SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85429; File No. SR-NYSEAMER-2019-06)

March 27, 2019

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate
Effectiveness of Proposed Rule Change to Amend Rules 900.3NY, 925.1NY, and 971.1NY

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 March 14, 2019, NYSE American LLC

("NYSE American" 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 to [sic] amend Rules 900.3NY (Orders Defined) and 925.1NY

(Market Maker Quotes) to add a new order type and quotation designation and to make

conforming changes to Rule 971.1NY (Single-Leg Electronic Cross Transactions). The proposed

rule change is available on the Exchange's website 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

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

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

[3]   17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1.   Purpose

The purpose of this filing is to modify Rules 900.3NY and 925.1NY to add a new order

type and quotation designation as described herein. The Exchange also proposes to make

conforming changes to these rules, as well as to Rule 971.1NY regarding the Customer Best

Execution Auction or CUBE for single-leg options (the "CUBE Auction" or "Auction"), to reflect

the impact of the proposed order type and quotation designation on the auction mechanism.

The proposed order type and quote designation are substantially identical to those utilized

on NYSE Arca, Inc. ("NYSE Arca").[4] However, in addition to addressing the impact of the

proposed changes on the CUBE Auction (which NYSE Arca does not have), the proposal differs

from the NYSE Arca rules to reflect the Exchange's allocation rules, which differ from NYSE

Arca's price-time priority allocation scheme. Pursuant to Rule 964NY (Display, Priority and

Order Allocation – Trading Systems), at each price point, the Exchange affords Customer orders

priority over same-priced non-Customer orders.[5] Specifically, the Exchange ranks and allocates

Customer orders at the same price in time priority and, after all Customer orders are executed at

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[4]   See Securities Exchange Act Release Nos. 84451 (October 18, 2018), 83 FR 53692 (October 24 2018) ("NYSE Arca Repricing Notice"); 84737 ("NYSE Arca Repricing Approval Order") [sic] (December 6, 2018), 83 FR 63919 (December 12, 2018) (SR-NYSEArca-2018-74) ("NYSE Arca Repricing Approval Order") (approving adoption of MMRP, per NYSE Arca Rule 6.37A-O(a)(3)(C) and (a)(4)(B), and RPNP, per NYSE Arca Rule 6.62-O(p)(1)). The Exchanges notes that the NYSE Arca Repricing Approval Order also included an order type and quotation designation that would reprice if it would remove liquidity (i.e., a RALO and MMALO, respectively), which are not being proposed by the Exchange.

[5]   The term "non-Customers" includes Market Makers, Firms, Professional Customers and Non-ATP Holder Market Makers.

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a price, non-Customer orders at the same price are allocated on a size pro rata basis.[6] Aside from

the difference in how the repricing interest is prioritized and allocated on the Exchange, the

proposed order type and quotation designation function the same as on NYSE Arca. The

proposed order type and quote designation are designed to operate seamlessly with the CUBE

Auction as well as the Exchange's Customer and price-time priority model.

Repricing PNP Order ("RPNP")

Rule 900.3NY(p) provides that a PNP (Post No Preference) Order is eligible to interact

solely with interest on the Exchange, will not route, and will cancel if it locks or crosses the

NBBO.[7] PNP Orders provide market participants control over how their orders interact with

contra-side liquidity.[8]

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[6]   See Rule 964NY(b)(2)(A) (providing that "if there is more than one highest bid for a Customer account or more than one lowest offer for a Customer account, then such bids or offers, respectively, will be ranked based on time priority"); and (b)(2)(B)-(D). Per Rule 964NY(b)(2)(D), for example, "[i]f there is more than one highest bid or more than one lowest offer in the Consolidated Book for the account of a non-Customer, then such bids or offers will be afforded priority on a 'size pro rata' basis, and will comprise the 'size pro rata pool'"). See also Rule 964NY(b)(3) (setting forth size pro rata allocation method) and (c) (providing for executions of orders and quotes on the Exchange).

[7]   See Rule 900.3NY(p) (providing that a PNP Order "is a Limit Order to buy or sell that is to be executed in whole or in part on the Exchange, and the portion not so executed is to be ranked in the Consolidated Book, without routing any portion of the order to another market center; provided, however, the Exchange shall cancel a PNP Order that would lock or cross the NBBO"). The Exchange proposes to capitalize the "Market Center" as used in paragraph (p) of the Rule, which is a defined term in Rule 900.2NY(36). See proposed Rule 900.3NY(p).

[8]   A PNP Order may also be designated as an Immediate-Or-Cancel Order ("IOC Order") and, when such designation is made, the IOC Order behavior trumps the PNP Order behavior. In other words, the portion of a PNP IOC Order that is not executed immediately will cancel rather than potentially be ranked in the Consolidated Book. The Exchange proposes to modify the definition of a PNP Order to specify the behavior of a PNP IOC Order. See proposed Rule 900.3NY(p) (providing in relevant part that, "[a] PNP Order that is designated as IOC Order will be treated as an IOC Order (per Rule 900.3NY(k)), such that any unexecuted portion shall cancel"). See also 900.3NY(k) (providing that an IOC Order "is a Limit Order that is to be executed in whole or in part

The Exchange proposes to add an order type -- RPNP -- that builds on the existing PNP Order functionality to allow for repricing (rather than cancellation) as described below. As proposed, a RPNP is a PNP Order that would be repriced instead of cancelled after trading with interest in the Consolidated Book[9] if it would lock or cross the NBBO.[10] As proposed, an RPNP may only be entered as a Day Order.[11] The Exchange also proposes to amend Rule 900.3NY(p) to provide that an RPNP received during pre-open or during a trading halt will be treated as a PNP Order (i.e., as a Limit Order and will not reprice) for purposes of participating in opening auctions or re-opening auctions. This proposed rule text is based on the last sentence of NYSE Arca Rule 6.62-O(p) without any differences.

Proposed Rule 900.3NY(p)(1)(A) would provide that a RPNP to buy (sell) that would lock or cross the NBO (NBB) would be displayed at a price one MPV below (above) the NBO (NBB). This proposed rule would further provide that if the NBO (NBB) moves up (down), the display price of the RPNP to buy (sell) and the undisplayed price at which it is eligible to trade would be continuously adjusted, up (down) to the limit price of the RPNP.[12] Proposed Rule

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on the Exchange as soon as such order is received, and the portion not so executed is to be canceled").

[9] See Rule 900.2NY(14) (defining the Consolidated Book (or "Book") as the Exchange's electronic book of limit orders for the accounts of Customers and broker-dealers, and Quotes with Size, all of which are ranked and maintained in accordance with the rules of priority as provided in Rule 964NY).

[10] See proposed Rule 900.3NY(p)(1).

[11] See proposed Rule 900.3NY(p)(1). This proposed rule text is based on the last sentence of NYSE Arca Rule 6.62-O(p)(1) with a substantive difference not to reference Reserve Orders, which are not available on the Exchange.

[12] This proposed rule text is based on NYSE Arca Rule 6.62-O(p)(1)(A). The proposed RPNP also operates in substantially the same manner as the Non-Routable Limit Order available on the NYSE Arca's equities market, which, like the RPNP, reprices if it would lock or cross a protected quotation of an Away Market or trade through a protected quotation. See NYSE Arca Rule 7.31-E(e)(1).

