However, as discussed above, subjecting customer order flow that is entered on a proprietary basis to DMM rules may be inconsistent with a member organization's obligations to its customers, and thus continue to serve as a barrier to integrating DMM units within a member organization. Accordingly, the Exchange proposes to amend Rule 98 to facilitate better integration of DMM units with a member organization's existing customer-facing market-making trading units by specifying that, as with agency orders, customer-driven orders that are entered on a proprietary basis by the DMM unit would not be required to be designated as DMM interest.

The Exchange proposes to amend Rule 98 to provide that proprietary interest that is entered by a DMM unit for the purposes of facilitating customer orders would not be required to be designated as DMM interest. The Exchange proposes to replace the phrase ''any interest'' with the phrase ''proprietary interest'' in Rule 98(c)(4) to clarify that the existing rule only governs proprietary interest of a DMM unit, *i.e.,* interest for the account of the member organization. As further proposed, the Exchange would amend Rule 98(c)(4) to provide that proprietary interest entered into Exchange systems by the DMM unit in DMM securities would not be required to be identifiable as DMM unit interest if such interest is (1) on a riskless principal basis, or on a principal basis to provide price improvement to the customer, and (2) for the purposes of facilitating the execution of an order received from a customer (whether its own customer or the customer of another broker-dealer). The Exchange proposes to define such interest as a ''customer-driven order.''

The proposed definition of ''customer-driven order'' is not a novel concept in that other SROs rules define the concept of a proprietary order being entered to facilitate a customer order. For example, Supplementary Material .03 to FINRA Rule 5320 defines the term ''facilitated order'' to mean a proprietary trade that is for the purposes of facilitating the execution, on a riskless principal basis, of an order from a customer (whether its own customer or another broker-dealer).[14] The Exchange proposes a distinction for the definition of ''customer-driven order'' in Rule 98 as compared to the Rule 5320 definition of ''facilitated order'' because, as proposed, a customer-driven order could be entered, not only on a riskless principal basis, but also on a principal basis so the member organization could provide price improvement to the customer. In either case, the member organization entering the customer-driven order would need to have received a customer order before entering a customer-driven order at the Exchange.[15]

The proposed rule change is designed to reflect how member organizations handle customer orders, which in many circumstances, are routed to an exchange on a proprietary basis to facilitate execution of a customer's order. Therefore, the Exchange believes that the proposed amendment is consistent with the current rule, which does not require agency orders entered by the member organization that operates a DMM unit to be subject to DMM rules.[16]

The Exchange further proposes to amend Rule 98(c)(4) to specify that a DMM unit must use unique mnemonics that identify to the Exchange its customer-driven orders in DMM securities. Such mnemonics may not be used for trading activity at the Exchange in DMM securities that are not customer-driven orders, but may be used for trading activities in securities not assigned to the DMM. The Exchange believes that requiring a separate mnemonic for customer-driven orders would assist the Exchange in monitoring DMM unit compliance with the proposed rule.[17]

The Exchange further proposes to amend Rule 98(d) to specify which rules would be applicable to trading by the DMM unit. As proposed, the rules, fees, or credits applicable to DMM quoting or trading activity would apply only to a DMM unit's quoting or trading in its DMM securities for its own account at the Exchange that has been identified as DMM interest. In addition, consistent with the proposal that customer-driven orders would not be required to be designated as DMM interest, the Exchange proposes to add text to Rule 98(d) to state that customer-driven orders for the account of a DMM unit that have not been identified as DMM interest would not be subject to DMM rules or be eligible for any fees or credits applicable to DMM quoting or trading activity.[18] In addition, such customer-driven orders could not be aggregated with interest that has been identified as DMM interest for purposes of any DMM-related fees or credits or DMM quoting obligations specified in Rule 104(a). This proposed rule text would provide that customer-driven orders not designated as DMM interest would not be subject to DMM rules, which, as described above, include restrictions on availability of certain order types and entry of specified orders during the last ten minutes of trading. Because a customer-driven order that has not been designated as DMM interest would not be subject to DMM rules, it would also not be eligible for a parity allocation applicable for DMMs pursuant to Rule 72(c) or be used to assist a DMM in meeting its quoting or market maintenance obligations, or be eligible for DMM fees or credits.

