

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55120; File No. SR-NYSE-2006-110)

January 18, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change Relating to Its Linkage Order Fee

On December 6, 2006, the New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposal to retroactively apply an increase in the fee (“Linkage Order Fee”) it charges its member organizations in connection with orders in equities executed in another market pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage (“Linkage Plan”). The proposal was published for comment in the Federal Register on December 15, 2006.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

The Exchange proposes to retroactively apply, as of December 1, 2006, an increase from \$0.00025 to \$0.000275 per share in the Linkage Order Fee it charges its member organizations in connection with orders in equities executed in another market pursuant to the Linkage Plan. This increase in the Linkage Order Fee became effective on Monday, December 4, 2006, pursuant to a previous rule change submitted by the Exchange.⁴ The Linkage Order Fee was increased to \$0.000275 to set it at the same level as the regular equity transaction fee, which was increased to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 54912 (December 11, 2006), 71 FR 75601.

⁴ See Securities Exchange Act Release No. 54911 (December 11, 2006), 71 FR 75603 (December 15, 2006) (notice of filing and immediate effectiveness of SR-NYSE-2006-108).

that level as of December 1, 2006.⁵ The current filing simply applies the revised Linkage Order Fee to transactions that occurred on December 1, 2006, which is the only business day with respect to which the Linkage Order Fee and the regular equity transaction fee were not harmonized by the previous filing. The Exchange wishes to harmonize the Linkage Order Fee payable on transactions executed through the Linkage on December 1, 2006, with the regular equity transaction fee payable on that day because the difference in the amount payable by customers would be immaterial, but the Exchange would incur significant costs in identifying those transactions which should be charged the lower fee rate.⁶

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 exchange⁷ and, in particular, the requirements of Section 6(b) of the Act⁸ and the rules and regulations thereunder. Specifically, the Commission finds that the proposal to retroactively apply the increase in the Linkage Order Fee is consistent with Section 6(b)(4) of the Act,⁹ which requires the equitable allocation of reasonable dues, fees, and other charges among Exchange members and other persons using Exchange facilities.

⁵ See Exchange Act Release No. 54856 (December 1, 2006); 71 FR 71215 (December 8, 2006) (SR-NYSE-2006-106).

⁶ The Exchange estimates that the difference in the amount of Linkage Order Fees payable under the old rate as compared to the proposed revised rate by customers for trades executed on December 1, 2006, would be less than \$2,000.00. Telephone conversation between John Carey, Assistant General Counsel, NYSE, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, December 7, 2006.

⁷ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (File No. SR-NYSE-2006-110) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹⁰ Id.

¹¹ 17 CFR 200.30-3(a)(12).