900.3NY(p)(1)(A)(i) would provide that a RPNP to buy (sell) that is displayed at a price one

MPV below (above) the NBO (NBB) would be eligible to trade at the NBO (NBB), up (down) to

the limit price of the RPNP; provided, however, that if the NBO (NBB) updates to lock or cross

the RPNP's display price, such RPNP would trade at its display price.[13] Proposed Rule

900.3NY(p)(1)(A)(ii) would further provide that each time there is an update to the RPNP's

price, the RPNP would be ranked with other eligible interest at that price, and would trade at

each price, to the extent possible, pursuant to Rule 964NY.[14] For example, at the same price

(including an updated (re)price), a RPNP submitted on behalf of a Customer would have first

priority over non-Customer orders. The Exchange believes that this proposed handling of RPNPs

would respect and preserve the Exchange's Customer priority and pro rata allocation model.

To avoid accepting RPNPs priced too far through the NBBO, the Exchange proposes to

limit the extent to which it would reprice such interest.[15] As proposed, an incoming RPNP would

be cancelled after trading with eligible interest (if any) if its limit price to buy (sell) is more than

a configurable number of MPVs above (below) the initial display price (on arrival) of the RPNP.

The Exchange would determine the configurable number of MPVs, which would be announced

by Trader Update.[16]

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[13]   This proposed rule text is based on NYSE Arca Rule 6.62-O(p)(1)(A)(i) with a
         substantive difference not to reference that such orders would trade in time priority
         behind other eligible interest displayed at that price because the Exchange operates on a
         pro rata allocation model.

[14]   See proposed Rule 900.3NY(p)(1)(A)(ii). This proposed rule text is based on NYSE Arca
         Rule 6.62-O(p)(1)(A)(ii) with a substantive difference to cross reference the Exchange's
         allocation model under Rule 964NY rather than NYSE Arca's price-time allocation
         model.

[15]   See proposed Rule 900.3NY(p)(1)(B). This proposed rule text is based on NYSE Arca
         Rule 6.62-O(p)(1)(B) without any differences.

[16]   For example, in a Penny Pilot issue, if the local best offer is 0.99 and the away best offer
         is 1.00 with a configuration set to 3 MPV, a RPNP to buy at 1.03 or greater would trade

The Exchange believes the proposed RPNP would give market participants more flexibility and control over the circumstances under which their orders trade with contra side-interest, while ensuring that RPNPs priced too far through the contra-side NBBO would be rejected. The Exchange believes the proposed RPNP would assist market participants in maximizing opportunities for execution (as such orders would reprice rather than reject) while encouraging the provision of greater liquidity to the market, which would contribute to public price discovery.

<p style="text-align:center">*****</p>

The following examples illustrate the proposed RPNP order type and how it would function under the Exchange's allocation model.

RPNP Example 1 (the MPV is $0.01)

BOX 20 x 1.15 - 1.23 x 20

BD1 B 50 @ 1.25 RPNP

BD2 B 10 @ 1.26 RPNP

BD3 B 15 @ 1.27 RPNP

Specialist[17] 30 x 1.24 - 1.30 x 10 MMRP

BD4 S 15 Mkt

MM 100 x 1.20 - 1.25 x 30 MMRP

BD5 S 10 Mkt

Cust6 S 40 Mkt

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with the local offer at 0.99 and any remaining interest will be cancelled (because the initial display price would be 0.99 which is 4 MPVs away from its limit price).

[17]   A Specialist is a Market Maker on the Exchange that has heightened obligations in exchange for certain rights and privileges. See Rule 927NY. For example, Specialists may receive a participation entitlement, provided they are quoting at the NBBO. See, e.g., Rule 964NY(b)(2)(C).

Expected result:

BOX NBO @ 1.23

BD1, 2, 3 and Specialist all display @ 1.22 (priced back one MPV from the NBO) and are eligible to trade @ 1.23 due to BOX offer @ 1.23

> BD4 sells 15 to BD1 @1.23 (leaving BD1 with 35)
>
> MM 1.25 offer does not trade (prohibited by BOX offer @ 1.23)
>
> BD5 sells 10 to BD1 @ 1.23 (leaving BD1 with 25)
>
> Cust6 sells 25 to BD1 (exhausting BD1), 10 to BD2 (exhausting BD2), 5 to BD3 @ 1.23 (exhausting Cust6), in price-time priority because BD1, BD2 and BD3 are trading at an undisplayed price (The Specialist, which is eligible to trade @1.23 but displayed at 1.22, is not entitled to an allocation guarantee because it is not quoting (displayed) at the NBBO)[18]

RPNP Example 2 (the MPV is $0.01)

BOX 20 x 1.15 - 1.26 x 20

BD1 B 50 @ 1.25 RPNP

Cust1 B 10 @ 1.25 RPNP

BD3 B 15 @ 1.25 RPNP

Specialist 30 x 1.25 - 1.30 x 10 MMRP

BD4 S 15 Mkt

BD5 S 10 Mkt

Cust6 S 40 Mkt

> Expected result:

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[18]   See Rule 964NY(b)(2)(C) (regarding Specialist 40% participation guarantee).

BOX NBO @ 1.26

BD1, Cust1, BD3 and Specialist display @ limit price of 1.25 (no need to reprice because already one MPV away from the NBO) and will trade size pro rata with Cust priority and Specialist resulting in:

BD4 sells 10 to Cust1, 5 to Specialist @ 1.25 (Specialist gets 100% of 5 lots or smaller)[19]

BD5 sells 4 to Specialist @ 1.25 (i.e., 40%)[20] and 5 to BD1 and 1 to BD3 @ 1.25, pursuant to size pro rata allocation provided for in Rule 964NY(b)(3)

Cust6 sells 16 to Specialist @ 1.25 (i.e., 40%)[21] and 18 to BD1 and 6 to BD3 @ 1.25, pursuant to size pro rata allocation provided for in Rule 964NY(b)(3)

Market Maker - Repricing Quotation ("MMRP")

Current Rule 925.1NY(a) defines Market Maker quotes, including quotations designated as Market Maker - Light Only ("MMLO"), and specifies how such quotes are processed when a series is open for trading. The Exchange proposes to modify Rule 925.1NY(a) to add a new quote designation -- MMRP -- to provide market makers with the same functionality for their

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[19]   See Rule 964NY(b)(2)(C)(iv) (providing that "[f]or all orders of five (5) contracts or fewer, the Primary Specialist (as defined in Rule 964.2NY(a)) will be allocated the balance after any allocation to Customers, not to exceed the size of the Primary Specialist's quote, provided the Primary Specialist is quoting at the NBBO, and the order was not originally allocated to a Directed Order Market Maker").

[20]   See supra note 18.

[21]   Id.

quotations as are proposed for orders entered on the Exchange.[22] The proposed quotation

designation is similar to how the proposed RPNP would function and would enable Market

Makers to exert greater control over how their quotes would interact with contra-side liquidity,

while affording them more opportunities to provide liquidity.

