

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-64918; File No. SR-NYSE-2011-35)

July 19, 2011

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 103 to Reduce the Net Liquid Asset Requirements for DMM Units

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on July 14, 2011, New York Stock Exchange LLC (“NYSE” 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 amend NYSE Rule 103 (“Registration and Capital Requirements of DMMs and DMM Units”) to reduce the net liquid asset requirements for DMM units. The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in [brackets].

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**Rule 103. Registration and Capital Requirements of DMMs and DMM Units**

(a) – (f) No change

***Supplementary Material***

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

.10 - .11 No change

## DMM Capital Requirements

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(a) Minimum Capital Requirements – No change

(b) DMM Units— Additional Capital Requirements.

(i) Each DMM unit subject to Rule 104 must maintain or have allocated to it minimum net liquid assets equal to:

(A) [~~\$250,000~~] \$125,000 for each one tenth of one percent (.1%) of Exchange transaction dollar volume in its registered securities, exclusive of Exchange Traded Funds, plus \$500,000 for each Exchange Traded Fund; and

(B) A market risk add-on of [ ], which shall be calculated as follows:

(1) The DMM unit may use an NYSE Regulation-approved value-at-risk (VaR) model to calculate its market risk add-on. The VaR model must have a 99%, one-tailed confidence level with price changes equivalent to a ten business day movement in rates and prices. To calculate the market risk add-on, the DMM unit multiplies the VaR of DMM and related positions by the appropriate multiplication factor, which is set at a minimum of three. The results of quarterly backtesting determine which of the multiplication factors contained in Table 1 of this rule a DMM unit must use; or

(2) For those DMM units not utilizing VaR or whose models have not been approved by NYSE Regulation, three times] the average of the prior twenty business days' securities haircuts on its DMM dealer's positions computed pursuant to Rule 15c3-1(c)(2)(vi), exclusive of paragraph (N), under the Exchange Act.

[(ii) A DMM unit may apply to NYSE Regulation for authorization to use a VaR model to calculate its market risk add-on, in lieu of calculating the average of the prior twenty business days' capital requirement for securities haircuts under Exchange Act Rule 15c3-1(c)(2)(vi), exclusive of paragraph (N). Once a DMM unit has been granted approval by NYSE Regulation to use a VaR model, it shall continue to compute its net liquid asset market risk add-on using VaR, unless a change is approved upon application to the NYSE Regulation. To apply for authorization to use a VaR model pursuant to this rule, a DMM unit must submit in writing the following information to NYSE Regulation with its application:

- (A) A description of the mathematical models to be used to compute its market risk add-on;
- (B) A description of the requirements as set forth in paragraph .20(c) of this rule; and
- (C) Any other material NYSE Regulation may request.]

[(iii)] (ii) Notwithstanding the requirements of Rule 98, the DMM unit's net liquid assets needed to meet the requirements in this rule must be dedicated exclusively to DMM dealer activities, and must not be used for any other purpose without the express written consent of NYSE Regulation.

[(c) Definitions and Model Approval Process.— ]

[(i)] (iii) For purposes of this rule, DMM units must define the term "Exchange transaction dollar volume" consistent with the most recent Statistical Data, calculated and provided by the NYSE on a monthly basis.

[(ii) For a DMM unit's VaR model to be approved, it must meet the following minimum qualitative and quantitative requirements:

(A) Qualitative Requirements.

- (1) The VaR model used to calculate the market risk add-on for a position, along with a system of internal risk management controls to assist the DMM unit in managing the risks associated with its business activities, must be integrated into the daily internal risk management system of the DMM unit;
- (2) The VaR model must be reviewed both periodically and annually by qualified independent member unit personnel or a qualified third party; and
- (3) For purposes of computing the market risk add-on, the DMM unit must determine the appropriate multiplication factor as follows:
  - (I) As soon as possible, but no later than three months after the DMM unit begins using the VaR model to calculate their market risk add-on, the DMM unit must conduct backtesting of the model by comparing its actual daily net trading profit or loss with the corresponding VaR measure generated by the VaR model, using a 99 percent, one-tailed confidence level with price changes equivalent to a one business day movement in rates and prices, for each of the past 250 business days, or other period as may be appropriate for the first year of its use;
  - (II) On the last business day of each quarter, the DMM unit must identify the number of backtesting exceptions of the VaR model, that is, the

number of business days in the past 250 business days, or other period as may be appropriate for the first year of its use, for which the actual net trading loss, if any, exceeds the corresponding VaR measure; and

