

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76971; File No. SR-NYSE-2015-46)

January 25, 2016

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings to Determine Whether to Disapprove a Proposed Rule Change to Establish Rules to Comply with the Quoting and Trading Requirements of the Plan to Implement a Tick Size Pilot Plan Submitted to the Commission Pursuant to Rule 608 of Regulation NMS under the Act

I. Introduction

On October 9, 2015, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to establish rules to comply with the quoting and trading requirements of the Plan to Implement a Tick Size Pilot Program (“Plan”) submitted to the Commission pursuant to Rule 608 of Regulation NMS under the Act (“Tick Size Pilot”). The proposed rule change was published for comment in the Federal Register on October 28, 2015.<sup>3</sup> The Commission has received two comment letters on the proposal.<sup>4</sup> On December 3, 2015, the Commission designated a longer period for Commission action on the proposed rule change, until January 26, 2016.<sup>5</sup> On January 15, 2016, the Exchange, on behalf of NYSE Arca, Inc., NYSE MKT LLC, and the Chicago Stock Exchange, Inc. (“CHX”), submitted a letter in response to the comment

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

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

<sup>3</sup> See Securities Exchange Act Release No. 76229 (October 22, 2015), 80 FR 66065 (“Notice”).

<sup>4</sup> See letters from Mary Lou Von Kaenel, Managing Director, Financial Information Forum, dated November 5, 2015 (“FIF Letter”); and Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated December 18, 2015 (“SIFMA Letter”).

<sup>5</sup> See Securities Exchange Act Release No. 76551, 80 FR 76602 (December 9, 2015).

letters.<sup>6</sup> This order institutes proceedings under Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to disapprove the proposed rule change.

## II. Description of the Proposed Rule Change

NYSE proposes to adopt NYSE Rule 67(a), (c), (d), and (e)<sup>8</sup> to implement the quoting and trading requirements of the Tick Size Pilot. Proposed Rule 67(a)(1) contains definitions<sup>9</sup> of “Plan,”<sup>10</sup> “Pilot Test Groups,”<sup>11</sup> “Trading Center,”<sup>12</sup> and “Retail Investor Order.”<sup>13</sup>

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<sup>6</sup> See letter from Brendon J. Weiss, Co-Head, Government Affairs, Intercontinental Exchange, Inc. and John K. Kerin, CEO, Chicago Stock Exchange, Inc., dated January 15, 2016 (“Response Letter”). In the Response Letter, the Exchange also commented on proposed rule changes submitted by the Financial Industry Regulatory Authority, Inc. (“FINRA”) and BATS Exchange, Inc. (“BATS”) to implement the quoting and trading requirements of the Tick Size Pilot. See Securities Exchange Act Release Nos. 76483 (November 19, 2015), 80 FR 73853 (November 25, 2015) (SR-FINRA-2015-047) and 76552 (December 3, 2015), 80 FR 76591 (December 9, 2015) (SR-BATS-2015-108)(together the “FINRA/BATS Proposals”).

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> The Exchange has reserved proposed Rule 67(b) for future use to require compliance by its member organizations with the collection of data pursuant to the Plan.

<sup>9</sup> Proposed NYSE Rule 67(a)(1)(E) provides that all capitalized terms not otherwise defined in proposed NYSE Rule 67 shall have the meanings set forth in the Tick Size Pilot, Regulation NMS under the Exchange Act, or Exchange Rules.

<sup>10</sup> NYSE proposes to define the “Plan” as the Tick Size Pilot plan submitted to the Commission pursuant to Rule 608 of Regulation NMS. See proposed NYSE Rule 67(a)(1)(A).

<sup>11</sup> NYSE proposes to define “Pilot Test Groups” as the three test groups established under the Plan, consisting of 400 Pilot Securities each, which satisfy the respective criteria established under the Plan for each such test group. See proposed NYSE Rule 67(a)(1)(B).

<sup>12</sup> NYSE proposes to define “Trading Center” as having the same meaning as Rule 600(b)(78) of Regulation NMS and for purposes of a Trading Center operated by a broker-dealer, means an independent trading unit, as defined under Rule 200(f) of Regulation SHO, within such broker-dealer. See proposed NYSE Rule 67(a)(1)(C).