As proposed, an incoming or resting quotation designated as MMRP would never display

at a price that locks or crosses the NBBO.[23] Instead, after trading with interest in the

Consolidated Book, an incoming MMRP to buy (sell) that locks or crosses the NBO (NBB)

would be displayed at a price that is one MPV below (above) the NBO (NBB).[24] If the NBO

(NBB) moves up (down), the display price of the MMRP to buy (sell) and the undisplayed price

at which it is eligible to trade would be continuously adjusted, up (down) to the MMRP's limit

price.[25]

Similar to the proposed RPNP, an MMRP to buy (sell) that is displayed at a price one

MPV below (above) the NBO (NBB) would trade at the NBO (NBB); provided, however, that if

the NBO (NBB) updates to lock or cross the MMRP's display price, such MMRP will trade at its

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[22]   See proposed Rule 925.1NY(a)(3)(B) and (a)(4)(B). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(3)(B) and (a)(4)(B). The Exchange proposes to delete reference to MMLO in current Rule 925.1NY(a)(3), which would be renumbered as Rule 925.1NY(a)(4), regarding the "[t]reatment of Market Maker Quotations," as too restrictive in light of the proposed MMRP; instead, the Exchange proposes to separately describe the treatment of each quote type when a series is open for trading. See proposed Rule 925.1NY(a)(4).

[23]   See proposed Rule 925.1NY(a)(3)(B) and (a)(4)(B). The Exchange also proposes to replace references to "another Market Center" with "the NBBO" to add clarity and consistency to the Rule. See proposed Rule 925.1NY(a)(4)(A), (a)(4)(C)(i), (a)(4)(D)(i)-(ii); see also NYSE Arca Rule 6.37A-O(a)(4)(C)(i),(D)(i)-(ii).

[24]   See proposed Rule 925.1NY(a)(4)(B). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(4)(B) without any differences.

[25]   See id.

display price.[26] Also consistent with the handling of RPNPs, the Exchange proposes that each time there is an update to the MMRP's price, the MMRP would be ranked with other eligible interest at that price, and would trade at each price, to the extent possible, pursuant to Rule 964NY.[27] The Exchange believes that this handling of MMRPs (which is consistent with the proposed handling of RPNPs) would respect and preserve the Exchange Customer priority and pro rata allocation model.

The Exchange notes that an MMRP may be submitted when a series is not open for trading (i.e., during pre-open or a trading halt) and such MMRP would be eligible to participate in the opening auction and re-opening auction (as applicable) at the limit price of the MMRP.[28] Such MMRPs would not be repriced as an option series may not open (or re-open) if a quote is locked or crossed.[29]

To avoid accepting MMRPs priced too far through the NBBO, the Exchange proposes to limit the extent to which it would reprice such interest. Specifically, an incoming MMRP that has a limit price more than a configurable number of MPVs above (below) the initial display price (on arrival) would first trade with marketable interest in the Consolidated Book up (down)

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[26] See proposed Rule 925.1NY(a)(4)(B)(i). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(4)(B)(i) with a substantive difference not to reference that such orders would trade in time priority behind other eligible interest displayed at that price because the Exchange operates on a pro rata allocation model.

[27] See proposed Rule 925.1NY(a)(4)(B)(ii). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(4)(B)(ii) butcross references the Exchange's allocation model under Rule 964NY rather than NYSE Arca's price-time allocation model.

[28] See proposed Rule 925.1NY(a)(5). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(5) without any differences. The Exchange also proposes to make clear that "[a]ll resting quotations will be cancelled in the event of a trading halt." See id.

[29] See Rule 952NY(b)(E)(providing in relevant part, that "[i]f the System does not open a series with an Auction Process, the System shall open the series for trading after receiving notification of an initial uncrossed NBBO disseminated by OPRA for the series …").

to the NBO (NBB) and any remaining balance would be cancelled.[30] Similarly, the Exchange

would reject an incoming MMRP that does not trade (i.e., because there is no marketable interest

in the Consolidated Book) and has a limit price to buy (sell) that is more than a configurable

number of MPVs above (below) the initial display price (on arrival) of the MMRP.[31] The

Exchange would determine the applicable number of MPVs and announce the configurable by

Trader Update.[32]

The following trading example illustrates the operation of an MMRP under the

Exchange's allocation model.

MMRP Example (the MPV is $0.01)

MM 10 x 1.24 - 1.28 x 10

ISE 20 x 1.25 - 1.32 x 20

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[30] See proposed Rule 925.1NY(a)(4)(C)(iii). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(4)(C)(iii) without any differences.

[31] See proposed Rule 925.1NY(a)(4)(D)(iii). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(4)(D)(iii) without any differences. The Exchange notes that incoming MMRPs that fail the MPV check would be rejected while similarly-priced RPNPs would be accepted and then cancelled. The Exchange notes that this is a distinction without a difference and simply reflects an operational difference in how the Exchange evaluates these types of interest. The Exchange also proposes to re-locate text that is currently at the end of this provision to the beginning, such that the Rules states that "[a]n incoming quotation will be rejected, and the Exchange will cancel the Market Maker's current quotation on the same side of the market, if:" as the Exchange believes this would streamline the Rule making it easier to navigate and understand. See id. This proposed rule change is also based on NYSE Arca Rule 6.37A-O(a)(4)(D).

[32] See proposed Rule 925.1NY (a)(4)(C)(iii). For example, in a Penny Pilot issue, if the local best offer is 0.99 and the away best offer is 1.00 with a configuration set to 3 MPV, a MMRP to buy at 1.03 or greater would trade with the local offer at 0.99 and any remaining interest will be cancelled (because the initial display price would be 0.99 which is 4 MPVs away from its limit price). Because the MMRP is cancelled, the Exchange would also cancel the opposite-side quote for that Market Maker. See Rule 925.1NY (a)(4)(B)(or, as renumbered, proposed Rule 925.1NY(a)(4)(C)) (providing, "[w]hen such quantity of an incoming quotation is cancelled, the Exchange will also cancel the Market Maker's current quotation on the opposite side of the market"); see also NYSE Arca Rule 6.37A-O(a)(4)(C).

BD2 S 100 @ 1.23 RPNP

MMRP 70 x 1.22 - 1.23 x 70

BD3 S 50 @ 1.23 RPNP

ISE Update 0 x 0 - 1.32 x 20

> Expected result:
>
> ISE NBB @1.25
>
> BD2 offer for 100 is eligible to trade @ 1.25 and will display @ 1.26 (priced back
>
> one MPV from the NBB)
>
> MMRP offer for 70 is eligible to trade @ 1.25 and will display @ 1.26 (priced
>
> back one MPV from the NBB)
>
> BD3 offer for 50 is eligible to trade @ 1.25 and will display @ 1.26
>
> ISE bid update to 0 results in the following size pro rata allocation (Rule
>
> 964NY(b)(3)):
>
> > BD2 trades 5 with MM @ 1.24
> >
> > MMRP trades 3 with MM @ 1.24
> >
> > BD3 trades 2 with MM @ 1.24

The Exchange notes that absent the proposed MMRP, incoming quotes (or portions

thereof) would reject or cancel if such quotes locked or crossed away markets, which aligns with

the NMS plan for Options Order Protection And Locked/Crossed Market Plan ("Plan"), to which

the Exchange is a party.[33] Thus, the Exchange believes that affording Market Makers the ability

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[33] See Plan, dated April 14, 2009, available here,
http://www.optionsclearing.com/components/docs/clearing/services/options_order_protec
tion_plan.pdf. See also Securities Exchange Act Release No. 60405 (July 30, 2009), 74
FR 39362 (August 6, 2009) (File No. 4-546) (order approving the Plan). The Plan
obligates the participating exchanges to provide order protection, including addressing

to designate quotes as MMRP affords Market Makers more certainty when providing liquidity, while ensuring that MMRPs priced too far through the contra-side NBBO would cancel or reject after trading with any eligible interest on the Exchange.

