IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[31] that the proposed rule change (SR–ISE–2007–74), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis, for a pilot period, which will end on March 27, 2009.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[32]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–19500 Filed 10–2–07; 8:45 am]

BILLING CODE 8011–01–P

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56551; File No. SR–NYSE–2007–82]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Rule 124 (Odd-Lot Orders)

September 27, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 6, 2007, the 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 substantially prepared by the NYSE. The Exchange has filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(5) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 amend Exchange Rule 124 (Odd-Lot Orders) to modify the way in which Exchange systems price and execute certain types of odd-lot orders. 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, NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these 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 aspects of such statements.

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

1. Purpose

This filing is submitted to amend Exchange Rule 124 to change the way in which certain odd-lot orders[5] are priced and executed by Exchange systems. The Exchange proposes that buy and sell odd-lot market orders and odd-lot limit orders marketable upon receipt by Exchange systems (collectively referred to herein as ''marketable odd-lot orders'') be paired and executed at the price of the next round-lot transaction, with any imbalance of buy or sell marketable odd-lot orders executed at the price of the national best bid or offer (''NBBO'')[6] pursuant to specific conditions described herein; and under certain circumstances, that non-marketable odd-lot limit orders be executed at their limit price upon becoming marketable.

a. Current Execution of Odd-Lot Orders

Currently, odd-lot orders do not enter the Exchange's auction market but are executed systemically by Exchange systems designated solely for odd-lot orders (the ''odd-lot System'').[7] The odd-lot System executes all odd-lot orders against the specialist as the contra party. Odd-lot market orders are executed in time priority at the price of the next round-lot transaction.[8] Buy and sell odd-lot market orders are, in essence, netted against one another and executed; however, since the specialist is buying the same amount that he or she is selling, there is no economic consequence to the specialist in this type of pairing-off of orders. There is a volume limitation inherent in the execution of odd-lot market orders in that any imbalance of buy or sell odd-lot market orders are executed against the specialist, but only up to the size of the round-lot transaction.[9] Any odd-lot market orders that do not receive an execution because of the volume limitation are executed, in order of time priority, at the price of the next round-lot transaction.[10] An odd-lot market order that is not executed within 30 seconds is executed at the price of the national best bid or offer (''NBBO'').[11] There is no volume limitation for odd-lot market orders that receive an execution after 30 seconds have elapsed. Odd-lot market orders to sell short are executed at the price of the next round-lot transaction that follows the entry of the order that is higher than the last different last round-lot price (a ''plus tick'' or a ''zero plus tick''). There is no volume limitation for odd-lot market orders to sell short.

Odd-lot limit orders to buy or sell are executed at the price of the first round-lot transaction that is at or higher/lower than the limit price of the odd-lot limit order, subject to the volume limitation of the round-lot transaction.[12] Odd-lot limit orders are aggregated with odd-lot market orders for purposes of the volume limitation. Odd-lot limit orders eligible for execution are combined with odd-lot market orders in order to determine time priority. Odd-lot limit orders are similarly aggregated with odd-lot market orders for purposes of the netting provision. As with odd-lot market orders, odd-lot limit orders that would otherwise receive a partial execution will be executed in full. There is no 30-second default execution

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(5).

[5] Odd-lot orders are orders for a size less than the standard unit (round-lot) of trading, which is 100 shares for most stocks, although some stocks trade in 10 share units.

[6] The National best bid or offer is defined by Rule 600 (b)(42) of Regulation NMS under the Act (''Regulation NMS''), 17 CFR 242.600(b)(42).

[7] *See* Exchange Rule 124(a).

[8] *See* Exchange Rule 124(b)(i).

[9] *See* Exchange Rule 124(b)(i). *See also* Exchange Rule 124(b)(ii), which provides that any odd-lot market order that would otherwise receive a partial execution will be executed in full.

[10] *See* Exchange Rule 124(b)(iii).