<sup>13</sup> NYSE proposes to define “Retail Investor Order” as an agency order or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a retail member organization (or a divisions thereof

Proposed NYSE Rule 67(a)(2) provides that the Exchange is a Participant<sup>14</sup> in the Plan and is subject to the applicable requirements of the Plan.<sup>15</sup> Proposed NYSE Rule 67(a)(3) provides that member organizations shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan.<sup>16</sup> Proposed NYSE Rule 67(a)(4) provides that Exchange systems will not display, quote, or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan the NYSE Rule 67, unless such quotation or transaction is specifically exempted under the Plan.<sup>17</sup>

Proposed NYSE Rule 67(a)(5) defines the procedure for dealing with Pilot Securities that drop below \$1.00 during the Pilot Period. If the price of a Pilot Security drops below \$1.00 during regular trading but does not have a Closing Price below \$1.00, the Pilot Security will continue to trade according to the quoting and trading requirements of its originally assigned Test Group in the Plan. If a Pilot Security has a Closing Price below \$1.00, the Pilot Security would be moved from its respective Test Group into the Control Group, and would be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder

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that has been approved by the Exchange under the Exchange's retail liquidity program (Rule 107C) to submit Retail Investor Orders), provided that no change is made to the terms of the order with respect to the price or side of market and the order does not originate from a trading algorithm or any other computerized technology. A Retail Investor Order is an immediate or cancel orders that operate in accordance with the Exchange's retail liquidity program as set forth in NYSE Rule 107C. See proposed NYSE Rule 67(a)(1)(D).

<sup>14</sup> Unless otherwise noted, capitalized terms not defined in this order shall have the meanings set forth in the Plan.

<sup>15</sup> See Proposed NYSE Rule 67(a)(2).

<sup>16</sup> See Proposed NYSE Rule 67(a)(3).

<sup>17</sup> See Proposed NYSE Rule 67(a)(4).

of the Pilot Period.<sup>18</sup> Proposed NYSE Rule 67(a)(5) further provides that notwithstanding anything to the contrary, at all times during the Pilot Period, Pilot Securities (whether in the Control Group or any Pilot Test Group) will continue to be subject to the requirements contained in Paragraph (b).<sup>19</sup>

Proposed NYSE Rule 67(c) describes the quoting and trading requirements of Pilot Securities in Test Group One. Specifically, NYSE proposes that no member may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than \$0.05 for Pilot Securities in Test Group One.<sup>20</sup> Orders priced to trade at the midpoint of the national best bid and national best offer (“NBBO”) or best protected bid and best protected offer (“PBBO”) and orders entered into the Exchange’s Retail Liquidity Program as Retail Price Improvement Orders may be ranked and accepted in increments of less than \$0.05.<sup>21</sup> Pilot Securities in Test Group One may continue to trade at any price increment currently permitted.<sup>22</sup>

Proposed NYSE Rule 67(d) describes the quoting and trading requirements of Pilot Securities in Test Group Two. Specifically, NYSE proposes that no member may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than \$0.05 for Pilot Securities in Test Group Two.<sup>23</sup>

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<sup>18</sup> See Proposed NYSE Rule 67(a)(5).

<sup>19</sup> The Commission notes that the Exchange has reserved Paragraph (b) for the data collection contemplated under the Plan.

<sup>20</sup> See Proposed NYSE Rule 67(c).

<sup>21</sup> See Proposed NYSE Rule 67(c).

<sup>22</sup> See Proposed NYSE Rule 67(c).

<sup>23</sup> Similar to the exception in Test Group One, orders priced to trade at the midpoint of the NBBO or PBBO and orders entered into the Exchange’s Retail Liquidity Program as

Further, NYSE proposes that absent any enumerated exceptions, no member organization may execute orders in any Test Group Two Pilot Security in a price increment other than \$0.05.<sup>24</sup>

Proposed NYSE Rule 67(d)(3) provides for three exceptions where Test Group Two Pilot Securities could trade in increments of less than \$0.05. First, trading could occur at the midpoint between the NBBO or the PBBO.<sup>25</sup> Second, Retail Investor Orders may be provided with price improvement that is at least \$0.005 better than the PBBO.<sup>26</sup> Finally, Negotiated Trades may trade in increment less than \$0.05.<sup>27</sup>

Proposed NYSE Rule 67(e) describes the quoting and trading requirements of Pilot Securities in Test Group Three. NYSE proposes for Pilot Securities in Test Group Three no member organization may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than \$0.05.<sup>28</sup> Proposed NYSE Rule 67(e)(2) states that absent an enumerated exception, no member organization may execute orders in any Test Group Three Pilot Security in a price increment other than \$0.05.<sup>29</sup> Proposed NYSE Rule 67(e)(3) provides for the same three exceptions as in

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Retail Price Improvement Orders may be ranked and accepted in increments of less than \$0.05. See Proposed NYSE Rule 67(d).