In addition to adding new rule text to describe the function of the proposed MMRP[34] into existing rule text, the Exchange also proposes to streamline Rule 925.1NY, by re-organizing and re-numbering related text regarding the treatment of untraded incoming quotations. Specifically, the Exchange proposes to provide that "[a]ny untraded quantity of an incoming quotation will be added to the Consolidated Book, except in the circumstances specified below, which result in the remaining balance being cancelled,"[35] including when the incoming quotation "is not designated as MMRP" and locks or crosses the NBBO and when it is designated as MMLO and locks or crosses undisplayed interest.[36] Similarly, the Exchange would modify the rule providing that an incoming quotation that locks or crosses the NBBO would be rejected, provided "it is not designated as MMRP" and cannot trade with interest in the Consolidated Book at prices that do not trade through the NBBO.[37]

Further, to accommodate the new MMRP, the Exchange proposes to re-organize paragraph (a) of Rule 925.1NY, by re-locating text that a quote will never route from existing

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locked and crossed markets and the potential for trade-throughs in certain options classes. See id. Consistent with the Plan, the rules of the Exchange include prohibitions against trade-throughs and a pattern or practice of displaying certain quotations that lock or cross away markets. See, e.g., Rules 991NY, 992NY.

[34] See proposed Rule 925.1NY(a)(3)(B) and (a)(4)(B).

[35] See proposed Rule 925.1NY(a)(4)(C). This rule text is based on NYSE Arca Rule 6.37A-O(a)(4)(C) without any differences.

[36] See proposed Rule 925.1NY(a)(4)(C)(i) and (ii). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(4)(C)(i) and (ii) without any differences.

[37] See proposed Rule 925.1NY(a)(4)(D)(i). This proposed rule text is based on NYSE Arca Rule 6.37A-O(a)(4)(D)(i) without any differences.

paragraph (a)(3) to paragraph (a)(2); adding new paragraph (a)(3) to provide that "[a] Market

Maker may designate a quote as follows"; and re-numbering the balance of the paragraph to

account for such changes.[38] In addition, as proposed, the description of the existing quote type

MMLO would be re-numbered as paragraph (a)(3)(A), and the text would be streamlined to

provide simply that "[o]n arrival, a quotation designated MMLO will trade with displayed

interest in the Consolidated Book only. Once resting, the MMLO designation no longer applies

and such quotation is eligible to trade with displayed and undisplayed interest."[39]

The Exchange notes that this proposal does not relieve a Market Maker of its continuous

quoting or firm quote obligations pursuant to Rules 925.1NY and 970NY, respectively. Further,

the Exchange notes that Market Makers would still be able to send orders in (and out of) classes

to which they are appointed, as orders are not affected by this proposal.

RPNP/MMRP and the CUBE Auction

The Exchange proposes to modify Rule 971.1NY, regarding the single-leg CUBE Auction,

to reflect current functionality relating to how the proposed RPNP/MMRP would potentially

interact with a CUBE Auction.[40] The CUBE Auction is an electronic cross mechanism through

which an ATP Holder ("Initiating Participant") may initiate a CUBE Auction by submitting for

execution a limit order it represents as agent on behalf of a public customer, broker dealer, or any

other entity (the "CUBE Order"). The Initiating Participant, however, must guarantee the

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[38]   See proposed Rule 925.1NY(a)(2)-(3). This proposed rule text is based on NYSE Arca
         Rule 6.37A-O(a)(2)-(3), however it differs from NYSE Arca in that the Exchange is not
         adding a Market Maker - Add Liquidity Only quotation type. See NYSE Arca Rule
         6.37A-O(a)(3)(B).

[39]   See proposed Rule 925.1NY(a)(3)(A). This proposed rule text is based on NYSE Arca
         Rule 6.37A-O(a)(3)(A) without any differences.

[40]   The Exchange notes that Rule 971.2NY describes the Complex CUBE Auction which is
         not implicated by this filing.

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execution of the CUBE Order by submitting a contra-side order ("Contra Order") representing

principal interest or non-Customer interest it has solicited to trade solely with the CUBE Order at

a single "stop price," or a range of prices that will either "auto-match" all interest received

during the auction or have a price limit on the matching (i.e., "auto match limit price").[41] Rule

971.1NY(b) sets for [sic] the conditions that must exist for a CUBE Auction to commence,

including the range of permissible executions and that a CUBE Order will be rejected if the

NBBO is crossed.[42] The CUBE Auction is designed to afford price improvement opportunities to

CUBE Orders while interacting seamlessly with the Consolidated Book (i.e., the Auction should

not disrupt the Exchanges' price-time priority model). ATP Holders may participate in the

Auction with RFR Responses received during the Response Time Interval ("RTI").[43]

Modify Definition of RFR Responses to include Resting Interest

Current Rule 971.1NY(c)(2)(C) provides that RFR Responses include GTX Orders

submitted specifically to interact with the Auction[44] and unrelated interest that is on the opposite

side of the CUBE Order and within the range of permissible executions.[45] Regarding the latter

categories of RFR Responses (i.e., unrelated quotes and orders), the Exchange proposes to

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[41]   See Rule 971.1NY(a), (c)(1)(A)-(C).

[42]   The Exchange proposes to modify Rule 971.1NY(b)(9) to reflect current functionality
         and make clear that a CUBE Order is today (and will be) rejected if NBBO is "*locked or
         crossed*" (emphasis added), which adds clarity and transparency to Exchange rules. See
         proposed Rule 971.1NY(b)(9).

[43]   The RTI is subject to a random time period that is no less than 100 milliseconds and no
         more than 1 second. See Rule 971.1NY(c)(2)(B).

[44]   See Rule 971.1NY(c)(2)(C)(i) (defining GTX Orders as non-routable order with a time-
         in-force contingency for the RTI that will not be displayed on the Consolidated Book and
         will cancel after trading (if at all) in the CUBE Auction).

[45]   See Rule 971.1NY(c)(2)(C)(ii) (including as RFR Responses any "unrelated quotes and
         orders" in the same series as, and opposite side of, the CUBE Order that arrive during the
         RTI and eligible to participate within the range of permissible executions specified in
         Rule 971.1NY (b)(1)).

clarify that current CUBE functionality treats interest "resting in the Consolidated Book when the Auction commences" as an RFR Response, provided the interest is on the opposite site of the CUBE Order and eligible to participate within the range of permissible executions specified in Rule 971.1NY(b)(1).[46]

This proposed change reflects current CUBE Auction functionality: currently, standard Market Maker quotes as well as resting PNP Blind Orders (each a "PNPB") which, when undisplayed are not included in the quoted market, are considered "unrelated quotes and orders" for purposes of Rule 971.1NY(b)(2)(C)(ii).[47] The proposed change would also account for the proposed RPNP/MMRP, which like a PNPB, may be resting undisplayed on the Book at the start of a CUBE Auction at a price with which a CUBE Order may execute. This proposed amendment is consistent with existing rule text regarding how the Exchange handles Customer interest resting at the start of an Auction (which could include a PNP Blind Order or a proposed RPNP). Specifically, such resting interest, at a price, gets first priority to trade with the CUBE Order ahead of Customer interest, at a price, that arrives during the Auction.[48] Thus, the Exchange believes that the proposed change reflects current functionality and adds clarity, transparency and internal consistency to Exchange rules. Moreover, allowing unrelated quotes

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[46]   See proposed Rule 971.1NY(c)(2)(C)(ii) (regarding "Unrelated quotes and orders").