(III) The DMM unit must use the multiplication factor indicated in Table 1 below in determining its market risk add-on until it obtains the next quarter's backtesting results;

Table 1. Multiplication factor based on the number of backtesting exceptions of the VaR model

Number of exceptions	Multiplication factor
4 or fewer	3.00
5	3.40
6	3.50
7	3.65
8	3.75
9	3.85
10 or more	4.00

(4) For purposes of incorporating specific risk into a VaR model, a DMM unit must demonstrate that it has methodologies in place to capture liquidity, event, and default risk adequately for each position. Furthermore, the models used to calculate deductions for specific risk must:

- (I) Explain the historical price variation in the portfolio;
- (II) Capture concentration (magnitude and changes in composition);
- (III) Be robust to an adverse environment; and
- (IV) Be validated through backtesting.

(B) Quantitative Requirements.

- (1) For purposes of determining market risk add-on, the VaR model must use a 99 percent, one-tailed confidence level with price changes equivalent to a ten-business day movement in rates and prices;
- (2) The VaR model must use an effective historical observation period of at least one year. The DMM unit must consider the effects of market stress in its construction of the model. Historical data sets must be updated at least monthly and reassessed whenever market prices or volatilities change significantly; and
- (3) The VaR model must take into account and incorporate all significant, identifiable market risk factors applicable to positions in the accounts of the DMM unit, including:
  - (I) Risks arising from the non-linear price characteristics of derivatives and the sensitivity of the market value of those positions to changes in the volatility of the derivatives' underlying rates and prices;
  - (II) Empirical correlations with and across risk factors or, alternatively, risk factors sufficient to cover all the market risk inherent in the positions in the dealer accounts of the DMM unit; and
  - (III) Specific risk for individual positions.]

[(d)] (c) Maintaining a Fair and Orderly Market.

Solely for the purpose of maintaining a fair and orderly market, NYSE Regulation may, for a period not to exceed 5 business days, allow a DMM unit to continue to operate despite such DMM unit's non-compliance with the provisions of the minimum requirements of this rule.

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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 Rule 103.20 to reduce the net liquid asset requirements for DMM units.<sup>4</sup> NYSE Rule 103.20 requires each DMM unit to maintain “net liquid assets” (that is, assets readily convertible to cash) pursuant to a formula that results in total net liquid assets of all DMM units equal to \$250 million, plus a “market risk add-on” equal to three times securities position haircuts (deductions from market value) calculated under the net capital rules of the SEC.<sup>5</sup> The requirements of Rule 103.20 are in addition to the net capital requirements applicable to all broker dealers as prescribed in Rule 15c3-1,<sup>6</sup> promulgated under the Securities Exchange Act of 1934 (the “Act”).<sup>7</sup> The purpose of this requirement is to assure that DMM units maintain sufficient liquidity to carry out their obligations to maintain an orderly market in their assigned securities in times of market stress.

The structure of the rule was established in July 2006 when the total requirement applicable to specialists was set at \$1 billion. In February 2008, the amount was reduced

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<sup>4</sup> Pursuant to NYSE Rule 2(j), a DMM unit is defined as a member organization or unit within a member organization that has been approved to act as a DMM unit under Rule 98.

<sup>5</sup> Rule 103.20(b)(ii) allows DMM units to use an alternative market risk add-on calculation equal to three times value-at-risk (“VaR”) calculated pursuant to Exchange-approved risk models, but no DMM unit currently uses VaR to compute this requirement.

<sup>6</sup> 17 CFR 240.15c3-1.

