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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74281; File No. SR-NYSE-2015-06)

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Adopting New Rule 124 to Conduct a Midday Auction and Amending Rule 104 to Codify the Obligation of Designated Market Makers to Facilitate the Midday Auction

February 17, 2015

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b-4 thereunder,[3] notice is hereby given that on February 2, 2015, 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 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 adopt new Rule 124 to conduct a daily single-priced auction at a specified time in lower-volume securities ("Midday Auction") and amend Rule 104 to codify the obligation of Designated Market Makers ("DMM") to facilitate the Midday Auction. The text of the proposed rule change is available on the Exchange's website 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

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

2 15 U.S.C. 78a.

3 17 CFR 240.19b-4.

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 adopt new Rule 124 to conduct a daily Midday Auction and amend Rule 104 to reflect that the DMM's obligation to facilitate reopenings includes the Midday Auction.

The Exchange proposes to adopt new Rule 124 to conduct a Midday Auction in a subset of NYSE-listed securities that have a consolidated average daily trading volume ("CADV") of 1,000,000 shares or less and have been designated by the Exchange (the "Midday Auction Stocks"). The Midday Auction is intended to consolidate volume, including orders of larger blocks of stock, for price discovery purposes in lower-volume securities to provide market participants with a single-priced execution intraday to supplement the existing opening and closing auctions.[4] The Exchange believes the proposed parameters for which stocks would be eligible to participate is reasonably designed to include those stocks that would benefit from such price discovery. The Exchange further believes that providing the Exchange with the ability to designate which stocks within those parameters are eligible for the Midday Auction is appropriate because it would provide the Exchange with the ability to add or remove stocks depending on the individual trading characteristics of a stock. As proposed, the Exchange would

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[4] The Exchange notes that NYSE-listed securities with a CADV of 1,000,000 shares or less represent approximately 16 percent of the consolidated volume of all NYSE-listed securities.

update the list of Midday Auction Stocks at least quarterly.[5]

The Exchange proposes to conduct one Midday Auction in each Midday Auction Stock per trading day.[6] The Midday Auction would not be conducted on trading days the Exchange is scheduled to close before 4:00 p.m. ET or if the security is halted, paused, suspended, or not opened for trading at the time of the Midday Auction.[7] For example, if during the pause preceding the Midday Auction (described below), a pause pursuant to the Plan to Address Extraordinary Market Volatility ("LULD Plan")[8] or regulatory halt were triggered, the Exchange would not conduct a Midday Auction and instead would reopen the security pursuant to the procedures for reopening following a LULD Plan pause or regulatory halt.

Beginning at a time specified by the Exchange between 11 a.m. ET and 2 p.m. ET,[9] the Exchange would pause trading on the Exchange only in the Midday Auction Stocks for five minutes in order to provide market participants with an opportunity to enter interest intended for the auction (the "Midday Auction Pause").[10] During the Midday Auction Pause, the Exchange would suspend automatic executions and publish a zero quote on both the public and proprietary

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5 See Proposed Rule 124(a)(1).

6 See Proposed Rule 124(a)(3).

7 See Proposed Rule 124(a)(2).

8 See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File no. 4-631).

9 The Exchange proposes to specify the time of the Midday Auction Pause by Trader Update.

10 See Proposed Rule 124(b). Under Rule 104(a)(1)(B)(ii), the DMM's quoting obligations are suspended during a trading pause and do not re-commence until after the first regular way transaction on the primary listing market in the security following such pause. The Exchange believes that DMMs would also be relieved of their quoting obligations pursuant to Rule 104(a)(1)(B)(ii) during the Midday Auction Pause.

data feeds.[11]

In order to maximize the interest eligible to participate in the Midday Auction, during the Midday Auction Pause, the Exchange would maintain resting orders on the Exchange's book that are eligible to participate in a reopening.[12] The Exchange would also accept new orders that are eligible to participate in the Midday Auction.[13] The Exchange notes that Market-on-Open ("MOO") and Limit-on-Open ("LOO") Orders, which are existing order types available for openings and reopenings, would be accepted during the Midday Auction Pause. The Exchange would also accept and process cancellations of new and resting orders during the Midday Auction Pause,[14] which is how the Exchange processes orders during a trading halt or LULD Plan pause.