[47]   See Rule 900.3NY(x) (defining a PNPB (or Post No Preference Blind) as a Limit Order that is to be executed in whole or in part on the Exchange, and the portion not so executed is to be ranked in the Consolidated Book, without routing any portion of the order to another Market Center; however, if the PNPB locks or crosses the NBBO, the price and size of the order is not disseminated. Once the PNPB no longer locks or crosses the NBBO, the price and size will be disseminated). See Rule 971.1NY(b) (providing that "[f]or purposes of determining whether a CUBE Order is eligible to initiate an Auction," references to the NBBO or BBO "refer to the quoted market at the time the Auction is initiated").

[48]   See Rule 971.1NY(c)(5)(A) (providing that "[a]t each price level, any Customer orders resting on the Consolidated Book at the start of the CUBE Auction shall have first priority" to trade with the CUBE Order).

and orders resting in the Consolidated Book at the beginning of the Auction -- including eligible

PNPBs or the proposed RPNP/MMRPs-- to interact with the CUBE Auction should increase the

number of participants against which the CUBE Order may be executed, and is consistent with

the primary goal of the CUBE Auction: to maximize price improvement opportunities for the

CUBE Order.[49]

Early End Scenarios

The Exchange also proposes to modify Rule 971.1NY(c)(4), which specifies scenarios

when a CUBE Auction would conclude early (i.e., before the end of the RTI). The purpose of

these provisions is to enable the CUBE Auction to integrate seamlessly within the Exchange's

Consolidated Book. Accordingly, a CUBE Auction will conclude early as a result of certain

events that would otherwise disrupt the priority of the Auction within the Consolidated Book.

Early conclusion allows the Exchange to appropriately handle unrelated quotes and orders

without the CUBE Auction impacting that handling, and further allows the CUBE Order, which

has been guaranteed an execution, to execute against the best-priced interest in the Auction.

Current Rule 971.1NY(c)(4)(B) provides that a CUBE Auction will conclude early if the

Exchange receives during the RTI "an unrelated quote or order that is on the same side of the

market as the CUBE Order, that is marketable against any RFR Responses or the NBBO (or the

BBO, for a non-routable order) at the time of arrival." Because PNP Orders, although non-

routable are, by definition, checked against the NBBO (not the BBO), the Exchange proposes to

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[49]   The Exchange notes that to the extent that an order that was resting undisplayed at the
        start of the CUBE Order is eligible to trade with the CUBE Order, that interest would
        trade behind Customer and displayed interest, at a price, so as not to disturb the
        Exchange's allocation rules, per proposed Rule 971.1NY(c)(5), Order Allocation (as
        discussed herein).

modify the rule text to provide "or the BBO, for a non-routable order that is not a PNP Order."[50]

The proposed language does not alter the current operation of this provision -- as a same-side PNP Order that is marketable against the NBBO would cause an early end to the Auction -- but merely clarifies that PNP Orders would differ because they would be checked against the NBBO, not the BBO. This carve out of PNP Order would include the proposed RPNP (and a PNPB). Also of note regarding this early end scenario is the modified definition of RFR Responses to include eligible interest resting in the Consolidated Book at the start of an Auction. This modified definition clarifies current functionality that an Auction may end early if incoming same-side interest is marketable against interest (i.e., an RFR Response) that may not have been included in the NBBO or BBO but was resting undisplayed at the start of the Auction -- which could include a proposed RPNP/MMRP or a PNPB. Thus, this provision, as modified, is consistent with CUBE functionality and simply updates the rule text to reflect the operation of PNP Orders and the interest that may cause an early end.

Current Rule 971.1NY(c)(4)(B) also provides that "[w]hen the Auction concludes, the CUBE Order will execute pursuant to paragraph (c)(5) [Order Allocation] of this Rule" and any unexecuted "GTX Orders" may trade with the interest that caused the Auction to end early and then will cancel. The Exchange proposes to modify this provision to make clear that any RFR Response -- not just those marked as GTX Orders -- are eligible to trade with the interest that caused the Auction to end. As proposed, "[a]ny RFR Responses that do not execute in the CUBE Auction will execute against the unrelated quote or order that caused the CUBE Auction to

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50   See proposed Rule 971.1NY(c)(4)(B) ("*Same Side Marketable Against RFR Responses or NBBO (or BBO)")*) (providing, in relevant part, that the Auction would end early if during the RTI the Exchange receives a same-side unrelated quote or order that is marketable against "any RFR Responses or the NBBO (or the BBO, for a non-routable order that is not a PNP Order) at the time of arrival").

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conclude early to the extent possible and GTX Orders will then cancel."[51] This proposed change

reflects the current operation of the CUBE, thus adding clarity, transparency and internal

consistency to Exchange rules, and accounts for the modified definition of RFR Responses

(which also reflects current functionality) to include interest resting (potentially undisplayed) at

the start of the Auction such as a PNPB or the proposed RPNP/MMRP.

Current Rule 971.1NY(c)(4)(C) provides that a CUBE Auction will conclude early if the

Exchange receives during the RTI "any RFR Response that is marketable against the NBBO (or

the BBO, for a non-routable order) at the time of arrival." Consistent with the proposed change

to paragraph (c)(4)(B) regarding same-side interest, the Exchange proposes to modify the text to

make clear that incoming opposite-side interest is checked against "the BBO, for a non-routable

order that is not a PNP Order," as PNP Orders are checked against the NBBO.[52] As noted above,

this proposed change [sic] not alter the current operation of this provision, but merely clarifies

that distinct operation of (non-routable) PNP Orders. This carve out of PNP Order would include

the proposed RPNP (and a PNPB).

In addition, the Exchange proposes to modify this provision to include opposite-side

interest that is marketable against "any interest resting in the Consolidated Book."[53] The

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[51]   See id. Consistent with this change, the Exchange also proposes to modify paragraph (c)(4)(D), another early end scenario based on same-side interest with similar rule text, to replace "GTX Orders" with "RFR Responses" in terms of interest received during the RTI that may trade in the Auction after the CUBE Order is filled. See proposed Rule 971.1NY(c)(4)(D) (providing, in relevant part, that "[u]nfilled RFR Responses are eligible to execute against the unrelated interest that caused the CUBE Auction to conclude early and GTX Orders will then cancel").

[52]   See proposed Rule 971.1NY(c)(4)(C).

[53]   See proposed Rule 971.1NY(c)(4)(C) (*Opposite Side Marketable Against Interest in the Consolidated Book, the NBBO (or BBO) at the Time of Arrival*) (providing, in relevant part, that the Auction would end early if during the RTI the Exchange receives an "any RFR Response that is marketable against the any interest resting in the Consolidated

Exchange notes that this proposed change reflects current functionality and clarifies that an RFR Response may be marketable against undisplayed interest in the Book -- specifically a PNPB or a RPNP/MMRP -- that is not included in the quoted BBO resulting in the early end of an Auction.[54] This proposed change reflects the current operation of the CUBE (in regards to a PNPB) and also updates the rule to reflect the proposed RPNP/MMRP, thus adding clarity, transparency and internal consistency to Exchange rules.

