3 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–NASDAQ–2010–141 and should be submitted on or before December 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–28545 Filed 11–10–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63266; File No. SR–NYSE–2010–67]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by New York Stock Exchange LLC Changing the NYBX Order Execution Sequence

November 5, 2010.

I. Introduction

On September 9, 2010, the New York Stock Exchange LLC ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission") a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] to change the execution of algorithm of the New York Block Exchange ("NYBX" or the "Facility"), an electronic trading facility of the NYSE. The proposed rule change was published for comment in the **Federal Register** on September 24, 2010.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The NYBX is an electronic facility of the Exchange for the trading of undisplayed orders in NYSE-listed securities.[4] NYSE Rule 1600 governs the operation of the NYBX.

When an order enters the Facility, the Facility scans its own book, the NYSE's Display Book ("DBK") (both displayed and undisplayed orders), and the protected quotations of automated trading centers to identify marketable contraside interest.[5] Following this review, if marketable contraside interest exists and the applicable minimum triggering volume threshold of the incoming order is met, the Facility will commence a sequential process for executing the incoming order. As part of this process, the full remaining size of the incoming order will be routed back and forth between the Facility and the DBK at each price point, even though only a small portion of the order might be filled at a particular price point. This "oversizing" allows any CCS interest in the DBK, which the Facility is not aware of, to be triggered at each price point. During the sequential routing process, portions of the incoming order will be routed away to hit protected quotations of automated trading centers as necessary to avoid trade throughs.

The NYSE proposes to change the order execution method from the current sequential, "oversizing" process to a simultaneous process. When a market evaluation indicates that sufficient marketable liquidity exists to meet the incoming order's minimum trading volume threshold, the Facility will divide the incoming order into separate orders that will be routed simultaneously to execute against marketable contraside liquidity in the DBK and/or other automated trading centers up to the price of the incoming order. The orders routed to the DBK will no longer be oversized. The remainder of the original order will execute, to the extent possible, against contraside interest in the Facility at the same or better prices. Using this approach, any orders sent by the Facility to the DBK would not trigger any CCS interest. In addition, the Exchange is proposing to amend the Facility's order-routing algorithm to route away to hit the protected quotations of automated trading centers even in some cases where it would not be necessary to do so to avoid a trade through.[6]

The Exchange states that the proposal is designed to allow a NYBX order to better capture the available contra side liquidity revealed during the Facility's initial market evaluation. According to the NYSE, some NYBX orders currently are not able to execute against available contra side liquidity, because of "the disappearance or the adjustment of a substantial portion of the available contra side liquidity that shows up on the initial market evaluation, before the NYBX order is able to execute against that liquidity." [7]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder are applicable to a national securities exchange.[8] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that an exchange have rules designed 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 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 Commission believes that the proposal is reasonably designed to increase the fill rates of NYBX orders in a manner consistent with Regulation NMS, by capturing a higher percentage of the marketable contra side liquidity that may be available for execution, as revealed by the Facility's initial market evaluation. The proposal should also benefit market participants whose orders are displayed at automated trading centers, by increasing their fill rates against NYBX orders. Accordingly, the Commission finds that the proposal is reasonably designed to remove impediments to and perfect 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.

IV. Conclusion

It is therefore ordered, that pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NYSE–2010–67) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–28542 Filed 11–10–10; 8:45 am]

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[19] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62955 (September 20, 2010), 75 FR 58456 ("Notice").

[4] *See* Securities Exchange Act Release No. 59282 (January 22, 2009), 74 FR 5009 (January 28, 2009) (NYSE–2008–119).

[5] *See* NYSE Rule 1600(d)(1)(B).

[6] *See* proposed NYSE Rule 1600(d)(1)(C)(iii).

[7] *See* Notice, *supra* note 3.

[8] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).