Because a Midday Auction Stock would be paused on the Exchange only, during the Midday Auction Pause, the Exchange proposes to continue re-pricing sell short orders, including MOO and LOO Orders, consistent with Rule 440B(e) (Short Sales).[15] The Exchange also proposes to continuously re-price and/or cancel orders, including MOO and LOO Orders, consistent with Rule 80C(a)(5).[16] In addition, in order to attract contra-side interest, during a Midday Auction Pause, the Exchange would publish Order Imbalance Information as defined in

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11 See id. Because the Midday Auction would be intended to occur daily at the same time in specified securities, the Exchange believes that the publication of a zero quote condition would signal to the market that the Midday Auction Pause has begun. The Exchange therefore does not propose, nor does it believe it necessary, to disseminate an indication over the Consolidated Quote System or Consolidated Tape that a security is in a Midday Auction Pause.

12 See Proposed Rule 124(b)(1).

13 See Proposed Rule 124(b)(2).

14 See Proposed Rule 124(b)(3).

15 See Proposed Rule 124(b)(4).

16 See Proposed Rule 124(b)(5).

Rule 15(c)[17] approximately every five seconds.[18]

At the end of the Midday Auction Pause, the Exchange proposes to conduct the Midday Auction by reopening the Midday Auction Stocks at a single equilibrium price in the same manner as in Rule 123D (Openings and Halts in Trading) for reopenings, with two exceptions. Accordingly, as with reopenings following a regulatory halt or LULD Plan pause, the DMM registered in the security would be responsible for facilitating the Midday Auction in a manner similar to how an opening or reopening would be conducted. This includes the DMM supplying liquidity as needed, as provided for in Rule 104(a)(2), and conducting the Midday Auction either manually or electronically, as provided for in Rule 123D(1).[19] Rule 104(a)(2) sets forth the DMM's obligation to facilitate openings and reopenings for each of the securities in which the DMM is registered as required under Exchange rules, which may include providing liquidity as needed. To specify that the DMM has a similar obligation for the Midday Auction, the Exchange proposes to amend Rule 104(a)(2) by adding the clause "including the Midday Auction" following "reopenings."

The first proposed exception to Rule 123D is based on the manner that the Exchange reopens securities following a LULD Plan pause, as set forth in Rule 80C(b)(2)(A). As currently the case for reopenings pursuant to Rule 80C(b)(2)(A), the Exchange proposes that for Midday Auctions, indications may be published to the Consolidated Tape, but they are not required. In

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17 Order Imbalance Information reflects real-time order imbalances that accumulate prior to the opening or reopening transaction on the Exchange and the price at which interest eligible to participate in an opening or reopening transaction may be executed in full. Order Imbalance Information disseminated pursuant to Rule 15(c) includes all interest eligible for execution in the opening or reopening transaction of a security in Exchange systems. See Rule 15(c)(1).

18 See Proposed Rule 124(b)(6).

19 See Proposed Rule 124(c).

addition, prior Floor Official approval is not required and if an indication is published, it would not need to be updated before the Midday Auction and the Midday Auction may occur outside of any prior indication. Moreover, a Midday Auction would not be subject to the requirements that (i) a minimum of three minutes must elapse between the first indication and the Midday Auction, or (ii) if more than one indication is published, a minimum of one minute must elapse before the Midday Auction.[20]

The second proposed exception to Rule 123D would be that the Midday Auction would not execute at a price outside of the LULD Price Bands, as provided for in Rule 80C(a)(4).[21] Although the LULD Plan provides that reopenings are not subject to the Plan,[22] the Exchange believes that because trading in Midday Auction Stocks would be continuing on other markets, the Midday Auction should execute consistent with the Price Bands in effect at the time of the Midday Auction. As noted above, to facilitate a Midday Auction priced consistent with the LULD Price Bands, the Exchange would be re-pricing both market and limit interest that is eligible to participate in the Midday Auction.

Because the Midday Auction is intended to be conducted the same as a reopening pursuant to Rule 123D (except as provided for in the two exceptions), the Exchange proposes to specify that orders would participate in the Midday Auction in the same manner that such orders would participate in openings or reopenings. The Exchange further proposes to specify that

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20 See Proposed Rule 123(c)(1).