[11] Exchange Rule 124(b)(iv) provides that any odd-lot market order that is not executed within 30 seconds shall be executed at the price of the ''adjusted ITS offer'' or ''adjusted ITS bid'', as those terms are defined in Exchange Rule 124.60, rather than the NBBO. However, with the elimination of the Intermarket Trading System (''ITS'') Plan on March 5, 2007, (*see* Securities Exchange Act Release No. 55397 (March 5, 2007), 72 FR 11066 (March 12, 2007) (File No. 4–208)), the ability to price such odd-lot orders in terms of the ''adjusted ITS'' bid or offer no longer existed. The Exchange states that, as of March 5, 2007, all odd-lot market orders that remain unexecuted after 30 seconds have been executed at the price of the NBBO, which is in fact the functional equivalent of the adjusted bid or offer. Through this filing, the Exchange, among other things, seeks to remove the concept of ''adjusted ITS bid'' and ''adjusted ITS offer''.

[12] *See* Exchange Rule 124(c).

provision for odd-lot limit orders.[13] Odd-lot limit orders to sell short are executed at the price of the first round-lot transaction which is a plus or a zero plus tick.

The odd-lot portion of partial round-lot (''PRL'') orders [14] are executed at the same price as the round lot portion, and are processed through the odd-lot System with the specialist as the contra party. The PRL order is automatically executed in accordance with Exchange Rules 1000–1004. Where there is more than one transaction required to effect the complete execution of the round-lot portion of a PRL order, the odd-lot portion is executed at the price of the first transaction in which a round-lot portion of the PRL order is executed.

b. Representing Odd-Lot Orders in the Round-Lot Market

The Exchange has always believed that the most appropriate way to execute odd-lot orders is to represent them in the round-lot auction market where they would interact with all other market interest and be priced in accordance with supply and demand dynamics. However, such representation required technical changes to a number of Exchange systems and was not a readily viable option.[15] In view of this, the pricing methodology of Exchange Rule 124 was amended in 2004 (as is reflected in its current operation today, *i.e.*, using the next round-lot sale price) as an interim measure to accommodate the pricing and execution of odd-lot orders in a manner that was based on the prevailing market.[16]

The Exchange has continued its move towards the goal of integrating odd-lots into the round-lot market. The Exchange states that this proposal should be seen as part of the Exchange's efforts to prepare its membership for subsequent changes in market structure. The Exchange proposes to amend the pricing and execution methodology of Exchange Rule 124 to more precisely emulate executions in the round-lot market.

c. Proposed Change to Odd-Lot Trading Platform

Through this filing, the Exchange seeks to modify the execution of odd-lot orders such that: (i) Marketable odd-lot orders will begin automatic execution only following the first round-lot transaction in the subject security; (ii) marketable odd-lot buy and sell orders will be netted against one another and executed, in time priority of receipt, at the price of the next round-lot transaction on the Exchange; (iii) any imbalance of marketable odd-lot buy and sell orders incapable of being netted will be executed at the price of the NBBO; (iv) odd-lot limit orders that are not marketable upon receipt will be executed, upon becoming marketable, at their limit price subject to certain conditions; and (v) in certain instances as described below, odd-lot executions will be limited in size to the lesser of either the number of shares of the last round-lot transaction or the number of shares of the national best bid (in the case of an odd-lot order to sell) or the national best offer (in the case of an odd-lot order to buy). Moreover, the odd-lot portion of a PRL order will be executed only if the entire round-lot portion of the PRL order has completed execution.[17] The odd-lot portion of a PRL will be executed with and at the same price of the last round lot transaction that completes the round lot portion of the PRL. With respect to all the proposed modifications above, the specialist remains the contra side to all odd-lot executions. The pricing and execution of odd-lot orders are set forth in Exchange Rule 124.[18]

Section (a) of the rule remains unchanged. A new section (b) will be created to define the term ''marketable'' as it pertains to odd-lot limit orders. For the purposes of the rule, the term ''marketable'' when applied to an odd-lot limit order to buy shall mean at a price that is at or higher than the current Exchange best offer and when applied to an odd-lot limit order to sell shall mean at a price that is at or lower than the current Exchange best bid. The original section (b) of the rule, which governs the pricing and execution of odd-lot market orders, will be amended to become section (c).

Marketable Odd-Lot Orders—Proposed Section (c)

Proposed section (c) of the rule will govern the execution of marketable odd-lot orders, and provides that marketable odd-lot orders will begin automatic execution only after the first round-lot transaction on the Exchange in the subject security. If there is no initial round-lot transaction in the subject security, then no odd-lot orders will be executed in the trading session.[19] After the initial round-lot transaction in the subject security, marketable odd-lot orders will be executed in time priority upon receipt by the odd-lot System at the price of the next round-lot transaction in the subject security.

