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; 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–NYSEMKT–2013–21 and should be submitted on or before April 5, 2013

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary .

[FR Doc. 2013–05986 Filed 3–14–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69103; File No. SR–NYSE–2013–20]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 107C To Clarify That a Retail Member Organization May Submit Retail Orders to the Retail Liquidity Program in a Riskless Principal Capacity as Well as in an Agency Capacity

March 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2013, 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 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 Rule 107C to clarify that a Retail Member Organization (''RMO'') may submit Retail Orders to the Retail Liquidity Program (the ''Program'') in a riskless principal capacity as well as in an agency capacity, provided that (i) the entry of such riskless principal orders meets the requirements of FINRA Rule 5320.03, including that the RMO maintains supervisory systems to reconstruct, in a time-sequenced manner, all Retail Orders that are entered on a riskless principal basis; and (ii) the RMO does not include non-retail orders together with the Retail Orders as part of the riskless principal transaction. The text of the proposed rule change is available on the Exchange's Web site 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 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 Exchange is proposing an amendment to Rule 107C to clarify that an RMO may submit Retail Orders to the Program in a riskless principal capacity as well as in an agency capacity, provided that (i) the entry of such riskless principal orders meets the requirements of FINRA Rule 5320.03, including that the RMO maintains supervisory systems to reconstruct, in a time-sequenced manner, all Retail Orders that are entered on a riskless principal basis; and (ii) the RMO does not include non-retail orders together with the Retail Orders as part of the riskless principal transaction.[3] Under current Rule 107C (a)(3), a ''Retail Order'' is defined as ''an agency order that originates from a natural person and is submitted to the Exchange by [an RMO] provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or other computerized methodology.''

The Exchange believes that, for purposes of determining whether an order should qualify as a Retail Order, there is no difference between a riskless principal order that meets the requirements of FINRA Rule 5320.03 and an agency order. A riskless principal transaction is a transaction in which a member, after having received an order to buy (sell) a security, purchases (sells) the security as principal and, contemporaneously, satisfies the original order by selling (buying) as principal at the same price. Generally, a riskless principal transaction involves two orders, the execution of one being dependent upon the receipt or execution of the other; thus, there is no ''risk'' in the interdependent transactions when completed. Unlike a riskless principal transaction, an agency order is entered directly in exchange systems on behalf of a customer. Ultimately, however, the results of a riskless principal transaction and an agency order are the same: the customer receives an execution while the involved member acts as an intermediary to effect the transaction.[4]

A riskless principal transaction under the Program would occur as follows. Assume an RMO receives a market order to sell 100 shares at $10.01 of ABC from a retail customer. The RMO then enters a Retail Order into the Program to sell at $10.01 under the Program, and that order receives a price-improved execution under the Program at $10.012. When that execution occurs, the RMO contemporaneously executes the order with the retail customer for the same price ($10.012) that it received within the program, exclusive of any markup or markdown, commission equivalent, or other fee. Thus, the retail customer would receive the same benefit from the Program that it would have if the Retail Order had been entered on an agency basis. Therefore, there is no functional distinction for purposes of the Program between an order entered by an RMO on an agency basis and one entered on a riskless principal basis, and including riskless principal orders improves the ability of RMOs to offer the possibility of price improvement to their customers.

The Exchange believes that the requirement that the entry of such

[12] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Recently, the Exchange proposed to amend the attestation requirement of Rule 107C to allow an RMO to attest that ''substantially all'' orders submitted to the Program will qualify as ''Retail Orders.'' *See* Exchange Act Release No. 68747 (Jan. 28, 2013), 78 FR 7824 (Feb. 4, 2013). Riskless principal transactions permitted by this amendment would be considered ''Retail Orders'' for purposes of the attestation requirement.

[4] A principal transaction differs from both a riskless principal transaction and an agency order in that it is an order for the principal account of the entering member.

riskless principal orders satisfy FINRA Rule 5320.03 provides sufficient protection against RMOs submitting orders for their own account to the Program. An RMO entering a riskless principal transaction will have to, contemporaneously with the execution of the customer's order, submit a report identifying the trade as riskless principal to FINRA. Additionally, the RMO will need to have written policies and procedures to ensure that riskless principal transactions comply with applicable FINRA rules. The policies and procedures, at a minimum, must require that the customer order be received prior to the offsetting principal transaction, and that the offsetting principal transaction is at the same price as the customer order exclusive of any markup or markdown, commission equivalent, or other fee, and is allocated to a riskless principal or customer account in a consistent manner and within 60 seconds of execution. Additionally, the RMO must have supervisory systems in place that produce records that enable the RMO and FINRA to reconstruct accurately, readily, and in a time-sequenced manner all Retail Orders that are entered on a riskless principal basis. The RMO must also ensure that non-Retail Orders are not included with the Retail Orders as part of a riskless principal transaction. The above requirements ensure that despite the procedural differences between the execution of a riskless principal transaction and an agency order, the *only* difference will be the procedure in which the transactions are effected and not the result.