21 See Proposed Rule 124(c)(2). The Exchange will be submitting separately a request for exemptive relief pursuant to Rule 611(d) of Regulation NMS that the Midday Auction be exempted from the requirements of Rule 611 of Regulation NMS, 17 CFR 242.600 et seq., because it operates, in substance, in the same way as a single-priced reopening transaction, which is an existing exception to the Order Protection Rule under Rule 611(b)(3).

22 See LULD Plan, supra note 8 at section VI(A)(1).

orders that are not eligible to participate in openings or reopenings pursuant to Exchange rule would not participate in the Midday Auction.[23]

Generally, the Exchange expects that DMMs would facilitate the Midday Auction electronically as close to the end of the Midday Auction Pause as feasible. However, if there is a significant imbalance or Floor broker crowd interest, the DMM would have the ability, as is the case today with all Exchange auctions, to manually conduct the Midday Auction to provide greater opportunity for equilibrium in any imbalance of orders. The Exchange proposes that if there is a significant imbalance in a Midday Auction Stock at the end of the Midday Auction Pause, with the approval of a Floor Governor or two Floor Officials, the Midday Auction Pause may be converted to an order imbalance halt.[24] In practice, this would provide the DMMs with flexibility to conduct a Midday Auction manually, but convert to an order imbalance halt if attracting offsetting interest would delay the Midday Auction. The benefit of converting to an order imbalance halt is that it would signal to the public that there is an order imbalance in a symbol, and provide the DMM with the ability to reopen the security pursuant to Rule 123D, without either of the above-described exceptions applicable to the Midday Auction.[25] In such case, the reopening would not be subject to the LULD Price Bands, and as proposed, orders re-priced pursuant to proposed Rule 124(b)(6) would be re-filed according to the original order

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23 See Proposed Rule 124(d).

24 See Proposed Rule 123(e). The Exchange notes that the current procedure for invoking a trading halt requires the approval of a Floor Governor or two Floor Officials. See Rule 123D(1) ("Once trading has commenced, trading may only be halted with the approval of a Floor Governor or two Floor Officials.")

25 The Exchange notes that when it halts a security for an order imbalance halt, which is a non-regulatory halt, the Exchange disseminates via the public data feeds that a symbol is subject to an order imbalance halt. See Consolidated Tape System CTS Output Multicast Interface Specification, at 95, 141, and 142, available at https://www.ctaplan.com/.

instructions and the security would be reopened pursuant to the procedures set forth in Rule 123D.[26]

Because of the technology changes associated with the proposed rule change, the Exchange proposes to announce the implementation date via Trader Update.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[27] in general, and furthers the objectives of section 6(b)(5) of the Act,[28] in particular, because 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed Midday Auction would perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because it would provide opportunity for price discovery and an intra-day execution for thinly-traded securities. More specifically, the Exchange believes that the proposed Midday Auction would provide investors with an intra-day price discovery mechanism during which potential trading volumes may be consolidated, thereby providing more certainty

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26 See Proposed Rule 124(e).

27 15 U.S.C. 78f(b).

28 15 U.S.C. 78f(b)(5).

of an execution opportunity during the trading day. In addition, because volume would be consolidated for the auction, investors with large blocks of stock could use the Midday Auction to execute those orders without impacting the price of the stock, which could occur if a large order were entered during continuous, intra-day trading. As proposed, the Exchange would make the Midday Auction available for Exchange-listed securities with a CADV of 1,000,000 shares or less, which represent approximately 16% of all NYSE-listed securities by consolidated volume, and that have been designated by the Exchange. The Exchange believes that making the Midday Auction available for symbols with a CADV of 1,000,000 shares or less is appropriate because symbols with this volume of trading are more likely to have wider spreads and less certainty of an intraday execution.

The Exchange further believes that designating the list of Midday Auction Stocks from within this category, and updating the list at least quarterly, would perfect the mechanism of a free and open market and a national market system because it would provide the Exchange with the ability to add or remove stocks from eligibility for the Midday Auction depending on the trading characteristics of an individual security. For example, a security with a CADV of 1,000,000 shares or less may have tight spreads and regular intraday trading opportunities; such a symbol would be less likely to benefit from a Midday Auction.