Current Rule 971.1NY(c)(4)(D) provides that a CUBE Auction will conclude early if the Exchange receives during the RTI "an unrelated, non-marketable quote or limit order that is on the same side of the market as the CUBE Order to buy (sell) and that would adjust the lower (upper) bound of the range of permissible executions to be higher (lower) than the initiating price."[55] To clarify existing functionality, the Exchange proposes to add new paragraph (c)(D)(i) to provide that a same-side IOC[56] that would otherwise meet the requirements of paragraph (c)(4)(D) (i.e., if its limit price was incorporated into the NBBO, which it is not) would cause an Auction to end early, even if the IOC Order cancels without trading.[57] If such an IOC Order causes a CUBE Auction to end early, the CUBE Order and other eligible auction interest would be processed pursuant to paragraph (c)(4)(D). This proposed modification reflects existing functionality based on how the mechanism is built and would add clarity and transparency to the

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Book, the NBBO (or the BBO, for a non-routable order that is not a PNP Order) at the time of arrival").

[54] See supra note 47 (regarding Rule 971.1NY(b), providing that "[f]or purposes of determining whether a CUBE Order is eligible to initiate an Auction," references to the NBBO or BBO "refer to the quoted market at the time the Auction is initiated").

[55] See supra note 51 (regarding modifications to last sentence of paragraph (c)(5)(D) regarding unfilled RFR Responses and GTX Orders).

[56] See supra note 8 (defining IOC Order).

[57] See proposed Rule 971.1NY(c)(4)(D)(i).

CUBE rule.

Order Allocation

The Exchange also proposes to modify Rule 971.1NY(c)(5) regarding the allocation of

the CUBE Order with eligible interest. Current Rule 971.1NY(c)(5)(A) provides that, at each

price level, the CUBE Order will first trade with resting Customers orders, followed by

Customer orders that arrived during the Auction. Because a Customer may submit a PNPB or a

RPNP -- either of which may have an undisplayed price at which it is eligible to trade, the

Exchange proposes to modify the Rule to make clear that only the "displayed" Customer interest

benefits from Customer priority, pursuant to Rule 964NY(c)(2)(A).[58] This proposed change is

consistent with the Exchange's allocation rules,[59] current CUBE operation and simply updates

the rule to reflect the treatment of PNPB and the proposed RPNP.

As noted above, the Initiating Participant may guarantee the execution of the CUBE via a

single stop price, a range of prices up/down to match the best-priced RFR Responses (assuming

size of CUBE Order remains) or a range of prices matching the best-priced RFR Responses

up/down to an auto-match limit price. The Exchange proposes to modify the rules regarding

CUBE Order allocation in these scenarios to clarify current functionality regarding the treatment

of a PNPB and to account for the proposed RPNP and MMRP, which as RFR Responses, may be

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[58]   See proposed Rule 971.1NY(c)(5)(A)(providing that, at each price level, displayed
         Customer interest on the Book at the start of the Auction have first priority, followed by
         displayed Customer orders that arrived as RFR Responses, pursuant to Rule
         964NY(c)(2)(A), provides that an inbound order will first be matched against all
         available *displayed* Customer interest in the Book (emphasis added). See also proposed
         Rule 971.1NY(c)(5)(B) (providing that "[a]fter displayed Customer interest at a
         particular price level has been satisfied, remaining contracts shall be allocated among the
         Contra Order and RFR Responses as follows:").

[59]   See Rule 964NY(c)(2)(A) ("the inbound order will first be matched against all available
         displayed Customer interest in the Consolidated Book").

eligible to trade in the Auction even if undisplayed. The current CUBE Order allocation rule does not address the priority of RFR Responses that are not displayed.

First, the Exchange proposes to modify the Rule regarding the allocation of a CUBE Order that is guaranteed by a single stop price. In short, the current rule provides that the CUBE Order will trade with any RFR Responses priced better than the stop price (by size pro rata), starting with the best-priced RFR Responses until the stop price is reached, at which price the Contra Order is entitled to its allocation guarantee.[60] Regarding the priority of RFR Responses priced better than the stop price, the Exchange proposes to modify the rule to provide that "[a]t each price point, the CUBE Order shall be allocated first to GTX Orders and displayed RFR Responses pursuant to the size pro rata algorithm set forth in Rule 964NY(b)(3), and next to any undisplayed RFR Responses at that price in time priority, pursuant to Rule 964NY(c)."[61] The Exchange also proposes to modify the Rule to specify the priority of RFR Responses at the stop price (if any portion of the CUBE Order remains after the Contra Order receives its allocation guarantee).[62] The modified rule would provide that "[a]ny remaining CUBE Order contracts at the stop price shall be allocated first among remaining GTX Orders and displayed RFR Responses pursuant to the size pro rata algorithm set forth in Rule 964NY(b)(3), and next to any undisplayed RFR Responses pursuant to Rule 964NY(c)."[63] This proposed change is consistent with the Rule 964NY and simply updates the rule to reflect current functionality regarding the treatment of a PNPB and to account for the proposed RPNP/MMRP.

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[60]   See Rule 971.1NY(c)(5)(B)(i). Rule 964NY(b)(2) sets forth priority and order allocation.

[61]   See proposed Rule 971.1NY(c)(5)(B)(i)(a).

[62]   See proposed Rule 971.1NY(c)(5)(B)(i)(b).

[63]   See id.

Second (and consistent with the changes to CUBE Orders guaranteed by a stop price), the Exchange proposes to modify the Rule regarding the allocation of a CUBE Order that is guaranteed by auto match. In short, the current rule provides that the Contra Order is "allocated an equal number of contracts as the aggregate size of all other RFR Responses at each price level" starting with the best priced RFR Response, "until a price point is reached where the balance of the CUBE Order can be fully executed (the 'clean-up price')."[64] At the clean-up price, if the Contra Order has not yet received its allocation guarantee, and if sufficient size of the CUBE Order remains, the Contra Order will be allocated the requisite additional contracts.[65] Further, under the current rule, "[i]f there are other RFR Responses at the clean-up price, the remaining CUBE Order contracts will be allocated to such interest pursuant to the size pro rata algorithm set forth in Rule 964NY(b)(3).[66] The Exchange proposes to modify the rule to specify the priority of Responses at the clean-up price (if any portion of the CUBE Order remains after the Contra Order receives its allocation guarantee) to provide that CUBE Order contracts "will be allocated first to GTX Orders and displayed RFR Responses pursuant to the size pro rata algorithm set forth in Rule 964NY(b)(3), and next to any undisplayed RFR Responses at that price in time priority, pursuant to Rule 964NY(c)."[67] This proposed change is consistent with the operation of Rule 964NY and simply updates the rule to reflect current functionality regarding the treatment of a PNPB and to account for the proposed RPNP/MMRP.

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[64]   See Rule 971.1NY(c)(5)(B)(ii)(a).

[65]   See Rule 971.1NY(c)(5)(B)(ii)(b).

[66]   See id. As is the case today, if all RFR Responses are filled, any remaining portion of CUBE Order contracts is allocated to the Contra Order at the initiating price and, in the event there are no RFR Responses received in a given Auction, the CUBE Order trades entirely with the Contra Order at the initiating price. See Rule 971.1NY(c)(5)(B)(ii)(b),(c).