Subsection (b)(i) of the original rule text will be amended to become subsection (c)(i). Proposed subsection (c)(i) retains the netting provision of the original rule text, and provides that an equal number of shares of marketable buy and sell odd-lot orders will be paired-off against one another and executed at the price of the applicable round-lot transaction with the specialist as the contra side to the executions.

A new subsection (c)(ii) will be created to provide that marketable odd-lot orders that do not receive an execution pursuant to proposed subsection (c)(i) will be executed in time priority of receipt at the price of the NBBO with the specialist as the contra side to the executions. Subsection (b)(ii) of the original rule text will be amended to become subsection (c)(iii). Proposed subsection (c)(iii) modifies the volume limitation of the original rule text and provides that the number of shares of marketable odd-lot orders executed at the price of the NBBO [20] will not exceed the lesser of either (1) the number of shares in the last round-lot transaction, or (2) the number of shares available at the national bid (in the case of an odd-lot order to sell) or the national best offer (in the case of an odd-lot order to buy).[21] Proposed subsection (c)(iii) also provides that a marketable odd-lot order that would receive a partial execution as a consequence of the volume limitation will continue to be executed in full.

Subsection (b)(iii) of the original rule text, which explains the execution of odd-lot market orders that do not receive an execution because of the volume limitation, will be amended to

[13] *See* Exchange Rule 124(c), which states that execution of an odd-lot limit order is subject to the principles of paragraphs (b)(i), (ii) and (iii) of the rule.

[14] *See* Exchange Rule 124.50.

[15] *See* Securities Exchange Act No. 49536 (April 7, 2004), 69 FR 19890, 19893 (April 14, 2004) (SR–NYSE–2003–37).

[16] *See* Securities Exchange Act No. 49745 (May 20, 2004), 69 FR 29998 (May 26, 2004) (SR–NYSE–2003–37).

[17] Telephone conversation between Gillian Rowe, Principal Rule Counsel, NYSE, and Jennifer Dodd, Special Counsel, Division of Market Regulation, Commission, on September 24, 2007.

[18] The Exchange has provided examples of the operation of the most relevant aspects of this proposed rule change. These examples are available on the Commission's Web site at *http://www.sec.gov/rules/sro/nyse.shtml*.

[19] It should be noted that execution of odd-lot orders after a trading halt will be governed by proposed subsection (c)(vii) and executions on the close will be governed by proposed subsection (c)(viii), as described more fully below.

[20] Non-marketable odd-lot limit orders that become marketable and do not receive an execution pursuant to subsection (c)(i) will be executed pursuant to (c)(ii) and (c)(iii) at their limit price.

[21] In determining the size of the volume limitation described in proposed subsection (c)(iii), the Exchange will only consider the size of displayed ''protected bids'' and ''protected offers'' as defined by Rule 600(b)(57) of Regulation NMS, 17 CFR 242.600(b)(57).

become subsection (c)(iv). The purpose of this subsection is to make clear that the procedure of proposed subsection (c)(i), (ii) and (iii) will repeat itself after each round-lot transaction on the Exchange. Since the same principle also applies to the operation of the 30-second timing provision described in proposed subsection (c)(v), the Exchange has further amended this subsection to include a reference to subsection (c)(v). Accordingly, proposed subsection (c)(iv) provides that marketable odd-lot orders that do not receive an execution pursuant to subsections (c)(i), (ii), (iii) and (v), will be executed, in time priority of receipt, following subsequent round-lot transactions on the Exchange subject to the same procedures of proposed subsections (c)(i), (ii), (iii) and (v).

Subsection (b)(iv) of the original rule text, which governs the handling of odd-lot market orders that do not receive an execution after the next round lot transaction within 30 seconds of receipt, will be amended to become subsection (c)(v). Proposed subsection (c)(v) provides that marketable odd-lot orders that do not receive an execution within 30 seconds of receipt by the System will be executed, after 30 seconds, in time priority of receipt, at the price of the national best bid (in the case of an order to sell) or at the price of the national best offer (in the case of an order to buy) at the time of the execution, subject to the volume restrictions in subsection (c)(iii). The practical effect of this timing provision is that, starting with the initial round-lot transaction on the Exchange in the subject security, the operation of proposed subsection (c)(v) will repeat itself every 30 seconds, providing for the execution of marketable odd-lots at the price of the NBBO and the execution of non-marketable odd-lot limit orders that have become marketable at their limit price.

