

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60252; File No. SR-NYSEAmex-2009-24)

July 7, 2009

Self-Regulatory Organizations; NYSE Amex LLC; Order Granting Accelerated Approval to a Proposed Rule Change Amending Rule 70.25 to Permit All Available Contra-Side Liquidity to Trigger the Execution of a d-Quote

On June 4, 2009, NYSE Amex LLC (“NYSE Amex” or the “Exchange”) 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 Amex Equities Rule 70.25 to permit all available contra-side liquidity to trigger the execution of a d-Quote. The proposed rule change was published for comment in the Federal Register on June 15, 2009.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change on an accelerated basis.

The Exchange proposes to amend Rule 70.25 to expand the categories of liquidity that would be considered when determining whether the contra-side volume is within the discretionary size range of the d-Quote.⁴ Currently, only displayed interest is considered by Exchange systems in determining whether the d-Quote is triggered. Under the proposed rule change, all available contra-side interest at a possible execution price of the d-Quote, including undisplaced liquidity, would be

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60055 (June 5, 2009), 74 FR 28299 (“Notice”).

⁴ A d-Quote is an e-Quote for which a Floor Broker enters discretionary instructions as to size and/or price. See NYSE Amex Equities Rule 70.25(a)(i). An e-Quote is a broker agency interest file that a Floor broker places within the Display Book system. See NYSE Amex Equities Rule 70(a)(i).

considered. This rule change will conform Rule 70.25 to the corresponding rule of the New York Stock Exchange LLC (“NYSE”) that governs the execution of NYSE Floor broker interest.⁵

In its filing, the Exchange stated that this rule change would provide Floor brokers with a similar functionality that was previously available to Floor brokers with convert-and-parity (“CAP”) orders, and that was also previously available to NYSE Floor brokers with CAP-DI orders under former NYSE Rule 123A.30(a).⁶ Under that former rule, an elected CAP-DI order would automatically execute against any contra-side volume available at the electing price, and was eligible to participate in a sweep.⁷ At the time the CAP order was eliminated, the NYSE did not have the technology to replicate a similar functionality with d-Quotes.⁸ Since that time, both the Exchange and the NYSE have introduced two new order types, the Minimum Display Reserve Order, and the Non-Displayed Reserve Order.⁹ With the proposed rule change, these two order types would be considered when determining whether there is sufficient contra-side volume to trigger a d-Quote.

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations

⁵ See Securities Exchange Act Release No. 60045 (June 4, 2009), 74 FR 27854 (June 11, 2009) (SR-NYSE-2009-55).

⁶ See Notice at 28300. The Exchange noted that the CAP functionality that was historically available to Floor brokers was similar to the NYSE CAP functionality. See id. at n.10. The Exchange states that it eliminated this functionality in connection with the implementation of Regulation NMS. Id.

⁷ See Notice at 28300.

⁸ Id. at 28301.

⁹ Id. See also NYSE Amex Equities Rule 13 (Definitions of Orders); NYSE Rule 13 (same).

thereunder applicable to a national securities exchange¹⁰ including, in particular, Section 6(b)(5) of the Act,¹¹ which requires that an exchange have rules designed 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, protect investors and the public interest.

Because it would provide a d-Quote with access to both displayed and undisplayed liquidity, the proposed rule change benefits Floor brokers by allowing their d-Quotes to be triggered more often. This proposal should also benefit customers by providing them with more opportunities to have their non-displayed reserve orders receive executions.

The Commission also finds good cause to approve the proposed rule change prior to the thirtieth day after publication in the Federal Register. The Commission notes that no comments were received during the 21-day comment period. The purpose of this proposed rule change is to conform Rule 70.25 to the NYSE rule that governs the execution of floor broker interest. In that respect, the Commission believes that the Exchange has provided reasonable support for its representation that the proposed rule change provides Floor brokers with a functionality similar to that previously available with CAP orders, and to the functionality that was previously available to NYSE Floor brokers with CAP-DI orders. In addition, the potential benefits of this proposal to customers, such as the increased opportunities for the execution of customer non-displayed reserve orders, would be available sooner by approving this proposed rule change on an accelerated basis. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹² to approve the proposed rule change on an accelerated basis.

¹⁰ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(2).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSEAmex-2009-24) be, and it hereby is, approved on an accelerated basis.

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

Elizabeth M. Murphy
Secretary

¹³ 17 CFR 200.30-3(a)(12).