[67]   See proposed Rule 971.1NY(c)(5)(B)(ii)(b).

Finally, in a similar vein, the Exchange proposes to modify the rule to address how the CUBE Order will be allocated when auto-match limit is selected. In short, the current rule provides that the CUBE Order will trade with any RFR Responses priced better than the auto-match limit price (size pro rata), starting with the best-priced Responses until the auto-match limit price is reached.[68] At prices equal to or worse than the auto-match limit price (assuming sufficient size of CUBE Order remains), the Contra Order will be allocated an equal number of contracts as the aggregate size of all other RFR Responses and will receive its allocation guarantee (if not already met) at the clean-up price. If CUBE Order contracts remain after the Contra Order gets its allocation guarantee, RFR Responses will trade with the CUBE Order at that (clean-up) price, pro rata.[69] The Exchange proposes to modify paragraph (c)(5)(B)(iii)(a), regarding the allocation of the CUBE Order with the best-priced Responses, to provide that "[a]t each price point, the CUBE Order shall be allocated first to GTX Orders and displayed RFR Responses pursuant to the size pro rata algorithm set forth in Rule 964NY(b)(3), and next to any undisplayed RFR Responses at that price in time priority, pursuant to Rule 964NY(c)."[70] Regarding the CUBE Order trading with RFR Responses at the clean-up price (if size remains), the Exchange proposes to modify the rule to provide such contracts "will be allocated first to GTX Orders and displayed RFR Responses pursuant to the size pro rata algorithm set forth in Rule 964NY(b)(3), and next to any undisplayed RFR Responses at that price in time priority, pursuant to Rule 964NY(c)."[71] This proposed change is consistent with the operation of the

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[68]   See Rule 971.1NY(c)(5)(B)(iii)(a).

[69]   See Rule 971.1NY(c)(5)(B)(iii)(b).

[70]   See proposed Rule 971.1NY(c)(5)(B)(iii)(a).

[71]   See proposed Rule 971.1NY(c)(5)(B)(iii)(b).

CUBE and simply updates the rule to reflect current functionality regarding the treatment of a PNPB and to account for the proposed RPNP/MMRP.

The following is an example that illustrates RPNPs trading in a CUBE Auction at their undisplayed price in time priority (behind displayed interest).

CUBE Example (the MPV is $0.01)

BOX 100 x 1.00 - 1.25 x 100

MM 10 x 0.95 - 1.30 x 10

Firm1 RPNP B 100 @ 1.26

Firm2 RPNP B 100 @ 1.26

CUBE Order S 100 @ 1.20/ Contra Order Buy guaranteed by automatch

Expected result:

BOX NBO @ 1.25

Firm1 bid reprices and is eligible to trade 100 @ 1.25 and will display @ 1.24 (priced back one MPV from the NBO)

Firm2 bid reprices and is eligible to trade 100 @ 1.25 and will display @ 1.24 (priced back one MPV from the NBO)

At the end of the CUBE auction: The CUBE Order sells 40 to the Contra Order @ 1.25 (i.e., 40% participation guarantee), per Rule 971.1NY(c)(5)(B)(ii)(a), then 60 to Firm1 @ 1.25, per Rule 971.1NY(c)(5)(B)(ii)(b))

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Implementation

The Exchange will announce by Trader Update the implementation date of the proposed rule change within 90 days of the effective date of this rule filing.

2.   Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[72] in general, and furthers the objectives of Section 6(b)(5) of the Act,[73] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

RPNP and MMRP

The proposed RPNP would remove impediments to and perfect the mechanism of a free and open market and a national market system because RPNPs would provide market participants with greater flexibility and control over how their orders interact with liquidity on the Exchange. The Exchange believes this proposal allows market participants to provide and access greater liquidity on the Exchange, thus benefiting Exchange members. The proposed order type would provide a means to display such orders at prices that are designed to maximize their opportunities for execution. Specifically, allowing any eligible RPNP to be repriced and potentially trade at multiple price points would improve the mechanism of price discovery. The Exchange believes that ranking a repriced RPNP with other interest eligible to trade at a price respects and preserves principles of Customer, as well as price-time, priority and therefore would promote just and equitable principles of trade. The Exchange notes that the RPNP is materially the same as the RPNP order type recently approved for trading on NYSE Arca, except as noted herein.[74]

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[72]   15 U.S.C. 78f(b).

[73]   15 U.S.C. 78f(b)(5).

[74]   See NYSE Arca Repricing Approval Order, supra note 4. See also supra note 6 (regarding the Exchange's Customer and price-time priority scheme).

Similar to the proposed RPNP, the proposed MMRP quote designation would remove impediments to and perfect the mechanism of a free and open market and a national market system because MMRPs would provide Market Makers with increased control over interactions with contra-side liquidity and would increase opportunities for such interactions. The Exchange notes that, absent the proposed repricing functionality associated with the MMRP, a Market Maker quote that locks or crosses interest on the Exchange or an away market would reject or cancel. In the case of MMRPs, the proposal would afford Market Makers more certainty when providing liquidity, while ensuring that MMRPs priced too far through the contra-side NBBO would cancel or reject after trading with any eligible interest on the Exchange. The Exchange notes that the proposed MMRP is optional and Market Makers have the choice to utilize this quote type (or not). The Exchange believes that ranking the repriced MMRP with other interest available to trade at a price respects and preserves principles of Customer, as well as price-time, priority and therefore would remove impediments to and perfect the mechanism of a free and open market and a national market system.

Because the options market is quote driven and Market Makers are vital to the price discovery process, the Exchange believes that the proposed (optional) quote types would provide Market Makers with a greater level of determinism, in terms of managing their exposure, and thus may encourage more aggressive liquidity provision, resulting in more trading opportunities and tighter spreads. This too would help improve the mechanism of price discovery. Accordingly, the Exchange believes that the proposal would improve overall market quality and enhance competition on the Exchange to the benefit of all market participants.

Moreover, the Exchange also notes that the proposed MMRP is materially the same as the MMRP quote designation recently approved for trading on NYSE Arca, except as noted

herein.[75] Accordingly, the Exchange believes that the proposal would improve overall market quality and improve competition on the Exchange, to the benefit of all market participants.

RPNP/MMRP and the CUBE Auction

The Exchange believes that the proposed changes to the conduct of the CUBE Auction would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes are consistent with the current operation of the CUBE and would avoid disturbing priority in the Consolidated Book, in accordance with Rule 964NY, regarding priority of quotes and orders.

Specifically, the proposal to modify rule text to make clear that RFR Responses include interest resting in the Consolidated Book at the start of the Auction would align the rule text with current functionality and add transparency and internal consistency to Exchange rules, which in turn, would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. This proposed change aligns with the treatment of Customer interest resting at the start of a CUBE Auction[76] and would make clear that the proposed RPNP/MMRP (and PNPBs) may participate in the Auction even if resting undisplayed on the Book at the start of a CUBE Auction (and not included in the quoted market).[77] The Exchange believes that allowing eligible unrelated quotes and orders resting on the Consolidated Book at the start of an Auction -- including eligible RPNP/MMRPs (and PNPBs) -- to interact with the CUBE Auction protects investors and the

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[75]   Id.