[13] *See* Rule 104(g)(i)(A)(III)—Equities (defining Prohibited Transactions). Specifically, a DMM with a long position in a security is prohibited from making a purchase in a security that results in a new high price on the Exchange for the day, and a DMM with a short position in a security is prohibited from making a sale in such security that results in a new low price for the day.

[14] *See also* Supplementary Material .03 to Rule 5320—Equities.

[15] If a customer-driven order, as defined in Rule 98(c)(4), is not handled on a riskless principal basis, it would not be eligible for the riskless principal exception to the prohibition against trading ahead of customer orders as specified in Rule 5320—Equities.

[16] *See supra* note 10.

[17] The Exchange requires a member to use a different mnemonic for its SLP-Prop trading activity in assigned SLP securities than it uses for such member's trading in assigned SLP securities that is not SLP-Prop trading. Using different mnemonics allows the Exchange to identify SLP-Prop trading activity in a member organization's assigned SLP securities. A member organization may use the same mnemonic for its trading activity in securities not assigned to an SLP as it uses for its SLP-Prop trading in assigned SLP securities. *See* Rule 107B(c)(2)—Equities.

[18] Customer-driven orders would be eligible for any fees or credits applicable to equity transactions at the Exchange that are not DMM or Floor broker trades. *See* NYSE MKT Equities Price List, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse-mkt/NYSE_MKT_Equities_Price_List.pdf.*

The Rule 98(c)(5) obligation to provide the Exchange with real-time net position information in DMM securities would continue to be applicable to the DMM unit's position in DMM securities together with any position of a Regulation SHO independent trading unit of which the DMM unit may be included, regardless of whether they are positions resulting from trades in away markets, trades as a result of DMM interest entered at the Exchange, or customer-driven orders routed to the Exchange that were not identified as DMM interest.[19] For example, if a DMM unit is combined with market-making desks that are trading on away markets and that route customer-driven orders to the Exchange in DMM securities that are not identified as DMM interest, the member organization would be required to report the position of the entire DMM unit in DMM securities, not only the DMM's Exchange-traded positions resulting from DMM interest. The Exchange also proposes a non-substantive amendment to Rule 98(c)(5) to delete the term ''for trading,'' which the Exchange believes is extraneous rule text.

[19] Under Regulation SHO, determination of a seller's net position is based on the seller's position in the security in all of its accounts, absent aggregation unit treatment under Rule 200(f) of Regulation SHO. *See* Securities Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008, 48010, n.22 (Aug. 6, 2004); *see also* Securities Exchange Act Release No. 48709 (Oct. 29, 2003), 68 FR 62972, 62991 and 62994 (Nov. 6, 2003); Letter from Richard R. Lindsey, Director, Division of Market Regulation, to Roger D. Blanc, Wilkie Farr & Gallagher, SEC No-Action Letter, 1998 SEC No-Act. LEXIS 1038, p. 5 (Nov. 23, 1998); Securities Exchange Act Release No. 30772 (June 3, 1992), 57 FR 24415, 24419 n.47 (June 9, 1992); Securities Exchange Act Release No. 27938 (Apr. 23, 1990), 55 FR 17949, 17950 (Apr. 30, 1990). The Commission adopted a narrow exception to Regulation SHO's ''locate'' requirement only for market makers engaged in bona-fide market making in the security at the time they effect the short sale. *See* 17 CFR 242.203(b)(2)(iii); *see also* Securities Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008, 48015 (Aug. 6, 2004); Securities Exchange Act Release No. 58775 (Oct. 14, 2008), 73 FR 61690, 61698–9 (Oct. 17, 2008). Broker-dealers would not be able to rely on the Exchange's or any self-regulatory organization's designation of market marking for eligibility for the bona-fide market making exception to the ''locate'' requirement, as such designations are distinct and independent from Regulation SHO. Further, the Exchange's designation of proprietary interest or any exclusion from proprietary interest for purposes of NYSE rules is not relevant for purposes of Regulation SHO. Eligibility for the bona-fide market making exception depends on the facts and circumstances and a determination of bona-fide market making is based on the Commission's factors outlined in the aforementioned Regulation SHO releases. It should also be noted that a determination of bona-fide market making is relevant for the purposes of the close-out obligations under Rule 204 of Regulation SHO. *See* 17 CFR 242.204(a)(3).

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[20] that an Exchange have rules that are designed to promote the 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 the proposed rule change would remove impediments to and perfect the mechanism of a free and open market by providing greater specificity in Rule 98 regarding which proprietary interest would be required to be entered as DMM interest.