<sup>24</sup> Proposed NYSE Rule 67(d)(2) applies to all trades, including Brokered Cross Trades.

<sup>25</sup> See Proposed NYSE Rule 67(d)(3)(A).

<sup>26</sup> See Proposed NYSE Rule 67(d)(3)(B).

<sup>27</sup> See Proposed NYSE Rule 67(d)(3)(C).

<sup>28</sup> Similar to the exceptions in Test Group One and Test Group Two, orders priced to trade at the midpoint of the NBBO or PBBO and orders entered into the Exchange's Retail Liquidity Program as Retail Price Improvement Orders may be ranked and accepted in increments of less than \$0.05. See Proposed NYSE Rule 67(e)(1).

<sup>29</sup> Proposed NYSE Rule 67(e)(2) applies to all trades, including Brokered Cross Trades.

Test Group Two.<sup>30</sup>

Proposed NYSE Rule 67(e)(4) states the Test Group Three Pilot Securities will be subject to a Trade-at Prohibition. Proposed NYSE Rule 67(e)(4)(A) defines “Trade-At Prohibition” as the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the Price of a Protected Bid or the execution of a buy order at the price of a Protected Offer during regular trading hours.<sup>31</sup> Proposed NYSE Rule 67(e)(4)(B) states that absent any enumerated exception, no member organization may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or a buy order at the price of a Protected Offer.

Proposed NYSE Rule 67(e)(4)(C) provides that a member organization may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer under the following 14 circumstances. First, an order may be executed by a Trading Center within a member organization that has a displayed quotation for the account of that Trading Center on a principal basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of the Trading Center’s previously displayed quote.<sup>32</sup> In the Notice, NYSE stated that “[b]y requiring the displayed quotation to be for the account of ‘that Trading Center,’ the Trading Center cannot rely on any quotations it may put up on an agency basis, including a riskless principal basis.”<sup>33</sup> NYSE further noted that “[a] Trading Center that is a broker-dealer also cannot rely on any quotation that is not a displayed quotation for its own account, such as a

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<sup>30</sup> See Proposed NYSE Rule 67(e)(3).

<sup>31</sup> See Proposed NYSE Rule 67(e)(4)(A).

<sup>32</sup> See Proposed NYSE Rule 67(e)(4)(C)(i).

<sup>33</sup> See Notice at note 26.

quotation of another broker-dealer, or customer of such broker-dealer.”<sup>34</sup>

The second exception permits the execution of an order that consists of odd lot orders and odd lot portions of partial round lot orders that are displayed on the SRO Quotation Feed at the price equal to the traded-at Protected Quotation, up to the size of the displayed quotation.<sup>35</sup> The third exception allows the execution of an order that is of Block Size<sup>36</sup> at the time of origin and is not: an aggregation of non-block orders; broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution; or executed on multiple Trading Centers.<sup>37</sup>

The fourth exception permits the execution of a Retail Investor Order executed with at least \$0.005 price improvement.<sup>38</sup> The fifth exception permits the execution of an order when the Trading Center displaying the Protected Quotation that was traded-at experiences a failure, material delay, or malfunction of its systems or equipment.<sup>39</sup> The sixth exception permits the execution of an order as part of a transaction that was not a regular way contract.<sup>40</sup> The seventh exception permits the execution of an order as part of a single-priced opening, reopening, or

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<sup>34</sup> See Notice at note 26.

<sup>35</sup> Proposed Supplementary Material .10 to NYSE Rule 67(e)(4)(c)(ii) states that a member would be prohibited from breaking round lot order or a round lot portion of a partial round lot into an odd lot order to avoid the restrictions of the proposed Rule.

<sup>36</sup> “Block Size” is defined in the Plan as an order (1) of at least 5,000 shares or (2) for a quantity of stock having a market value of at least \$100,000.

<sup>37</sup> See Proposed NYSE Rule 67(e)(4)(C)(iii).

<sup>38</sup> See Proposed NYSE Rule 67(e)(4)(C)(iv).

<sup>39</sup> See Proposed NYSE Rule 67(e)(4)(C)(v).