Subsection (b)(v) of the original rule text, which explains the handling of odd-lot market orders entered prior to the opening in the subject security, will be changed to become subsection (c)(vi). Proposed subsection (c)(vi) of the rule states that marketable odd-lot orders entered before the opening transaction of the subject security will be executed at the price of the opening transaction. The volume limitation of proposed subsection (c)(iii) will not apply to the opening transaction in the subject security.

A new subsection enumerated as (c)(vii) will be added to the rule text. Proposed subsection (c)(vii) provides that, in the event the Exchange halts trading in a subject security, marketable odd-lot orders that have been received by Exchange systems during the trading halt shall be executed at the price of the re-opening transaction in the subject security. The volume limitation of proposed subsection (c)(iii) will not apply to any re-opening transaction in the subject security.

Subsection (b)(vi) of the original rule text, which explains the handling of odd-lot market orders entered prior to the close of trading, will be changed to become subsection (c)(viii). Proposed subsection (c)(viii) describes the pricing of marketable odd-lot orders at the close of trading; however, it also governs the pricing and execution of non-marketable odd-lot limit orders that become marketable but remain unexecuted prior to the close of trading. The pricing and execution of non-marketable odd-lot limit orders is specifically described in proposed section (d) of the rule text.[22]

Proposed subsection (c)(viii) states that Marketable Odd-lot Orders at the Close will be executed, in time priority of receipt, at the price of the closing transaction. This subsection includes a netting provision (*i.e.*, the execution of Marketable Odd-lot Orders at the Close will total an equal number of shares bought and sold). After such netting has occurred, any additional shares of Marketable Odd-lot Orders at the Close that remain will be executed subject to the volume limitation. The volume limitation of proposed subsection (c)(viii) is related specifically to the size of the closing transaction (*i.e.*, the execution of additional shares of Marketable Odd-lot Orders at the Close will not exceed the number of shares of the closing transaction). Proposed subsection (c)(viii) also provides that Marketable Odd-lot Orders at the Close that would otherwise receive a partial execution will be executed in full.

Subsection (b)(vii) of the original rule text, which governs the execution of odd-lot market orders to sell short, will be removed entirely as it is no longer necessary in light of the Commission's elimination of restrictions on the execution prices of short sales under the Act and prohibition of self-regulatory organizations from having a short sale price test.[23]

Non-Marketable Odd-Lot Limit Orders—Proposed Section (d)

Section (c) of the original rule text governs the operation of odd-lot limit orders. In this filing, the Exchange proposes to amend section (c) to become section (d). Proposed section (d) will govern the execution of odd-lot limit orders that are not marketable upon receipt by the odd-lot System. Pursuant to proposed section (d), non-marketable odd-lot limit orders shall, upon becoming marketable, be executed in time priority of receipt at the price of subsequent round-lot transactions on the Exchange in the subject security based on the conditions of proposed subsections (c)(i)–(v), except that when an odd-lot execution occurs pursuant to subsections (c)(ii) or (v), such odd-lot limit order will be executed *at its limit price.* Thus, a non-marketable odd-lot limit order that becomes marketable is eligible to be netted and executed at the price of the next round-lot transaction pursuant to proposed subsection (c)(i). If this odd-lot limit order does not receive an execution then, pursuant to proposed subsection (c)(ii), the odd-lot limit order is eligible to be executed, *at its limit price,* subject to the volume limitation of proposed subsection (c)(iii) and the provisions of subsections (c)(iv) and (c)(v).[24] With respect to proposed subsection (c)(v), which explains the operation of the 30-second timing provision, if this odd-lot limit order remains unexecuted within 30 seconds, it will receive an execution after 30 seconds *at its limit price,* in accordance with proposed section (d). As previously discussed in this filing, proposed section (d) includes a second exception which provides that non-marketable odd-lot limit orders that become marketable, but remain unexecuted prior to the close of trading will be executed at the price of the closing transaction, subject to the specific principals of proposed subsection (c)(viii), which governs the execution of odd-lots at the close of trading.