The Exchange believes that the proposed amendment to define the term ''customer-driven order'' to be proprietary interest of a DMM that is for the purposes of facilitating the execution of an order received from a customer (whether its own customer or the customer of another broker-dealer) on a riskless principal basis or on a principal basis to provide price improvement to the customer reflects the current reality of how broker-dealers facilitate customer orders that are routed to an exchange. Specifically, after receiving a customer order, such customer order is routed to an exchange on a proprietary basis, and once an execution is received from an exchange, the execution is provided to the customer either on a riskless principal basis or with price improvement. Facilitating customer orders on a proprietary basis is not a novel concept and serves as the basis of the definition of the term ''facilitated order'' in Supplementary Material .03 to FINRA Rule 5320. While the Exchange proposes that customer-driven orders for the purposes of Rule 98 would not be required to be executed only on a riskless principal basis, but could also be executed on a principal basis to provide price improvement to the customer, this difference does not alter the premise of how member organizations facilitate customer orders, as already established in Rule 5320.03. Because the proposed definition is narrowly defined to reflect how customer orders are facilitated on a proprietary basis when routed to an exchange, the Exchange believes that the proposed amendment to Rule 98(c)(4) to define the term ''customer-driven order'' would remove impediments to and perfect the mechanism of a free and open market.

[20] 15 U.S.C. 78f(b)(5).

The Exchange believes that requiring a DMM unit to use unique mnemonics to identify customer-driven orders in DMM securities would promote just and equitable principles of trade because requiring such orders to be entered using unique mnemonics would assist the Exchange in monitoring DMM unit compliance with the proposed rule.

The Exchange further believes that providing DMM units with a choice of whether to designate a customer-driven order as DMM interest would remove impediments to and perfect the mechanism of a free and open market because certain DMM rules may conflict with a broker-dealer's obligation to its customers. As discussed in the 2014 Filing, agency orders entered by a member organization that operates a DMM unit are not subject to DMM rules.[21] Yet, if that same customer order were routed to the Exchange on a proprietary basis, which is the manner by which broker-dealers may handle customer order flow, it would be subject to DMM rules. Accordingly, because Rule 98 does not currently require agency flow to be subject to DMM rules, the Exchange believes it is consistent with the protection of investors and the public interest that agency flow that is facilitated by a member organization on a proprietary basis at the Exchange would similarly not be required to be subject to DMM rules.

The proposed rule change would further be consistent with the protection of investors and the public interest because it would enable customer-driven orders to not be subject to DMM rules and eliminate any conflict with customer instructions or best execution obligations. The Exchange notes that this proposed rule change would not alter in any way a member organization's existing obligations under Section 15(g) of the Act,[22] Regulation SHO,[23] Rule 5320, or to maintain policies and procedures to assure that a member organization does not engage in any frontrunning of customer order information in violation of Exchange, FINRA, or federal securities laws.

The Exchange further believes that the proposed amendments to Rule 98(d) would remove impediments to and perfect the mechanism of a free and open market by promoting transparency in Exchange rules regarding which rules, fees or credits applicable to DMM quoting or trading activity would be applicable to which interest. More specifically, the Exchange believes that it would remove impediments to and

[21] *See supra* note 10.

[22] 15 U.S.C. 78o(g).

[23] 17 CFR 242.201.

perfect the mechanism of a free and open market to provide specificity in Exchange rules that customer-driven orders that have not been designated as DMM interest would not be subject to the DMM rules and also would not be eligible for DMM fees or credits or to be aggregated with DMM interest for purposes of any DMM-related fees or credits or DMM quoting obligations.

Finally, the Exchange believes that the proposed amendment to Rule 98(c)(5) would remove impediments to and perfect the mechanism of a free and open market by removing extraneous rule text, thus promoting simplicity in Exchange rules.

