

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85021; File No. SR-NYSE-2018-58)

January 31, 2019

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change to Amend Rule 123C to Extend the Cut-Off Times for Order Entry and Cancellation for Participation in the Closing Auction and When the Exchange Will Begin Disseminating Order Imbalance Information for the Closing Auction

I. Introduction

On November 30, 2018, the New York Stock Exchange LLC (“Exchange” or “NYSE”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NYSE Rule 123C (The Closing Procedures) to extend the cut-off times for order entry and cancellation for participation in the closing auction and to change the times during which the Exchange will disseminate order imbalance information for the closing auction. The proposed rule change was published for comment in the Federal Register on December 18, 2018.³ The Commission has received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

As described in more detail in the Notice, the Exchange proposes to amend NYSE Rule 123C (The Closing Procedures) to: (1) extend the cut-off time for submitting and cancelling orders to participate in the closing auction, from 3:45 p.m. to 3:50 p.m.⁴; (2) change the time for determining the “last sale price” for purposes of calculating the Mandatory MOC/LOC

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 84804 (Dec. 12, 2018), 83 FR 64910 (Dec. 18, 2018) (“Notice”).

⁴ See proposed NYSE Rule 123C(2) and (3).

Imbalance Publication, from 3:45 p.m. to 3:50 p.m.⁵; (3) change the time for Mandatory MOC/LOC Imbalance Publication, Informational Imbalance Publication, and publication of Order Imbalance Information, from 3:45 p.m. to 3:50 p.m.⁶; and (4) extend the time during which Exchange systems would disseminate closing imbalances to NYSE floor brokers, from 2:00 p.m. to 3:45 p.m., to 2:00 p.m. to 3:50 p.m.⁷ As stated in the Notice, the Exchange also proposes to make non-substantive changes to NYSE Rule 123C. The proposal would not change how the Exchange conducts the closing auction.

III. Discussion and Commission Findings

After careful review of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁸ In particular, the Commission finds that the proposed rule change is consistent Section 6(b)(5) of the Act,⁹ which requires that the rules of a national security exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

⁵ See proposed NYSE Rule 123C(4)(a)(i).

⁶ See proposed NYSE Rule 123C(5) and (6)(a).

⁷ See proposed NYSE Rule 123C(6)(b).

⁸ In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b)(5).

The Exchange asserts that the extension of the time frame for Exchange members to enter and cancel orders for the closing auction should allow Exchange members more control to conduct end-of-day trading, and that the additional time for publication of Informational Imbalance Publication until 3:50 p.m. and the publication of the Mandatory MOC/LOC Imbalance Publication, when required by NYSE rule, should help investors to better understand imbalance and manage their orders. The Commission notes that the proposal is consistent with the rules of other national securities exchanges with respect to order cut-off times,¹⁰ and that the Commission recently approved a proposed rule change by the Nasdaq Stock Market LLC to move the cut-off times for the entry of Market on Close and Limit on Close orders from 3:50 p.m. to 3:55 p.m.¹¹ The Commission also believes that it is appropriate, when changing order cut-off times, to make corresponding changes relating to the dissemination of order imbalance information.

¹⁰ See The Nasdaq Stock Market LLC Rule 4754; Cboe BZX Exchange, Inc. Rule 11.23; and NYSE Arca, Inc. Rule 7.35-E(d)(2).

¹¹ See Securities Exchange Act Release No. 84454 (Oct. 19, 2018), 83 FR 53923 (Oct. 25, 2018) (SR-Nasdaq-2018-68).

IV. Conclusion

IT IS THEREFORE ORDERED that, pursuant to Section 19(b)(2) of the Act,¹² the proposed rule change (SR-NYSE-2018-58) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Eduardo A. Aleman
Deputy Secretary

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).