SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61126; File No. SR-NYSE-2009-121)

December 7, 2009

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 1600 to More Fully Incorporate Away Market Contra Side Liquidity in the Execution of New York Block Exchange Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that, on December 4, 2009, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal eligible for immediate effectiveness pursuant to Rule 19b-4(f)(6) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1600 (New York Block Exchange℠) ("NYBX℠" or the "Facility") to provide for (i) routing away, for execution with all available top-of-book contra side quotations (not just those that would otherwise be traded through) displayed by other automated trading centers, of any portion of an NYBX order that remains after all available executions in the NYSE Display Book® ("Display Book" or "DBK") and the Facility have taken place as provided in the current rule and (ii) including those same away market quotations of other automated trading centers in the determination of whether the optional, user-defined Minimum Triggering Volume Quantity ("MTV") of an NYBX order is

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

2 17 CFR 240.19b-4.

3 17 CFR 240.19b-4(f)(6).

met. The text of the proposed rule change is available on NYSE's Web site at www.nyse.com, on the Commission's Web site at www.sec.gov, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 1600 (New York Block Exchange^{SM}) to provide for (i) routing away, for execution with all available top-of-book contra side quotations (not just those that would otherwise be traded through) displayed by other automated trading centers, of any portion of an NYBX order that remains after all available executions in DBK and the Facility have taken place as provided in the current rule and (ii) including those same away market quotations of other automated trading centers in the determination of whether the optional, user-defined MTV of an NYBX order is met. The following discussion includes examples to demonstrate the functioning of these changes in practice.

A. Provide routing to other automated trading centers to allow the remaining portion of an NYBX order to execute with available top-of-book contra side quotations on these markets.

As currently provided in NYSE Rule 1600, an order or residual portion of an order in the New York Block Exchange facility ("NYBX" or the "Facility") of the NYSE that has exhausted all available contra side liquidity in both the NYSE Display Book ("DBK") and the Facility itself, as well as any trades against protected quotations of automated trading centers that would otherwise have been traded through, will be sent back to or remain in, as the case may be, the Facility and be placed on the NYBX book. As the system currently operates, such an order remaining in the Facility will continue to attempt to execute with available contra side liquidity in the Facility and the DBK and with protected quotations as described in the previous sentence until such orders are exhausted, expired or cancelled back to the user pursuant to time in force conditions or until all applicable liquidity is exhausted at the end of the regular trading day.

The purpose of the proposed amendment is to increase execution opportunities for orders entered into NYBX by utilizing away markets more fully than the Facility does at present. This will be accomplished by adding additional routing to away markets for those orders in NYBX described above that have exhausted all available contra side liquidity in the Facility and the DBK (if any) and the residual portion of which would otherwise be placed on the NYBX book. Portions of the residual from such an order, or potentially the entire order if there is no available contra side liquidity in either the DBK or the Facility itself, will be routed out to other automated trading centers as ISO/IOC orders for execution against available contra side quotations displayed by such markets, even though no potential trade through is involved and the routing is not required under Regulation NMS.

Upon the return to the Facility of any unexecuted volume following a routing to the DBK and also upon execution against any remaining available contra side liquidity in the Facility, NYBX will evaluate the market again to check for updated market data and will route the residual order based on that update.[4] The amount of an NYBX residual order routed to each away market will be exactly the size displayed for the available top-of-book contra side protected quotation at each automated trading center – there will be no oversizing of the portion of the order sent to any away market. An exception will occur in any situation where the residual order size is insufficient to route the full displayed size to every away market, in which case the number of shares routed to one or more of the away markets may be less than the full displayed size on such market(s). In the event that multiple away markets are displaying available top-of-book contra side quotations at the same price, and the residual order size to be routed is less than the total available top-of-book contra side liquidity displayed on those markets, the routing sequence of the order as between those markets will be determined by a routing table.

In the event that the residual order size available to be routed away exceeds the total available top-of-book contra side liquidity displayed on all of the away markets, the portion of the order to be routed to each of those automated trading centers will be the displayed size of the available top-of-book contra side quotation at each away market, with the remaining portion of the order simultaneously being placed on the NYBX book, where it will continue to attempt to further execute with available contra side liquidity in the Facility, the DBK and automated quotations of away markets, in the same sequence as described above as such liquidity becomes

---

4 In the event that the DBK quotation has been updated at the time of such an interim market evaluation and there is new executable contra side liquidity in DBK, the full size of the residual order will be routed back to DBK and the normal execution sequence will be repeated from that point. If, at any point, such an evaluation indicates that there is no new executable contra side liquidity in the DBK but there is executable contra side liquidity in the Facility, the order will execute to the extent possible against that liquidity, evaluate the market again to check for updated market data, and route the residual order accordingly. Once this iterative process has run its course, with no new executable contra side liquidity available in either the DBK or the Facility, the residual order or portions thereof will be routed out to execute against the available contra side protected quotations displayed by other automated trading centers, as described in the preceding paragraph.

available and assuming that the MTV of the order is met. Any volume from the order that was routed away to other automated trading centers for execution but was not executed will, upon its return to the Facility, cause the Facility to again evaluate the market to check for updated market data that could trigger additional routing of the remaining portion of the order. Otherwise, that unexecuted volume will also be placed on the NYBX book.