Similarly, the Exchange believes that providing the Exchange with discretion of when the Midday Auction Pause period would begin, provided it is between 11 a.m. ET and 2 p.m. ET, would perfect the mechanism of a free and open market and a national market system because it would enable the Exchange to change when the Midday Auction occurs in order to respond to market events. The Exchange believes that the proposed window for the Midday Auction is designed to be a period after the opening and before the closing when additional price discovery

for a Midday Auction Stock would be warranted. The Exchange notes that as proposed, regardless of the time, it would conduct only one Midday Auction per day in Midday Auction Stocks. The Exchange further notes that it would provide advance notice of the timing of the Midday Auction by Trader Update.

The Exchange believes that the proposed Midday Auction Pause would perfect the mechanism of a free and open market and national market system because it is designed to pause intra-day trading only on the Exchange to provide investors with time to enter interest for the Midday Auction, including MOO and LOO Orders. The Exchange notes that the proposed five-minute period for the Midday Auction Pause is based on the time frame for a LULD Plan pause. Because the Midday Auction is intended for similar purpose to a LULD Pause, i.e., to consolidate volume for price discovery purposes, the Exchange believes that the proposed five-minute period is appropriate and consistent with the Act. The Exchange notes that the proposed Midday Auction Pause would pause trading only on the Exchange and therefore investors would continue to have intra-day executions opportunities on other markets during the Midday Auction Pause.

The Exchange further believes that the proposed Midday Auction, which would be conducted in the same manner as set forth in the reopening procedures in Rule 123D, would perfect the mechanism of a free and open market and national market system because the Exchange would use an established auction process for the Midday Auction. Specifically, as proposed, the DMM assigned to a Midday Auction Stock would be responsible for facilitating the Midday Auction in a manner similar to how an opening or reopening would be conducted. This includes the DMM supplying liquidity as needed, as provided for in Rule 104(a)(2), and conducting the Midday Auction either manually or electronically, as provided for in Rule

123D(1). In addition, the Exchange would process orders during the Midday Auction in a manner similar to how orders are handled during a trading halt or LULD trading pause, including accepting MOO and LOO Orders to participate in the Midday Auction. The Exchange would also publish Order Imbalance Information during a Midday Auction Pause, thereby providing investors and the public with information about the pricing of the Midday Auction. The Exchange would also follow established procedures for publishing indications during a Midday Auction Pause that are based on how indications may be published during LULD trading pauses pursuant to Rule 80C(b)(2)(A). The Exchange believes that replicating established reopening processes for the Midday Auction would provide transparency and certainty to investors and the public who are already familiar with the Exchange's auction process for openings and reopenings.

The Exchange also believes that the proposal to price a Midday Auction consistent with the LULD price bands in effect at the time of the auction would perfect the mechanism of a free and open market and national market system because it would assure that the Midday Auction would not be priced outside of the established parameters for trading in that security at a given time. In particular, because trading in a Midday Auction Stock would be paused only on the Exchange, the Exchange believes it is appropriate to maintain deference to the prices that are occurring on other markets and price the Midday Auction consistent with the Price Bands.

The Exchange notes that if there is a significant imbalance in a Midday Auction Stock, the Midday Auction Pause could be converted to an order imbalance halt with the approval of a Floor Governor or two Floor Officials, which is the existing process for invoking a halt on the Exchange pursuant to Rule 123D. The Exchange believes that invoking an order imbalance halt, which would similarly halt trading on the Exchange only, would be appropriate because it would

provide notice to the public of an order imbalance in a stock and an opportunity for the price discovery process to continue consistent with Rule 123D, including the requirement for publishing indications. The Exchange believes that for a significant order imbalance, using the existing reopening process rather than a Midday Auction would perfect the mechanism of a free and open market and national market system and protect investors and the public interest because it would provide an opportunity for greater price discovery that would not be restricted by LULD Price Bands.

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 Exchange Act. The proposed Midday Auction would only pause trading on the Exchange and would not prevent market participants from directing order flow in Midday Auction Stocks to other markets and trading venues during the auction. The proposed Midday Auction would also be available to all market participants on the Exchange each day at the same time. Further, the Exchange believes that by providing an additional opportunity to execute orders in thinly-traded securities hours before the close of trading, the proposed rule change would further the price discovery process and enhance competition.

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

Within 45 days of the date of publication of this notice in the Federal Register, or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer

period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-2015-06 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2015-06. 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 (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 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 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. 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-2015-06 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.[29]

Brent J. Fields,
Secretary.

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[29] 17 CFR 200.30–3(a)(12).