

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55439; File No. SR-NYSE-2007-16)

March 9, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Eliminate the Individual Investor Express Delivery Service

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 14, 2007, the New York Stock Exchange LLC (“Exchange” or “NYSE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comment 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 is proposing to amend Exchange Rule 123B, “Exchange Automated Order Routing Systems,” by eliminating the functionality of the Individual Investor Express Delivery Service<sup>®</sup> (“IIEDS”). The text of the proposed rule change is available on the Exchange’s Web site (<http://www.nyse.com>), at the Exchange’s Office of the Secretary, 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 NYSE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

IIEDS is an order processing service that, in certain situations, provides priority delivery to the specialist's post through SuperDOT<sup>®</sup> for simple round-lot market orders and market GTC ("good 'til canceled") orders that are for an amount up to 2,099 shares and are for the account of an individual investor<sup>3</sup> as identified by the member organization or its customer, if enabled by the member organization, entering the order. Market orders to buy minus, sell plus, sell short, buy or sell stop, as well as limit orders are not eligible for IIEDS. In addition, a limit order that is cancelled and replaced with a market order when entered as a single cancel/replacement order is not eligible for IIEDS. IIEDS was adopted in the wake of the 1987 market correction to enable retail-sized orders to avoid being negatively impacted by a sudden and significant influx of non-retail orders such as what generally happens when automated program trading benchmarks are reached.

IIEDS provides eligible orders with priority systematized delivery, ahead of other orders, to the specialist's post only when a queue of orders, which is caused by extraordinarily high levels of message traffic, exists in the Common Message Switch ("CMS").<sup>4</sup> Where no queue

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<sup>3</sup> The term "individual investor" is defined to parallel the concept of "natural person" contained in Section 11(a)(1)(E) of the Act, 15 U.S.C. 78k(a)(1)(E), including the interpretations made by the Commission pursuant to that section.

<sup>4</sup> CMS is the central communications hub between member organizations and the NYSE. CMS receives, validates, and passes orders and administrative inquiries from member organizations to other NYSE systems, including SuperDOT. In addition, CMS sends execution reports, responses to administrative inquiries, and status messages back to member organizations.

exists in CMS, IIEDS-eligible orders received by the Exchange are routed to the specialist's post through SuperDOT, along with all other orders received by CMS, in the normal sequence in which they are received. Once an IIEDS order reaches the specialist's post, whether it received priority delivery or not in arriving there, all normal Exchange market procedures, including rules related to priority and parity, are applied in executing the order.

The NYSE is proposing to eliminate the functionality of IIEDS because it is no longer necessary due to systems capacity upgrades made to CMS that the Exchange has implemented over time. In addition, IIEDS is infrequently used, and orders eligible for the service represent a very small percentage of order flow received on the Exchange. Finally, the service is no longer needed in light of the increased speed and efficiency of order executions that will occur as a result of the NYSE HYBRID MARKET<sup>SM</sup> initiative.<sup>5</sup>

Due to capacity increases made to CMS on an annual basis over the years, the Exchange rarely experiences order queues, a condition precedent for an IIEDS order to be sent to the specialist's post ahead of another order. Historically, the Exchange has maintained "message per second" system capacity for CMS equaling approximately two times the highest Floor-wide five-minute average message per second rate experienced during the year. Thus, for example, during 2005, the Exchange experienced a peak five-minute average message per second rate of 6,043, while the actual CMS system capacity for year end 2005 was increased to handle approximately 13,000 messages per second. Year-to-year evaluation of actual message per second rate coupled with attendant proportional increases in CMS capacity has enabled the Exchange to experience a statistically insignificant number of order queues, thereby obviating the need for IIEDS.

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<sup>5</sup> The Hybrid Market initiative was proposed in SR-NYSE-2004-05 and Amendments No. 1, 2, 3, 5, 6, 7, and 8 thereto, approved on March 22, 2006. See Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006).

The Exchange is also proposing to eliminate IIEDS because the service is seldom used by its customers; less than two-tenths of 1% (approximately .18%) of order flow received by the Exchange is eligible for IIEDS processing. The average number of IIEDS-eligible orders is approximately 64,000 orders per day, out of approximately 35.36 million orders received by the Exchange per day.

In addition, the wider availability and increased speed of NYSE Direct+<sup>®</sup> (“Direct+”), the Exchange’s electronic execution facility, which is being implemented in connection with the Hybrid Market, should prove a beneficial substitute to those Exchange customers seeking processing for individual investor orders similar to that obtained through IIEDS. The enhancements to Direct+ being introduced involve immediate execution at the best bid and best offer without restrictions on order size or frequency to the extent of the displayed volume associated with the bid and offer. The speed and continued operation of electronic executions through Direct+ will also eliminate the queues that developed during the slower, more manual execution process, further obviating the need for IIEDS.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5)<sup>6</sup> of the Act that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest.

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<sup>6</sup> 15 U.S.C. 78f(b)(5).

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 Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup> Because the Exchange has designated the foregoing proposed rule change as one that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder. At any time within 60 days of the filing of the 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:

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

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](mailto:rule-comments@sec.gov). Please include File No. SR-NYSE-2007-16 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-NYSE-2007-16. 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 available for inspection and copying in the Commission's Public Reference Room. 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

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<sup>8</sup> 17 CFR 240.19b-4(f)(6).

you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2007-16 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).