<sup>7</sup> 15 U.S.C. 78a et seq.

to \$250 million. In view of the significant changes since 2008 in the NYSE's market structure, as well as market-wide regulatory and trading developments and trends, the Exchange proposes that the DMM units' total net liquid assets requirement be further reduced to \$125 million and that the market risk add-on be reduced from three times haircuts to one time haircuts. In addition, the Exchange proposes eliminating the value at risk ("VaR") market risk add-on alternative, which is currently not being used by any DMM firms.

### Background

On July 25, 2006, the SEC approved amendments to NYSE Rule 104 (the predecessor to the current Rule 103.20<sup>8</sup>) to revise the capital requirement applicable to specialist member organizations.<sup>9</sup> The amendments restructured the capital requirement for specialist organizations from an approach based on minimum dollar thresholds for each specialist stock, irrespective of position size or attendant market risk, to an approach based on specialist market share that is measured by total dollar volume traded combined with market stress and volatility risk analysis.

Pursuant to the 2006 amendments, then NYSE Rule 104.21 required that each specialist organization maintain minimum net liquid assets equal to \$1 million for each one tenth of one percent (.1%) of the Exchange transaction dollar volume in its registered

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<sup>8</sup> The capital requirement rule was kept intact but re-numbered as Rule 103 in connection with the adoption of the rules generally known as the Exchange's New Market Model. See Securities Exchange Act Release No. 58845 (October 24, 2008), 74 FR 64379 (October 29, 2008) (SR-NYSE- 2008-46).

<sup>9</sup> See Securities Exchange Act Release No. 54205 (July 25, 2006); 71 FR 43260 (July 31, 2006) (SR-NYSE-2005-38) (approving amendments to NYSE Rules 104 and 123E ("Specialist Combination Review Policy") that changed the capital requirements of specialist organizations). See also NYSE Information Memo 06-56 (August 2, 2006).

securities, exclusive of Exchange Traded Funds, plus \$500,000 for each Exchange Traded Fund. Under this formula, the total base net liquid assets requirement for all specialists was fixed at \$1 billion (before application of market risk add-ons). The market risk add-on under Rule 104.21 was an amount equal to three times the average of the prior twenty business days' securities haircuts on its dealer's positions computed pursuant to Rule 15c3-1(c)(2)(vi) under the Act, exclusive of the specialist exemption contained in the rule. The NYSE rule allowed an alternate method for computing the market risk add-on by using an Exchange-approved model for valuing the risk in its securities positions over a 20-day period. In such case, the specialist unit's market risk add-on was equal to three times VaR.

The NYSE stated in the 2006 SEC filing that, as a result of ongoing changes to the structure of the marketplace, it would be assessing specialist market risks annually to determine the continuing adequacy of the net liquid asset requirements. In connection with such assessment, in February 2008, Rule 104.21 was amended to reduce the total base net liquid assets requirement for all specialists from \$1 billion to \$250 million.<sup>10</sup> The Exchange's rationale for this reduction was based on (i) the specialist's reduced role in the NYSE's Hybrid Market<sup>11</sup> resulting in reduced participation and position levels; and

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<sup>10</sup> See Securities Exchange Act Release No. 57272 (February 5, 2008); 73 FR 8098 (February 12, 2008) (SR-NYSE-2007-101).

<sup>11</sup> See Securities Exchange Act Release No. 53539 (March 22, 2006); 71 FR 16353 (March 31, 2006) (SR-NYSE-2004-05) (approving the proposed rule change to establish the NYSE Hybrid Market). The rule change created a "Hybrid Market" by, among other things, increasing the availability of automatic executions in its existing automatic execution facility, NYSE Direct+, and providing a means for participation in the expanded automated market by its floor members. The change altered the way NYSE's market operates by allowing more orders to be executed directly in Direct+, which in essence moved NYSE from a floor-based auction market with limited automation order interaction to a more automated



(ii) specialists' performance during recent periods of high market volatility. Based upon that analysis, the Exchange determined that the reduced base net liquid assets requirement would be adequate to support the liquidity needs of the specialist organizations.