The following examples demonstrate how NYBX orders will be processed under the proposed amendment.

NYBX Market Evaluation

NYBX (Sell orders):

500 shares @ 19.99

500 shares @20.00

500 shares @20.01

DBK (Sell orders):

400 shares @ 19.99 (hidden)

600 shares @ 20.00

300 shares @20.01

PHLX (Sell orders):

1000 shares @ 20.00 (NBBO)

NYSE Arca (Sell orders):

1000 shares @ 20.00

Scenario A: Buy 5000 shares at 20.00 (MTV = 100 shares)

Results:

- 5000 routed to DBK at 19.99

- 400 executes on DBK at 19.99; leaves 4600
- 4600 sent back to NYBX at 19.99
- Verify no market data updates
- 500 executes on NYBX at 19.99; leaves 4100
- Verify no market data updates
- 4100 routed to DBK at 20.00
- 600 executes on DBK at 20.00; leaves 3500
- 3500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 3000
- Verify no market data updates

As the Facility currently operates, the residual of 3000 shares to buy would be placed on the NYBX book at 20.00. Under the revised logic being proposed, of the 3000 residual shares, 1000 shares would be routed to PHLX and 1000 shares would be routed to NYSE Arca to execute against the available contra side size displayed on each of those markets, resulting in the following additional outcomes:[5]

- 1000 routed to PHLX at 20.00
- 1000 routed to NYSE Arca at 20.00
- 1000 placed on the NYBX book at 20.00
- 1000 executes on PHLX at 20.00; leaves 2000
- 1000 executes on NYSE Arca at 20.00; leaves 1000

5 In this example, it is assumed that no change in the state of the market is indicated at the time of the updating market evaluation described above that takes place following each routing to DBK.

Note that the 1000 shares that are placed back on the NYBX book at the end of the revised process would not be executable against any away automated market center based on the market evaluation being used for execution and routing purposes. This is in contrast to the 3000 shares that would be placed on the NYBX book based on the way that the Facility currently operates, a portion of which would be capable of executing against the top-of-book automated quotes of PHLX and NYSE Arca.

Scenario B: Same as Scenario A except that a new market evaluation following the last execution on NYBX as shown above (with 3,000 shares remaining to be executed on the order) indicates the following:

NYBX (Sell orders):

500 shares @ 20.00

DBK (Sell orders):

500 shares @ 20.00

500 shares @ 20.00 (hidden)

PHLX (Sell orders):

500 shares @ 19.99 (NBBO)

NYSE Arca (Sell orders):

500 shares @ 20.00

Under this scenario and the revised logic being proposed, the fact that there is new available liquidity indicated in DBK (and in this example, in NYBX as well) and a new top-of-book quotation at an away automated market center representing a potential trade through situation completely alters the routing sequence at this point from what it would be based on the previous market evaluation. The first priority is to eliminate the potential trade through, so 500 shares are routed to PHLX in compliance with Regulation NMS to execute against the top-of-book liquidity displayed there. The remaining 2500 shares are routed to DBK to execute against the liquidity there and any remaining portion of the order is then sent back to the Facility to execute against the liquidity there. Assume these steps result in the following additional outcomes:

- 500 executes on PHLX at 19.99
- 1000 executes on DBK at 20.00
- 500 executes on NYBX at 20.00

These executions would result in a total of 1000 shares to buy remaining from the order. Before appropriate volume is routed out to execute against the displayed top-of-book liquidity at NYSE Arca, two more market evaluations would have been performed as indicated below as a result of (i) the additional routing to DBK and the return of unexecuted volume to the Facility and (ii) the execution on NYBX of a portion of the remaining volume from the order. Assuming that neither of these new market evaluations shows any further change in the state of the market (i.e., the only available sell orders at the limit price or better are the 500 shares at NYSE Arca), 500 of the remaining 1000 shares from the order would be routed to NYSE Arca for execution. Consequently, the complete outcome for this scenario is as follows:

Results:

- 5000 routed to DBK at 19.99
- 400 executes on DBK at 19.99; leaves 4600
- 4600 sent back to NYBX at 19.99
- Verify no market data updates
- 500 executes on NYBX at 19.99; leaves 4100
- Verify no market data updates

- 4100 routed to DBK at 20.00
- 600 executes on DBK at 20.00; leaves 3500
- 3500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 3000
- Update of market data as indicated above
- 500 routed to PHLX at 19.99
- 500 executes on PHLX at 19.99; leaves 2500
- 2500 routed to DBK at 20.00
- 1000 executes on DBK at 20.00; leaves 1500
- 1500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 1000
- Verify no market data updates
- 500 placed on the NYBX book at 20.00
- 500 routed to NYSE Arca at 20.00
- 500 executes on NYSE Arca at 20.00; leaves 500

<u>Scenario C: Same as Scenario A except that only 500 of the 1000 shares routed to PHLX are actually executed against the liquidity there, and the remaining 500 shares are returned unexecuted to the Facility</u>

Under this scenario and the revised logic being proposed, the return of the 500 unexecuted shares from PHLX will cause the Facility to evaluate the market once again as indicated below to check for updated market data before placing the unexecuted volume on the NYBX book. As in Scenario A, the assumption being made is that no change in the state of the market is indicated by this interim market evaluation, so the 500 unexecuted shares are placed on the NYBX book at 20.00, joining the 1000 shares that were placed on the book at the time of the routing to the away markets and resulting in a residual buy order of 1500 shares at 20.00 on the NYBX book. Consequently, the complete outcome for this scenario is as follows:

Results:

- 5000 routed to DBK at 19.99
- 400 executes on DBK at 19.99; leaves 4600
- 4600 sent back to NYBX at 19.99
- Verify no market data updates
- 500 executes on NYBX at 19.99; leaves 4100
- Verify no market data updates
- 4100 routed to DBK at 20.00
- 600 executes on DBK at 20.00; leaves 3500
- 3500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 3000
- Verify no market data updates
- 1000 routed to PHLX at 20.00
- 1000 routed to NYSE Arca at 20.00
- 1000 placed on the NYBX book at 20.00
- 500 executes on PHLX at 20.00; leaves 2500

- 500 returns to NYBX from PHLX at 20.00
- Verify no market data updates
- 500 placed on the NYBX book at 20.00
- 1000 executes on NYSE Arca at 20.00; leaves 1500

Scenario D: Same as Scenario A except for the displayed quotes at PHLX and NYSE Arca, which are as follows:

PHLX (Sell orders):

2000 shares @ 20.00 (NBBO)

NYSE Arca (Sell orders):

2000 shares at 20.00

Under this scenario and the revised logic being proposed, the executions in the Facility and DBK would take place exactly as in Scenario A, leaving a residual of 3000 shares. As in Scenario A, the assumption is that no change in the state of the market is indicated by any interim market evaluation. Because the residual order size to be routed away is less than the total top-of-book available contra side liquidity of 4000 shares at the same price displayed on PHLX and NYSE Arca, a routing table would be used to determine which of those two markets would get a complete fill of its displayed contra side liquidity and which would only get a partial fill. In this example, if it is assumed that the routing table assigns a higher rating to PHLX for routing purposes, the following additional outcomes would result:

- 2000 executes on PHLX at 20.00
- 1000 executes on NYSE Arca at 20.00
- Fill is complete – no remaining shares available to be placed back on NYBX book

Consequently, the complete outcome for this scenario is as follows:

Results:

- 5000 routed to DBK at 19.99
- 400 executes on DBK at 19.99; leaves 4600
- 4600 sent back to NYBX at 19.99
- Verify no market data updates
- 500 executes on NYBX at 19.99; leaves 4100
- Verify no market data updates
- 4100 routed to DBK at 20.00
- 600 executes on DBK at 20.00; leaves 3500
- 3500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 3000
- Verify no market data updates
- 2000 routed to PHLX at 20.00
- 1000 routed to NYSE Arca at 20.00
- 2000 executes on PHLX at 20.00; leaves 1000
- 1000 executes on NYSE Arca at 20.00; leaves 0

In every instance under the proposed amendment, all available contra side liquidity on both DBK and NYBX must be exhausted before portions of any NYBX order are routed to away markets, except for those routings that take place (as under the current version of the Facility) to execute against protected quotations of automated trading centers that would otherwise be traded through.

B. The sizes of all available top-of-book displayed contra side quotations of other automated trading centers will be incorporated into the MTV calculation.