Odd-Lot Market Orders To Sell Short

Section (d) of the original rule text governs the operation of odd-lot limit orders to sell short and will be removed entirely pursuant to the Commission's elimination of the short sale price test.[25]

[22] In order to avoid confusion with respect to the description of how odd-lot orders are handled at the close, the Exchange collectively refers to marketable odd-lot orders and non-marketable odd-lot limit orders that have become marketable prior to the close of trading as ''Marketable Odd-lot Orders at the Close'' in its discussion below of the execution and pricing of odd-lot orders at the close of trading.

[23] *See* Securities Exchange Release No. 55970 (June 28, 2007), 72 FR 36348 (July 3, 2007).

[24] Proposed subsection (c)(iv) explains how a non-marketable odd-lot limit order that has become eligible for execution will be executed if it does not receive an execution because of the volume limitation.

[25] See footnote 23, supra.

Odd-Lot Stop Orders—Section (e)

Section (e) of Exchange Rule 124 delineates the operation of odd-lot market stop orders. While the lettering of this section remains the same, this filing proposes to amend section (e) by removing term ''market'' from the description of the order type. Section (e) of the rule will retain the use of a round-lot transaction as a trigger to convert each type of odd-lot stop order delineated in section (e) into a market order. A new subsection (e)(i) will be added to indicate that stop orders entered prior to the opening which would be elected by the opening transaction will be executed at the price of the opening transaction.

Subsections (e)(i) (Buy Stop Orders) and (e)(ii) (Sell Stop Orders, Marked ''Long'') of the original rule text will be amended to become subsection (e)(ii) and subsection (e)(iii), respectively. Pursuant to proposed subsections (e)(ii) and (e)(iii), once a buy stop order or a sell stop order is elected at its stop price and becomes a market order, it shall be filled, subject to all the provisions of proposed section (c) of the rule. In other words, once these orders are elected and become market orders they are priced and executed as any other marketable odd-lot order. References to the phrase ''marked 'Long''' will be removed from proposed subsection (e)(iii) since the Commission's elimination of the short sale price test renders such distinctions between stop orders marked ''short'' and ''long'' unnecessary.

Subsection (e)(iii) of the original rule text (Sell Stop Orders, Marked ''Short'') will be removed entirely pursuant to the Commission's elimination of the short sale price test.[26]

Other Types of Odd-Lot Orders—Proposed Section (g)

The lettering of section (h) (Other Types of Orders) of the rule will be amended in this filing to become section (g). Proposed subsection (g)(2) (Sell ''On Close'') will be amended to remove the phrase ''marked 'Long''' and the sentence ''[a]n order to sell ''On Close'' marked ''short'' shall not be accepted'' in order to conform with the elimination of the short sale price test by the Commission.[27] The phrase ''closing round-lot 'sell''' found in proposed subsection (g)(2) will be changed to the phrase ''closing round-lot 'sale''' in order to clarify the sentence.

PRL Orders

The execution of PRL orders is discussed in section .50 of the Supplementary Material of the rule. The Exchange proposes to amend section .50 of the Supplementary Material to reflect that, where more than one round lot transaction is required to effect the complete execution of the round-lot portion of a PRL, the odd lot portion will receive an execution *only* if the *entire* round lot portion of the order as received by the Exchange is executed. Moreover, the odd lot portion will then be executed at the same price as the *last* round lot transaction that is needed to complete the entire round-lot portion of the PRL.

Conforming Changes to Exchange Rule 124

The Exchange further proposes to make conforming changes to other sections of Exchange Rule 124. The lettering of the original section (g) (Limited Order, ''With or Without Sale'') of Exchange Rule 124 will be changed to section (f).[28] Section .60 of the Supplementary Material of the rule, which defines the term ''adjusted ITS bid/offer'' for the purposes of the rule, will be removed in its entirety to conform with the elimination of ITS.

Section .70 of the Supplementary Material of the original rule text will be re-numbered to become section .60. Proposed section .60, which explains the handling of odd-lot market orders in instances when quotation collection or dissemination facilities are inoperable or the market in a security is in a ''non-firm'' mode, will be amended to reflect that marketable odd-lot orders will resume execution once quotation information is available, at a price that is in accordance with all the provisions of proposed section (c) of the rule.