Proposed Amendment to Rule 103.20

The Exchange proposes to reduce the total base net liquid assets requirement for all DMM units by 50% from \$250 million to \$125 million, and the market risk add-on from three times securities position haircuts to one time the haircuts. In addition, the Exchange proposes eliminating the VaR market risk add-on alternative, which is currently not being used by any DMM units. Based on an analysis of market structure changes at NYSE and across the U.S. equities markets generally, the Exchange believes that the DMM unit market risk has been sufficiently reduced and that the proposed new liquid assets requirements will be adequate to support the liquidity needs of DMM units to perform their obligations to the market during periods of market stress.

In particular, the Exchange believes that the proposed changes to the DMM units' net liquid assets requirements are appropriate given the many changes to equity trading in the U.S. since February 2008. For example, the implementation of Regulation NMS in 2007 has resulted in new exchanges such as BATS Exchange, Inc., BATS Y-Exchange, Inc., and Direct Edge's EDGA and EDGX joining the market. These new exchanges, as well as the proliferation of off-exchange trading venues, have captured trading volume in NYSE-listed securities, which has dramatically reduced the Exchange's market share.<sup>12</sup>

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market with limited floor-based auction market availability.

<sup>12</sup> The Commission noted the extraordinary changes in the nature of trading in NYSE-listed stocks in its 2010 Concept Release on equity market structure. See

In addition, in October 2008, the Exchange adopted the New Market Model, which made significant market structure changes, including replacing the specialist category of market participant with DMMs.<sup>13</sup> Among other changes, DMMs are not subject to the so-called “negative obligations” previously applicable to specialists to refrain from trading unless reasonably necessary to maintain a fair and orderly market. DMMs continue to have affirmative obligations to maintain a fair and orderly market in assigned securities. Moreover, to reflect the fact that Exchange electronic trading systems execute the vast majority of trades, the DMM is not agent for a trading “book,” but instead trades proprietarily subject to such obligations. DMMs were also provided new trading capabilities, including the ability to add liquidity to the market through new order and quotation types, and parity to execute against incoming orders. In addition, NYSE amended Rule 98 to, among other things, expand DMM units’ ability to hedge intra-day and overnight market risk.

Market-wide changes have also served to dampen volatility and thus reduce DMM unit risk. These include the implementation of single-stock volatility circuit breakers and short sale price restrictions. The single-stock volatility circuit breakers seek to prevent extreme price movement by pausing trading in a covered security (currently all S&P 500 Index and Russell 1000 Index securities) for five minutes if it moves more than 10% within a five-minute window.<sup>14</sup> In addition, Regulation SHO short sale price

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Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (File No. S7-02-10).

<sup>13</sup> See supra note 8.

<sup>14</sup> See NYSE Rule 80C. The Exchange and other markets recently filed to extend the single-stock circuit breakers to all other NMS stocks, See Securities Exchange Act Release No. 64420 (May 6, 2011), 76 FR 27675 (May 12, 2011) (SR-NYSE-2011-21).

restrictions were implemented on February 28, 2010, which help to reduce downside risk in securities falling more than 10% from the previous day's close.<sup>15</sup> The Exchange also recently filed with the SEC, together with other markets, a plan pursuant to Rule 608 of Regulation NMS under the Act to address extraordinary market volatility by adopting market-wide limit up-limit down requirements that would prevent trades in individual NMS stocks from occurring outside of specified price bands.<sup>16</sup> If implemented, the limit up-limit down plan would help reduce error trades and further mitigate risk.

A comparison of recent data against the 2007 data that was used to support the reduction in the net liquid assets test in February 2008, illustrates the degree to which the developments noted above have reduced overall DMM risk.