[76]   See Rule 971.1NY(c)(5)(A) (providing that "[a]t each price level, any Customer orders resting on the Consolidated Book at the start of the CUBE Auction shall have first priority" to trade with the CUBE Order).

[77]   See Rule 971.1NY(b) (providing that "[f]or purposes of determining whether a CUBE Order is eligible to initiate an Auction," references to the NBBO or BBO "refer to the quoted market at the time the Auction is initiated").

public interest because this inclusion of resting interest in the Auction should increase the number of participants against which the CUBE Order may be executed, and is consistent with the primary goal of the CUBE Auction: to maximize price improvement opportunities for the CUBE Order, while seamlessly interacting with the Consolidated Book.[78] Similarly, the proposed modifications to make clear that -- in the event of an early end to the Auction -- all RFR Responses, not solely GTX Orders, are eligible to trade with interest received in the Auction, which would protect investors and the investing public because it adds clarity, specificity, and transparency to Exchange rules.

Further, the proposed modification of the early end scenarios would remove impediments to and perfect the mechanisms of a free and open market and a national market system because the changes would align the rule text with existing functionality and would provide clarity and transparency in Exchange rules of when a CUBE Auction would conclude early. As noted above, the rationale for an early conclusion to an Auction is to allow the Exchange to appropriately handle unrelated quotes and orders without the CUBE Auction impacting that handling, and further allow a CUBE Order, which has been guaranteed an execution, to execute against the Contra Order and any RFR. The changes to the early end provisions are designed to ensure internal consistency (in regards to the proposed modified definition of RFR Responses) as well as clarify current functionality of the early end checks (to carve out PNP Orders from BBO check and to make clear that incoming interest may be checked for marketability against interest in the Consolidated Book, not just the BBO) to appropriately account for the fact that the best-priced

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[78]   The Exchange notes that to the extent that an order that was resting undisplayed at the start of the CUBE Order is eligible to trade with the CUBE Order, that interest would trade behind Customer and displayed interest, at a price, so as not to disturb the Exchange's allocation model, per proposed Rule 971.1NY(c)(5), Order Allocation (as discussed herein).

interest in the Book may not be displayed and thus not included in the quoted BBO (such as the proposed RPNP/MMRP). Thus, the Exchange believes that the proposed changes are therefore consistent with the protection of investors and the public interest because the changes provide specificity in Exchange rules regarding when an Auction would conclude early.

In addition, the proposal to specify that IOC Orders that arrive during an Auction may cause the Auction to end early would promote just and equitable principles of trade and benefit investors as this clarification regarding how the CUBE Auction mechanism operates ensures that investors are aware of the potential impact of IOC Orders (even ones that do not trade) on an Auction in progress.

Finally, the proposal to clarify the order allocation provision would promote just and equitable principles of trade and benefit investors as this clarification would make clear that the priority of RFR Responses is consistent with the Exchange Customer and price-time priority model and would afford first priority, at each price point, to displayed RFR Responses followed by undisplayed RFR Responses. These proposed changes are consistent with the current operation of the CUBE and would avoid disturbing priority in the Consolidated Book, in accordance with Rule 964NY, regarding priority of quotes and orders.

Technical Changes

The Exchange notes that the proposed organizational and non-substantive changes to the rule text would provide clarity and transparency to Exchange rules and would promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market and a national market system.[79] The proposed rule amendments would also

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[79]   See, e.g., supra notes 7, 19, 20, 28.

provide internal consistency within Exchange rules and operate to protect investors and the

investing public by making the Exchange rules easier to navigate and comprehend.

        B.   <u>Self-Regulatory Organization's Statement on Burden on Competition</u>

The Exchange does not believe that the proposed rule change would impose any burden

on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

Exchange notes that it operates in a highly competitive market in which market participants can

readily direct order flow to competing venues who offer similar functionality. The Exchange

believes the proposed rule change is procompetitive because it would enable the Exchange to

provide market participants with functionality that is similar to that of other options exchanges.[80]

The Exchange believes the proposed MMRP would add value to market making on the

Exchange and the proposed RPNP would provide market participants the option of exercising

greater control over how orders interact with contra-side liquidity both on the Exchange and on

away markets. The proposed MMRP/RPNP would allow market participants to exert greater

control over how their quotes and orders interact with liquidity on the Exchange, thereby

attracting more investors to the Exchange, which, in turn, leads to greater price discovery and

improves overall market quality.

The Exchange does not believe the proposal would impose a burden on competition

among the options exchanges but instead, because the Exchange would be offering the proposed

(optional) MMRP and RPNP, the proposal would add to the existing competitive landscape. In

this highly competitive market, the Exchange would be at a competitive disadvantage absent this

proposal, which adopts functionality available on other options exchanges. Permitting the

Exchange to operate on an even playing field relative to other exchanges that have similar

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[80]   <u>See</u> NYSE Arca Repricing Approval Order, <u>supra</u> note 4.

functionality removes impediments to and perfects the mechanism for a free and open market and a national market system. The proposal does not impose an undue burden on intramarket competition because the proposed MMRP would be available to all Market Makers on the Exchange and the proposed RPNP would be available to all market participants. The proposal is structured to offer the same enhancement to all Market Makers and/or market participants, regardless of size, and would not impose a competitive burden on any participant.

The proposed MMRP, which provide Market Makers with enhanced determinism over their quotes, may contribute to more aggressive quoting by Market Makers, resulting in more trading opportunities and tighter spreads. To the extent this purpose is achieved, the proposed MMRP would enhance the market making function on the Exchange, which would improve overall market quality and improve competition on the Exchange to the benefit of all market participants.

The Exchange likewise does not believe that the proposed clarifications to the rule text regarding the CUBE Auction would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The rule changes are not intended to address any competitive issues. Rather, the Exchange is proposing to add more specificity, clarity and transparency regarding the current operation of the CUBE Auction, particularly in light of the proposed MMRP/RPNP.

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

Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[81] and Rule 19b-4(f)(6) thereunder.[82]

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act[83] normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)[84] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. As noted above, the proposed order type and quote designation are substantially identical to those utilized on NYSE Arca, Inc., and the differences noted herein do not raise substantive or novel issues. Waiver of the operative delay would allow the Exchange to immediately implement the proposed functionality in coordination with the availability of the technology supporting the proposal, which is anticipated to be less than 30 days after the filing of the proposed rule change. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission

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[81]   15 U.S.C. 78s(b)(3)(A).

[82]   17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its 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.

[83]   17 CFR 240.19b-4(f)(6).

[84]   17 CFR 240.19b-4(f)(6)(iii).

hereby waives the operative delay and designates the proposed rule change operative upon filing.[85]

At any time within 60 days of the filing of the 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 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 e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2019-06 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.

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[85]   For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-NYSEAMER-2019-06. This file number

should be included on the subject line if e-mail is used. To help the Commission process and

review your comments more efficiently, please use only one method. The Commission will post

all comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml).

Copies of the submission, all subsequent amendments, all written statements with respect to the

proposed rule change that are filed with the Commission, and all written communications

relating to the proposed rule change between the Commission and any person, other than those

that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

available for website viewing and printing in the Commission's Public Reference Room, 100 F

Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of 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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying

information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-NYSEAMER-2019-06 and should be submitted on or before [insert date 21 days from publication in the <u>Federal Register</u>].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[86]

Eduardo A. Aleman
Deputy Secretary

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[86]   17 CFR 200.30-3(a)(12).