Finally, section .80 of the Supplementary Material of the original rule text will be re-numbered to become section .70. Proposed section .70 of the Supplementary Material will be amended to reflect that the execution of odd-lot orders will be suspended and resume trading pursuant to Exchange Rule 1000, paragraph (a), subsections (i)–(v). References to Exchange Rules 1002, 1003 and 1004 will be removed because they do not specifically pertain to the suspension of automatic executions.

The Exchange believes that the aforementioned proposed modifications to the odd-lot System will further the efficient execution of customer odd-lot orders while ensuring that the odd-lot orders are appropriately executed without an unfair time priority or price advantage over round-lot orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[29] in general, and with Section 6(b)(5) of the Act,[30] in particular, in that it is designed to promote just and equitable principles of trade, 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 Exchange also states that the proposed rule change also is designed to support the principles of Section 11A(a)(1)[31] in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not 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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change effects a change in an existing order-entry or trading system of a self-regulatory organization that does not (1) significantly affect the protection of investors of the public interest, (2) impose any significant burden on competition, and (3) have the effect of limiting the access to or availability of the system, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[32] and Rule 19b–4(f)(5) thereunder.[33]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the

[26] *Id.*

[27] *Id.*

[28] The original section (f) of Exchange Rule 124 (''Limit Stop Orders'') was removed in a previous rule filing and the lettering of the remainder of the rule was not revised at that time. *See* Securities Exchange Act Release No. 54820 (November 27, 2006), 71 FR 70824 (December 6, 2006) (SR–NYSE–2006–65).

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78k–1(a)(1).

[32] 15 U.S.C. 78s(b)(3)(A)(iii).

[33] 17 CFR 240.19b–4(f)(5).

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:

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–2007–82 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–2007–82. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the NYSE. 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–2007–82 and should be submitted on or before October 24, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–19488 Filed 10–2–07; 8:45 am]

BILLING CODE 8011–01–P

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56554; File No. SR–NYSE–2007–84]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Rule 104.10(6) (Dealings With Specialists)

September 27, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 2007, the 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 substantially prepared by the NYSE. The NYSE has designated the proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. 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 NYSE is proposing to extend for three (3) months the current pilot related to specialist stabilization requirements operating pursuant to NYSE Rule 104.10(6) (Specialist Transactions in Active Securities that Establish or Increase the Specialist's Position) ("Stabilization Pilot"),[5] that is scheduled to terminate on September 30, 2007. The text of the proposed rule change is available on NYSE's Web site at *http://www.nyse.com*, at NYSE's principal office, 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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the 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

The Exchange is proposing to extend the operation of the Stabilization Pilot pursuant to NYSE Rule 104.10(6) from September 30, 2007 to the earlier of December 31, 2007 or such time as the Commission approves a proposal by the Exchange to modify the current Pilot.[6]

a. Stabilization Pilot

On December 1, 2006, the Commission approved changes to NYSE Rules 104.10(5) and 104.10(6) governing specialist stabilization requirements.[7] The amendments to the Rule moved away from defining stabilization in terms of the last sale to focus on market conditions, the type of trade in question and the specialist's existing position. The amendments to NYSE Rule 104.10(6) govern Conditional Transactions (as defined below) in active securities ("Stabilization Pilot").[8]

Pursuant to the Stabilization Pilot, specialists can trade in active securities that establish or increase a position by reaching across the market to trade in

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 54860 (December 1, 2006), 71 FR 71221 (December 8, 2006) (SR–NYSE 2006–76).

[6] On September 14, 2007, the Exchange filed SR–NYSE–2007–83 in order to amend NYSE Rule 104.10 to (i) extend the duration of the Stabilization Pilot to March 31, 2008; (ii) remove the "active securities" limitation on Conditional Transactions that establish or increase a specialist's position and reach across the market to transact with the Exchange's published quote; and (iii) make certain conforming changes to NYSE Rule 104.10(5). *See* Securities Exchange Act Release No. 56455 (September 18, 2007), 72 FR 54499 (September 25, 2007) (SR–NYSE–2007–83).

[7] *See* Securities Exchange Act Release No. 54860, *supra* note 5.

[8] "Active" securities are: (a) securities comprising the S&P 500® Stock Index; (b) securities trading on the Exchange during the first five trading days following their initial public offering of such securities; and (c) securities that have been designated as "active" by a Floor Official subject to the provisions of the Rule.