<sup>40</sup> See Proposed NYSE Rule 67(e)(4)(C)(vi).

closing transaction on the Exchange.<sup>41</sup> The eighth exception permits the execution of an order when a Protected Bid is priced higher than a Protected Offer in the Pilot Security.<sup>42</sup>

The ninth exception permits the execution of an order that is identified as a Trade-at Intermarket Sweep Order.<sup>43</sup> The tenth exception permits the execution of an order by a Trading Center that simultaneously routed Trade-at Intermarket Sweep Orders to execute against the full displayed size of the Protected Quotation that was traded at.<sup>44</sup> The eleventh exception permits the execution of an order that is part of a Negotiated Trade.<sup>45</sup> The twelfth exception permits the execution of an order when the Trading Center displaying the Protected Quotation that was traded at had displayed within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security with a price that was inferior to the price of the Trade-at transaction.<sup>46</sup>

The thirteenth exception permits the execution of an order by a Trading Center, which at the time of order receipt, had guaranteed an execution at no worse than a specified price (a “stopped order”) where: (1) the stopped order was for the account of a customer; (2) the customer agreed to the specified price on an order-by-order basis; and (3) the price of the Trade-at transaction was, for a stopped buy order, equal to the National Best Bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to the National Best Offer in the Pilot

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<sup>41</sup> See Proposed NYSE Rule 67(e)(4)(C)(vii).

<sup>42</sup> See Proposed NYSE Rule 67(e)(4)(C)(viii).

<sup>43</sup> See Proposed NYSE Rule 67(e)(4)(C)(ix).

<sup>44</sup> See Proposed NYSE Rule 67(e)(4)(C)(x).

<sup>45</sup> See Proposed NYSE Rule 67(e)(4)(C)(xi).

<sup>46</sup> See Proposed NYSE Rule 67(e)(4)(C)(xii).



Security at the time of execution.<sup>47</sup> Finally, the last exception permits the execution of an order that is for a fractional share of a Pilot Security, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security into orders for fractional shares or was not otherwise effected to evade the requirements of the Tick Size Pilot.<sup>48</sup> Proposed NYSE Rule 67(D) states that no member organization shall break an order into smaller orders to evade the requirements of the Trade-at Prohibition or any provisions of the Plan.

### III. Summary of Comments and the Exchange's Response

The Commission has received two comment letters on the proposed rule change and a response from the Exchange. One commenter expressed concern with the differences between the NYSE proposal and the rules to comply with the quoting and trading requirements of the Plan proposed in the FINRA/BATS Proposals,<sup>49</sup> particularly with respect to the Trade-at Prohibition.<sup>50</sup> The commenter noted that the NYSE proposal would limit a Trading Center from price matching a Protected Quotation to when the Trading Center is displaying in a principal capacity, while the FINRA/BATS Proposals are not so restrictive. The commenter stated its belief that the FINRA/BATS Proposals are more consistent with the terms of the Plan, and that the Commission should approve it instead. The commenter further stressed the importance of consistency in the rules implementing the Plan, and expressed the view that if the different proposals are approved, compliance by market participants "would be virtually impossible."<sup>51</sup>

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<sup>47</sup> See Proposed NYSE Rule 67(e)(4)(C)(xiii).

<sup>48</sup> See Proposed NYSE Rule 67(e)(4)(C)(xiv).

<sup>49</sup> See supra note 6.

<sup>50</sup> See SIFMA Letter.

<sup>51</sup> See SIFMA Letter.

This commenter also noted that there are differences in certain key defined terms, such as “Retail Investor Order,” between the NYSE proposal and the FINRA/BATS Proposals.<sup>52</sup>

The other commenter also expressed concern with the proposal’s limitation of the exception to the Trade-at Prohibition discussed above to principal quotations, and with the certain defined terms, such as “Retail Investor Order” and “Block Size”.<sup>53</sup> In addition, it suggested the inclusion of certain other exceptions that align with those available, through Commission exemption and guidance, in connection with Rule 611 of Regulation NMS, and raised questions as to whether the proposal was limited to the exchange-related activities of NYSE members, or would apply to their off-exchange activities as well.<sup>54</sup>

In its Response Letter, the Exchange expressed the view that its proposal is consistent with the goals of the Plan, including testing whether market participants are incentivized to display more liquidity in a wider tick environment. On the other hand, in the Exchange’s opinion, the FINRA/BATS Proposals would create an incentive for trading in Test Group Three to migrate to dark venues, which would be inconsistent with the goals of the Plan. Specifically, the Exchange expressed the view that the FINRA/BATS Proposals would allow an alternative trading system (“ATS”) to execute matched trades of any of its participants at the price of a Traded-at Protected Quotation if the ATS is displaying, on an agency basis, a quotation of another participant at the Protected Quotation. Thus, the Exchange reasoned that the

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Id.

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See FIF Letter.

