

Third, regarding the execution of XPress Orders,¹² the Exchange proposes to amend Supplementary Material .40 of NYSE rule 13 ("Definitions of Orders") to provide that a liquidity bid or offer, regardless of size, will be XPress eligible if it has been published for at least 15 seconds. The Exchange expects that the size of Liquidity Quote bids and offers will be of a size that represents significant interest for a stock and will, in many stocks, be greater than 15,000 shares. However, where the share size of the liquidity bid or offer does not equal 15,000 shares, the Exchange believes that institutional interest in trading at the liquidity price may still be present, and that utilizing the XPress trading protocol will be an appropriate way for this interest to access such displayed greater liquidity. Liquidity Quote will still be required to be at the same liquidity price for at least 15 seconds to be eligible as a quotation against which an XPress order may be executed.

Further, the Exchange proposes to amend NYSE rule 60 to provide that an XPress order may be priced at either the best bid or offer price if XPress eligible (*i.e.*, for at least 15,000 shares for at least 15 seconds), or priced at the liquidity bid or offer price, if, again, XPress eligible. An XPress order to buy priced at the liquidity offer price will be either executed at that price, or a price that will allow an XPress order to be filled without trading through orders on the book. The Exchange represents that specialists will seek price improvement for XPress orders in accordance with the Exchange's procedures for the execution of XPress orders.¹³

B. Automated Dissemination of Quotations

In conjunction with the dissemination of dual quotations, the Exchange proposes to provide for the automated dissemination of the NYSE best bid and offer as SuperDOT limit orders are received systemically. This is a change to the Exchange's current practice whereby specialists are responsible for disseminating bids and offers. Proposed NYSE rule 60 would provide that the Exchange will "autoquote" the NYSE's

highest bid or lowest offer whenever a limit order is transmitted to the specialist's book at a price higher (lower) than the previously disseminated highest (lowest) bid (offer). When the NYSE's highest bid or lowest offer has been traded with in its entirety, the Exchange would then autoquote a new bid or offer reflecting the total size of orders on the specialist's book at the next highest (in the case of a bid) or lowest (in the case of an offer) price.¹⁴

In any instance where the specialist disseminates a proprietary bid (offer) of 100 shares or more on one side of the market, the bid or offer on that side of the market shall not be autoquoted. In such an instance, any better-priced limit orders received by the specialist shall be manually displayed, unless they are executed at a better price in a transaction being put together in the auction market at the time that the order is received.

In conjunction with autoquoting of bids and offers, NYSE Rule 1000 ("Automatic Execution of Limit Orders Against Orders Reflected in NYSE Published Quotation") would be amended to provide that a NYSE Direct+® ("NYSE Direct+") order¹⁵ equal to or greater than the size of the published bid/offer will exhaust the entire bid/offer, rather than decrease it to 100 shares as is the case today.¹⁶ The purpose of this change is to facilitate the autoquoting of the next highest bid/lowest offer. The unfilled balance of the NYSE Direct+ order would be displayed in the auction market as a SuperDOT limit order.

The Exchange believes that the proposed automated dissemination of the best bid and offer also suggests a need to amend Supplementary Material .30 to NYSE rule 123A ("Miscellaneous Requirements") to enable specialists to trade percentage orders against incoming SuperDOT orders.¹⁷ With the

automating of SuperDOT bids and offers, specialists would not be permitted to interact with such orders on behalf of percentage orders as they do today because they cannot "reach across the market" to effect smaller size trades. Thus, the Exchange is proposing to amend NYSE rule 123A.30 to permit specialists to "reach across the market" with percentage orders to effect trades of less than 10,000 shares or a quantity of stock having a market value of less than \$500,000.¹⁸

C. NYSE Liquidity Quote Service Agreements

Liquidity Quote would be part of the NYSE OpenBook data feed service.¹⁹ Recipients of the Liquidity Quote data would be subject to the terms of the existing NYSE "vendor" agreement, and end-users that receive the Liquidity Quote data from vendors or broker-dealers would continue to be subject to the existing "subscriber" agreement. The vendor agreement generally authorizes a data feed recipient to provide a display of the Liquidity Quote data for retransmission, or to distribute the Liquidity Quote data internally.²⁰ The vendor agreement prohibits data feed recipients from enhancing, integrating, or consolidating its market data with data from other market centers for retransmission.²¹ In addition, NYSE has imposed a "window requirement" as part of its service agreements, which requires that the Liquidity Quote data be displayed in a separate window, or with a line drawn between its data and other markets' data.²²

trade against such bid or offer. The specialist may not "reach across the market" to trade a percentage order against a bid or offer in a "destabilizing" transaction (bid above the last sale or sell below the last sale) unless the trade is for at least 10,000 shares or a quantity of stock with a market value of at least \$500,000.

¹⁸ According to the Exchange, specialists could not "reach across the market" more than \$0.10 from the last sale to effect these smaller size trades if the trade would be destabilizing. This \$0.10 limitation is the same as the current limitation on making destabilizing bids or offers against which incoming orders may trade.

¹⁹ For further details on the NYSE OpenBook service, see Securities Exchange Act Release No. 45138 (December 7, 2001), 66 FR 66491 (December 14, 2001) (SR-NYSE-2001-42).

²⁰ For further details on the vendor and subscriber agreements, see *id.* ("Order Approving a Proposed Rule Change by NYSE Establishing the Fees for NYSE OpenBook").

²¹ See NYSE Letter, at 3 (stating in FN2, "[o]ur vendor contacts provide: '[Vendor] shall not cause * * * the displays of [NYSE Depth] Information that [Vendor] provides to [end-users] to be integrated with other market information that any source other than NYSE makes available [For example, Vendor] shall not permit the displays * * * to be consolidated with limit orders [of] any other market * * *').

²² *Id.*, at FN2 ("* * * Vendor [may display] one or more other entities' limit orders side-by-side

¹² See *supra* note .

¹³ The Exchange proposes that if a specialist receives two XPress orders within a nearly simultaneous time frame, one priced at the best bid (offer), and the other priced at the liquidity bid (offer), both orders will be executed in accordance with the Exchange's procedures for the execution of XPress orders. Both orders will also be exposed to the trading crowd for price improvement. Those portions of the orders that do not receive price improvement will be executed against the XPress bids (offers), which may not then be traded against by other members pursuant to the Exchange's procedures for the execution of XPress orders.

¹⁴ NYSE Rule 60 would also be amended to provide that autoquoting will include: (i) adding size to the best and liquidity bids/offers as additional limit orders are received; and (ii) reducing the size of the best and liquidity bids/offers as limit orders on the book are executed or cancelled. However, the Exchange notes that *de minimis* increases or decreases in the size of limit orders on the book, as determined by the specialist, will not result in automated augmenting or decrementing of the size of the liquidity bid or offer where such bid or offer continues to reflect the actual size of limit orders on the book.

¹⁵ NYSE Direct+ provides for the automatic execution of limit orders of 1099 shares or less against the Exchange's disseminated bid or offer. See NYSE Rules 1000-1005.

¹⁶ See Amendment No. 2, *supra* note 5.

¹⁷ Currently, specialists may bid or offer (within \$0.10 of the last sale) on behalf of a percentage order, and an incoming SuperDOT order may then