

execution fee and comparison fee for products covered by this filing shall be \$0.15 and \$0.03 per contract, respectively, for all Public Customer Orders¹⁰ and Firm Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.¹¹ Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be \$0.37 and \$0.03 per contract, respectively.¹² Further, since options on QID, QLD, SDS, SSO, TWM and UWM are multiply-listed, the Payment for Order Flow fee shall apply to these products. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act¹³ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁴ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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

The proposed rule change does not 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

¹⁰ Public Customer Order is defined in ISE Rule 100(a)(39) as an order for the account of a Public Customer. Public Customer is defined in ISE Rule 100(a)(38) as a person that is not a broker or dealer in securities.

¹¹ The execution fee is currently between \$.21 and \$.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently \$.03 per contract side.

¹² The amount of the execution and comparison fee for non-ISE Market Maker transactions executed in the Exchange's Facilitation and Solicitation Mechanisms is \$0.16 and \$0.03 per contract, respectively.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4).

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁵ and Rule 19b-4(f)(2)¹⁶ thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal took effect upon filing with the Commission. At any time within 60 days of the filing of such 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-ISE-2007-118 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-ISE-2007-118. 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

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 240.19b-4(f)(2).

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 a.m. and 3 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-ISE-2007-118 and should be submitted on or before January 10, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56946, File No. SR-MSRB-2007-04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to Amendments to Rule G-40 on E-Mail Contacts

December 12, 2007.

On October 16, 2007, the Municipal Securities Rulemaking Board ("MSRB"), 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 consisting of amendments to Rule G-40, on electronic mail contacts, that would more fully conform MSRB requirements to Financial Industry Regulatory Authority ("FINRA") requirements relating to contact information. The MSRB proposed an effective date for this proposed rule change of December 31, 2007 to coincide with the effective date of recently-approved FINRA requirements.³ The proposed rule change was published for comment in the **Federal Register** on November 9,

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 56179 (August 1, 2007), 72 FR 44203 (August 7, 2007) (SR-NASD-2007-034).

2007.⁴ The Commission received no comment letters regarding the proposal. This order approves the proposed rule change.

The proposed amendments to Rule G-40 would require dealers to: (i) Promptly update any change in the required information for their primary contact but not later than 30 days following such change; (ii) review and, if necessary, update required information on their primary contact within 17 business days after the end of each calendar year; and (iii) promptly comply with any request by the appropriate regulatory agency (as defined in Section 3(a)(34) of the Act) for such information but not later than 15 days following such request, or such longer period that may be agreed to by the appropriate regulatory agency. A full description of the proposal is contained in the Commission's Notice.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB⁵ and, in particular, the requirements of Section 15B(b)(2)(C) of the Act⁶ and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Act requires, among other things, that the MSRB's rules be 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.⁷ In particular, the Commission finds that the proposed rule change is consistent with the Act because substantially conforming Rule G-40 to comparable FINRA requirements relating to e-mail contact information will promote regulatory consistency by facilitating dealer compliance with such requirements, as well as the inspection and enforcement thereof. The proposal will be effective December 31, 2007, as requested by the MSRB.

⁴ See Securities Exchange Act Release No. 56736 (November 2, 2007), 72 FR 63633 (November 9, 2007) ("Commission's Notice").

⁵ In approving this rule the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78o-4(b)(2)(C).

⁷ *Id.*

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-MSRB-2007-04) be, and it hereby is, approved.

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56958; File No. SR-NYSE-2006-99]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change as Modified by Amendment Nos. 2 and 3 Thereto Relating to Rule 104 (Dealings by Specialists)

December 13, 2007.

I. Introduction

On November 9, 2006, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to 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 Exchange Rule 104 to allow the specialist's algorithm systems to generate trading messages that provide supplemental specialist volume to partially or completely fill an order at a sweep price. The Exchange filed and withdrew Amendment No. 1 to the proposal on October 24, 2007 and October 29, 2007, respectively. The Exchange filed Amendment Nos. 2 and 3 on October 29, 2007 and November 5, 2007, respectively. The proposed rule change was published for public comment in the **Federal Register** on November 13, 2007.³ The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

Currently, Rule 104(b)(i)(F) permits the specialist proprietary algorithm ("Specialist Algorithm") to generate a trading message to provide

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 56747 (November 5, 2007), 72 FR 63946 ("Notice").

supplemental specialist volume at the Exchange published best bid or offer ("BBO"). This trading message enables specialists, through the use of their algorithms, to provide more volume where, technically, there is no other interest available to trade with the customer order.

The Exchange seeks to further provide its customers with additional opportunities for a better priced execution by amending Rule 104(b)(i)(F) to allow the specialist to also partially or completely fill an order beyond the Exchange published best bid or offer at a sweep price.⁴ The Specialist Algorithm will generate this trading message in reaction to one order at a time and only as that order is entering Exchange systems. Additionally, this trading message will only be able to interact with the targeted order to add volume at one place, either at the Exchange best bid or offer or at a particular sweep price. In other words, the specialist will not have two opportunities to provide supplemental specialist volume to the incoming order at the Exchange best bid or offer and also at a particular price point should the order sweep the Display Book. There will be no change with respect to priority and parity. The specialist's algorithm will make a determination about where and how much supplemental specialist volume to provide based on the state of the book information when the order is received by Exchange systems.

The specialist would not be required to buy the full size remaining of the sell order at the particular sweep price. The Exchange states that there is no disadvantage to the customer in allowing the specialists to partially fill an order at a particular sweep price especially when applicable rules only allow the supplemental specialist volume to interact with the order when no other interest exists.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the

⁴ The instant filing was initially filed with the Commission on November 9, 2006. In the notice, the Exchange stated that the proposed functionality inadvertently became operational in Exchange systems without Commission approval on or about January 24, 2007. The proposed rule change, as amended, is intended to codify the current Exchange system functionality. See Notice, *supra* note 3, at note 6.