1. Market fragmentation has reduced the amount of trading on the NYSE from 48% market share in 2007 to 24% market share in 2010, and the amount of NYSE dollar value traded declined by half over the same period. There are 13 competing exchanges trading NYSE-listed securities and one third of NYSE consolidated volume is traded off-exchange on over 30 dark pools and over 200 upstairs trading desks. The net liquid asset requirement should be correlated to the amount of trading that DMM units transact within the NYSE's market share and dollar value traded. As NYSE share and dollar volume has declined, the amount of net liquid assets required to meet the DMM unit's obligations should similarly decline.
2. End-of-day DMM/specialist inventory positions on average have declined 80% from 2007 to present, reducing overnight risk exposure. DMM unit inventory positions fell from an average of \$280 million during the week of September 10-14, 2007 (the time period used in the 2008 filing to support the previous reduction) to \$57 million based on the 6-month average in the second half of 2010. Looking at May 2010, a volatile period, the DMM's average daily inventory was \$78 million, 72% lower than the week of September 10-14, 2007.

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<sup>15</sup> See Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010) (File No. S7-08-09; Amendments to Regulation SHO) and NYSE Rule 440B.

<sup>16</sup> See Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4-631).

3. DMM units are putting fewer dollars at risk on a given trade, and less capital is needed to support the resultant positions. The average dollar value per trade for DMMs declined 70% from \$15,000 in 2007 to \$4,600 in 2010. This trend partly reflects the decline in the average NYSE stock price (down 35% from 2007 to 2010), but is largely the result of the DMM units' increased use of algorithms to trade in smaller order sizes to reduce risk exposure. Algorithms are increasingly used by many market participants to trade in retail-sized increments and, as a result, the average NYSE trade size was only 357 shares (\$9,924) in 2010.
4. The DMM units increasing use of trading technology and faster NYSE execution speeds enable DMMs to reduce order exposure time and better manage the risks of positions held. Faster NYSE executions speeds and DMM units' use of algorithms allow them to adjust positions quickly in response to changing market dynamics. NYSE has also reduced the time needed to incorporate market information into quotes, thereby allowing for better risk controls mechanisms by DMMs.

Based on the foregoing, the Exchange believes that it is appropriate to require DMM units to maintain base net liquid assets of \$125 million, plus market risk add-ons. As proposed, the individual DMM unit percentage of this requirement will be fixed monthly based on a fraction for which the denominator is the total dollar value of all Exchange traded securities for the 20 trading days preceding the first day of a calendar month and the numerator is the DMM unit's total dollar value of securities traded for such period. In addition, the market risk add-on under Rule 103.20(b)(i)(B)(2), currently amounting to three times the average of the prior twenty business days securities haircut on its DMM unit positions computed pursuant to SEA Rule 15c3-1(2)(v)(1), exclusive of paragraph (N), as proposed would be set at one-times these haircuts and renumbered 103.20(b)(i)(B). Finally, because no DMM unit uses the VaR methodology to determine the market risk add-on, the Exchange proposes to remove this alternative.

The Exchange notes that FINRA will continue to assess DMM capital requirements in relationship to the New Market Model and monitor their capital positions on a daily basis.

The Exchange will notify DMM units of the implementation date of this rule change via a Member Education Bulletin.

## 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Exchange Act<sup>17</sup> which requires, among other things, that the rules of the Exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and national market system, and in general to protect investors and the public interest. The Exchange believes that the proposed rule change will reduce the burden on DMM units to maintain net liquidity while still ensuring adequate protection of DMM units during periods of market stress. Each of the DMM units have sources of funding that will provide necessary liquidity during a period of market stress and thus, it is no longer necessary for this liquidity to be maintained as capital, as DMM unit positions and the likelihood of losses have been reduced dramatically due to changes in the structure of the market.

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<sup>17</sup> 15 U.S.C. § 78f(b)(5).

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.

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<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup> 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) 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 pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>20</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule

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<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

19b4(f)(6)(iii),<sup>21</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such 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.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2011-35 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-2011-35. 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

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<sup>21</sup> 17 CFR 240.19b-4(f)(6)(iii).

<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 Section, 100 F Street, NE, Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet website at [www.nyse.com](http://www.nyse.com). 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-2011-35 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.<sup>22</sup>

Elizabeth M. Murphy  
Secretary

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<sup>22</sup> 17 CFR 200.30-3(a)(12).