The second change to the Facility in the proposed amendment is a logical consequence of the fact that available top-of-book contra side displayed liquidity at other automated market centers will be included in the revised routing logic as described above. Because such quotations will now be executed against if an NYBX order is sufficiently large, their size(s) should and will be included in the optional MTV calculation under the proposed amendment just as they would be if those same quotations were in the DBK or the NYBX book. Under the current version of NYBX, available top-of-book contra side liquidity on away markets is included in determining whether an MTV is met only if such quotations are protected quotations of automated trading centers that would otherwise be traded through, and if consideration of such quotations is not optionally restricted by the NYBX user.

Currently, when an NYBX user designates an optional MTV for an order, that user may elect to restrict the MTV calculation of the order to include only the contra side liquidity at the order's limit price or better in the Facility and the DBK, thereby excluding consideration of protected quotations of automated trading centers that would otherwise be traded through in determining whether the MTV is met. However, regardless of the designated MTV calculation, executions in or through the Facility will always route out to execute against the protected quotations of automated trading centers to avoid trade throughs in compliance with Regulation NMS. Similarly, the new version of NYBX under the proposed amendment will provide that an NYBX user may elect to restrict the MTV calculation of the order to exclude consideration of those available top-of-book contra side quotations of other automated trading centers that would not otherwise be traded through in determining whether an MTV is met. And, as is currently the case for NYBX orders that route out to execute with away market quotations in order to comply with Regulation NMS, NYBX orders for which the MTV is met will still be routed out to execute against those away market available top-of-book contra side quotations that would not otherwise be traded through, even if an NYBX user elects to restrict the MTV calculation of an order to exclude consideration of those away market quotations. In other words, an NYBX user will not have the ability to eliminate the routing to protected quotations of other automated trading centers under any circumstances, whether or not such routing is required by Regulation NMS.

The following example demonstrates how the MTV will be triggered under the proposed amendment. Assume the same NYBX evaluation as indicated in Scenario A above, including 1000 shares for sale at 20.00 being displayed at top-of-book by each of PHLX and NYSE Arca.

Scenario E: Buy 5000 shares at 20.00 (MTV = 2500)

As the Facility currently operates, the MTV of 2500 shares would not be triggered because only 2000 shares are available at the price or better in DBK and on the NYBX book combined, and we have assumed that there are no protected quotations at automated trading centers that would otherwise be traded through to count toward the MTV. Therefore, the order to buy 5000 shares at 20.00 would be placed on the NYBX book without any execution taking place. Under the proposed amendment, the total of 2,000 shares available at the price at PHLX and NYSE Arca would be included in the MTV calculation as well, resulting in an overall total of 4000 shares available for execution which exceeds the MTV threshold level of 2500 shares. At this point, the sequence of order execution would be exactly the same as in Scenario A above, with a residual buy order for 1000 shares at 20.00 placed on the NYBX book and top-of-book executions at PHLX and NYSE Arca of 1000 shares each.

*   *   *   *   *

In summary, the proposed amendment should result in (i) the immediate execution of additional orders that would otherwise sit on the NYBX book due to their MTVs not being triggered and (ii) the execution of more shares on those orders whose MTVs are triggered, due to the incorporation of additional available contra side liquidity at other market centers.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)[7] in particular in that it is 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 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. More specifically, the Exchange believes that, because the proposed rule change will improve the quality of the market and the outcomes for investors by increasing the probability that a large order placed in the Facility will achieve a complete and timely fill by incorporating available contra side liquidity at other market centers, it will thereby contribute to perfecting the mechanism of a free and open market and a national market system and is also consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

---

6 15 U.S.C. 78f(b).

7 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b-4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b-4(f)(6)(iii) thereunder.[11]

The Exchange requested the Commission waive all or whatever part of the 30-day operative delay period is necessary to allow the Exchange to make the proposed rule change operative on December 7, 2009. The Commission hereby grants the Exchange's request and designates the filing operative as of December 7, 2009.[12] The Commission believes that such

---

8 15 U.S.C. 78s(b)(3)(A)(iii).

9 17 CFR 240.19b-4(f)(6).

10 15 U.S.C. 78s(b)(3)(A).

11 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission waives the five-day pre-filing requirement in this case.

12 For purposes of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

action is consistent with the protection of investors and the public interest, because the proposed rule language should result in (i) the immediate execution of additional orders that would otherwise sit on the NYBX book due to their MTVs not being triggered and (ii) the execution of more shares on those orders whose MTVs are triggered, due to the incorporation of additional available contra side liquidity at other market centers.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

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-NYSE-2009-121 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2009-121. 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 Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2009-121 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

13 17 CFR 200.30–3(a)(12).