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 is designed to be pro-competitive because it would remove a restriction unique to DMMs as specified in Rule 98, thus enabling existing customer-facing market making units to operate as a DMM unit at the Exchange without needing to change the manner by which they may facilitate customer orders on a proprietary basis at an exchange. The proposed rule change would also harmonize the Exchange's rules with recently approved amendments to NYSE Rule 98.[24]

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) of the Act[25] and Rule 19b–4(f)(6) thereunder.[26] 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)[27] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[28] 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 Exchange notes that the merits of the proposed rule change have already been considered by the Commission in the context of a substantively identical filing by the NYSE, which the Commission approved.[29] The Exchange also believes that waiver is appropriate so that DMM units that are registered in both Exchange-listed and NYSE-listed securities will again, without delay, be subject to consistent rules across the two exchanges. The Commission believes that the proposed rule change is consistent with the protection of investors and the public interest, because the proposal is substantively identical to the NYSE proposal that was recently approved by the Commission, and because waiver of the operative delay will provide for consistent rules between NYSE and the Exchange. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[30]

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)[31] 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:

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–NYSEMKT–2016–51 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEMKT–2016–51. 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–NYSEMKT–2016–51 and should be submitted on or before June 7, 2016.

[24] *See* NYSE Rule 98 Approval Order, *supra* note 5.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) 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.

[27] 17 CFR 240.19b–4(f)(6).

[28] 17 CFR 240.19b–4(f)(6)(iii).

[29] *See* NYSE Rule 98 Approval Order, *supra* note 5.

[30] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[31] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Robert W. Errett,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77812; File No. SR–NYSE–2016–34]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List To Make a Clarifying Change Regarding the Rebate Program Recently Implemented by the Exchange for the NYSE Bonds System

May 11, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 3, 2016, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 its Price List to make a clarifying change regarding the rebate program recently implemented by the Exchange for the NYSE Bonds[SM] system. The proposed rule change is available on the Exchange's Web site at *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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to make a clarifying change regarding the rebate program recently implemented by the Exchange for the NYSE Bonds system.[4] The purpose of this proposed rule change is to clarify the application of the rebate program only. The Exchange is not proposing to change in any way the manner in which the rebate program operates.

Pursuant to the Liquidity Provider Incentive Program, a voluntary rebate program, the Exchange pays Users[5] of NYSE Bonds a monthly rebate provided Users who opt into the rebate program meet specified quoting requirements. Under the program, the rebate payable is based on the number of CUSIPs[6] a User quotes.

The rebate amount is tiered based on the number of CUSIPs quoted by a User, as follows:

LIQUIDITY PROVIDER INCENTIVE PROGRAM

Number of CUSIPs	Monthly rebate
400–599	$10,000
600–799	20,000
800 or more	30,000

To qualify for a rebate, a User is required to provide continuous two-sided quotes for at least eighty percent (80%) of the time during the Core Bond Trading Session for an entire calendar month.[7] The Exchange calculates each participating User's quoting performance beginning each month on a daily basis, up to and including the last trading day of a calendar month, to determine at the end of each month each User's monthly average. Under the program, Users must provide a two-sided quote for a minimum of hundred (100) bonds per side of the market with an average spread of half-point ($0.50) or less in CUSIPs whose average maturity is at least five (5) years as of the date the User provides a quote. The Exchange proposes to make a clarifying change to the rule text to note that in order for a CUSIP to qualify for inclusion in the rebate calculation, a User must provide continuous two-sided quotes in a CUSIP, whether it's for eighty percent (80%) or fifty percent (50%) of the time, as applicable, for a minimum of hundred (100) bonds per side of the market that has an average spread of half-point ($0.50) or less and whose average maturity is at least five (5) years as of the date the User provides the quote.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange believes that the clarifying change to the current rule text is reasonable as it will clarify the application of the rebate program and will help to avoid confusion for Users that opt into the rebate program. The Exchange notes that the proposed change is not designed to amend any rebate, nor alter the manner in which it calculates rebates under the program. The Exchange believes the proposed amendment is intended to make the Price List clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

[32] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 77591 (April 12, 2016), 81 FR 22656 (April 18, 2016) (SR–NYSE–2016–26).

[5] Rule 86(b)(2)(M) defines a User as any Member or Member Organization, Sponsored Participant, or Authorized Trader that is authorized to access NYSE Bonds.

[6] CUSIP stands for Committee on Uniform Securities Identification Procedures. A CUSIP number identifies most financial instruments, including: stocks of all registered U.S. and Canadian companies, commercial paper, and U.S. government and municipal bonds. The CUSIP system—owned by the American Bankers Association and managed by Standard & Poor's—facilitates the clearance and settlement process of securities. *See http://www.sec.gov/answers/cusip.htm.*

[7] For the first calendar month after a User opts in, the User is required to provide continuous two-sided quotes for fifty percent (50%) of the time during the Core Bond Trading Session.

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

[9] 15 U.S.C. 78f(b)(4), (5).