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The commenter stated its belief that the additional qualifiers will inhibit a Trading Center from facilitating a block cross trade. See FIF Letter. The commenter also raised other issues not directly addressed by the Exchange’s proposal, such as the timeline for implementation, additional exceptions for Trade-at Prohibition, and unanswered questions.

FINRA/BATS Proposals would allow trades by ATS participants at the price of a Protected Quotation without requiring them to display a Protected Quotation, but instead “free-ride” on the Protected Quotation of another participant in the ATS that is displayed, on an agency basis by the ATS. This would, in the opinion of the Exchange, “eviscerate” the requirement for dark pools to trade with Protected Quotations, and be contrary to the Commission’s intent for the Trade-At Prohibition to test whether market participants are incentivized to display more liquidity in a wider tick environment.

The Exchange confirmed one commenter’s understanding with respect to the Retail Investor Order exception and that the exception would allow for over-the-counter trading. Additionally, the Exchange stated that it opposed changing the Block Size exception as the Exchange does not believe that a trading center should be permitted to facilitate a block cross that aggregates multiple smaller orders, even if one component of the block meets the definition of Block Size Order.

IV. Proceedings to Determine Whether to Disapprove SR-NYSE-2015-46 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>55</sup> to determine whether the Exchange’s proposed rule change should be disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to

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<sup>55</sup> 15 U.S.C. 78s(b)(2).

provide additional comment on the proposed rule change to inform the Commission's analysis whether to disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,<sup>56</sup> the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with Section 6(b)(5) of the Act and Section 6(b)(8) of the Act. Section 6(b)(5) of the Act<sup>57</sup> requires that an exchange's rules 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 to protect investors and the public interest, and that they not be designed to permit unfair discrimination between customers, issuers, brokers or dealers. Section 6(b)(8) of the Act<sup>58</sup> requires that rules of the exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

The Exchange's proposal would establish rules for NYSE member organizations to comply with the quoting and trading requirements of the Tick Size Pilot. NYSE proposes to adopt a version of the Trade-at-Prohibition that would be more restrictive than required by the Plan, the applicable provisions of which would permit a Trading Center to execute an order for a Pilot Security in Test Group Three if that Trading Center "is displaying a quotation, via either a

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<sup>56</sup> 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. Id. The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. Id.

<sup>57</sup> See 15 U.S.C. 78f(b)(5).

<sup>58</sup> See 15 U.S.C. 78f(b)(8).

processor or an SRO quotation feed, at a price equal to the traded-at protected quotation but only up to the trading center's full displayed size.”<sup>59</sup> The Exchange's proposal would limit the ability of a Trading Center to rely on this exception to the Trade-at Prohibition to situations where it is displaying a quotation as principal, and not where it is displaying a quotation as agent (including riskless principal). The Exchange justifies this additional restriction out of concern that Trading Centers that are ATSS might be used to execute a “matched trade” by an ATS participant that itself is not displaying a Protected Quotation, but instead is relying upon another ATS participant to do so, thereby creating a “loophole” in the Trade-at Prohibition. However, by precluding any Trading Center from relying on any quotation displayed as agent, the Exchange's proposal effectively would preclude all ATSS, which necessarily execute orders as agent, from executing transactions at the NBBO even if they are displaying a Protected Quotation. The Exchange has not clearly explained why it believes a new ATS business model – one that allows priority for participants executing “matched trades” over displayed quotations – is viable and likely to arise in the context of the Tick Size Pilot. Further, even if the Exchange were able to offer such an explanation, it has not clearly explained why there is not a more targeted way to address this potential loophole in the Trade-at Prohibition than one which precludes all ATSS, including those operating as traditional electronic communication networks, or “ECNs,” from executing transactions at the NBBO. The Commission therefore believes that questions are raised as to whether the proposed rule change is consistent with the requirements of Section 6(b)(5) and Section 6(b)(8) of the Act.

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<sup>59</sup> See Tick Size Plan Section VI.D.1.

## V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as other relevant concerns. Such comments should be submitted by [insert date 21 days from publication in the Federal Register]. Rebuttal comments should be submitted by [insert date 35 days from publication in the Federal Register]. Although there do not appear to be any issues relevant to approval or disapproval which 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.<sup>60</sup>

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2015-46 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 Number SR-NYSE-2015-46. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

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<sup>60</sup> 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act 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).

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. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-NYSE-2015-46 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. Rebuttal comments should be submitted by [insert date 35 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>61</sup>

Robert W. Errett  
Deputy Secretary

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<sup>61</sup> 17 CFR 200.30-3(a)(57).