The Exchange further believes that clarifying that riskless principal orders that meet the requirements of FINRA Rule 5320.03 are able to participate in the Program on the same basis as agency orders will enable more retail customers to benefit from the enhanced price competition and transparency of the Program.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is 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, to protect investors and the public interest.

The Exchange believes that the proposed rule change promotes just and equitable principles of trade because it will ensure that riskless principal orders that meet the requirements of FINRA Rule 5320.03 will have the same opportunity to participate in the Program as agency orders. As discussed above, there is no functional distinction for purposes of the Program between an order entered by an RMO on an agency basis and one entered on a riskless principal basis. The Exchange believes that the proposed change would tend to reduce any potential discrimination between similarly situated customers or brokers by ensuring that the ability of retail customers to benefit from the Program does not depend on a distinction in capacity that is not meaningful for purposes of the Program. As a result of the change, a retail customer will be able to benefit from the price improvement offered by the Program without regards to whether the RMO enters the order on a riskless principal or agency basis.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because it will clarify that riskless principal orders that meet the requirements of FINRA Rule 5320.03 are eligible to participate in the Program on the same basis as agency orders. By allowing all orders that are functionally equivalent to agency orders to participate in the Program, the proposed change would potentially stimulate further price competition for retail orders.

Finally, the Exchange believes that the proposed change would protect investors and public interest by expanding the access of retail customers to the price improvement and transparency offered by the Program and the access of the public to an exchange-sponsored alternative to broker-operated internalization venues.

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. The Exchange believes that the amendment, by increasing the eligible level of participation in the program, will reduce burdens on competition around retail executions such that retail investors would receive better prices than they currently do on the Exchange and potentially through bilateral internalization arrangements. The Exchange believes that the transparency and competitiveness of operating a program such as the Retail Liquidity Program on an exchange market would result in better prices for retail investors, and benefits retail investors by expanding the capabilities of Exchanges to encompass practices currently allowed on non-Exchange venues.

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[7] and Rule 19b–4(f)(6) thereunder.[8] 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.

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:

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

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) 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 has waived the five-day prefiling requirement in this case.

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2013–20 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–2013–20. This file number should be included on the subject line if email 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 Web site 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 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 publicly available. All submissions should refer to File Number SR–NYSE–2013–20 and should be submitted on or before April 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

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[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69108; File No. SR–NASDAQ–2013–037]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Clarify the Maximum Time Afforded to a Market Maker To Meet Its Market Making Obligations Upon Rejoining the Market After an Excused Withdrawal Under Rule 4619

March 11, 2013.

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 February 25, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' 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 clarify what is the maximum time afforded to a market maker to rejoin the market after an excused withdrawal under Rule 4619 [sic]. The Exchange will implement the proposed changes as soon as the rule change is operative.

The text of the proposed rule change is below. Proposed new language is in italics.

* * * * *

4619. Withdrawal of Quotations and Passive Market Making

(a)–(f) No change.

(g) A Nasdaq Market Maker that wishes to reinstate its quotations in a security after an excused withdrawal pursuant to Rule 4619 shall contact Nasdaq to notify Nasdaq of its intention to be reinstated. Upon confirmation by Nasdaq that the market maker is reinstated, the market maker will have no longer than ten minutes to meet its market making obligations under Rule 4613.

* * * * *

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

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

[3] 17 CFR 240.19b–4.

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 Exchange 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 these 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 aspects of such statements.

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

1. Purpose

NASDAQ is proposing to amend Rule 4619 to clarify the maximum permissible time afforded an Exchange market maker in which to resume making a market in a security after an excused withdrawal under the rule. When a NASDAQ market maker is ready to resume market making after an excused withdrawal, it informs NASDAQ of its intent to resume. NASDAQ in turn confirms receipt of such notice and updates the market maker's registration status in the relevant security or securities.[4] If the market maker uses NASDAQ's automated quotation refresh functionality (''AQR''),[5] NASDAQ will, concurrent with the receipt of notice, commence automated quoting thereby satisfying the member firm's market making obligations [sic]. A market maker not using AQR is responsible for reentering the market upon providing notice to NASDAQ of its intent to do so. Until November 2012, nearly all NASDAQ market makers used AQR and the majority of NASDAQ market makers continue to use AQR at this time.

NASDAQ is retiring AQR effective February 25, 2013,[6] and is requiring

[4] A request to reinstate market making after an excused withdrawal may be submitted to NASDAQ by phone, email, or facsimile.

[5] Rules 4613(a)(2)(F) and (G). NASDAQ adopted AQR as part of an effort to address issues uncovered by the aberrant trading that occurred on May 6, 2010. AQR is designed to help Exchange market makers meet their market making obligations for each stock in which they are registered to continuously maintain a two-sided quotation within a designated percentage of the National Best Bid and National Best Offer, as appropriate. *See* Securities Exchange Act Release No. 63255 (November 5, 2010), 75 FR 69484 (November 12, 2010) (SR–NASDAQ–2010–115, et al.).

[6] Securities Exchange Act Release No. 68654 (January 15, 2013), 78 FR 4536 (January 22, 2013) (SR–NASDAQ–2013–007).