

delayed operative delay.¹³ The Commission is exercising its authority to waive the five-day pre-filing notice requirement and believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the five-day pre-filing and 30-day operative periods will allow NYSE to adopt its uniform locking and crossing rule for NMS stocks similar to those adopted by other self-regulatory organizations and approved by the Commission.¹⁴ Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁵

At any time within sixty (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.¹⁶

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-2006-63 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-2006-63. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such 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-2006-63 and should be submitted on or before November 2, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54560; File No. SR-NYSE-2006-74]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 17

October 2, 2006.

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 28, 2006, 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 prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)

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 is proposing to add Rule 17T ("Exchange Designated Default Sponsoring Member") in order to establish an Exchange designated default sponsoring member broker/dealer for use when routing orders to the best bids and offers on other market centers in accordance with Exchange rules and SEC Regulation NMS.

The text of the proposed rule change is available on the NYSE's Web site (<http://www.nyse.com>), at the NYSE'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 Exchange 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Since 1978, the Exchange has routed orders (as commitments to trade) to other market centers and received them through the Intermarket Trading System ("ITS").⁵ Current anticipated changes to ITS, in addition to the adoption of Regulation National Market System ("Regulation NMS")⁶ to modernize and strengthen the regulatory structure of the National Market System, result in the Exchange's need to establish a

⁴ 17 CFR 240.19b-4(f)(6).

⁵ ITS facilitates trades between members located in different markets. Through ITS, a member in any participating market may send orders, as commitments to trade, at the bid or offer on any other participating market. The ITS Plan is administered by the participating markets, and is filed with and approved by the Securities and Exchange Commission in accordance with Section 11A of the Securities Exchange Act of 1934.

⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ See Securities Exchange Act Release No. 54391 (August 31, 2006), 71 FR 52836 (September 7, 2006) (File No. SR-NSX-2006-08).

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁶ See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

designated default sponsoring member broker/dealer in the destination market (hereinafter "default Sponsoring Member") in order to ensure that customer orders sent to the Exchange for execution are able to access better prices on other markets.

On July 17, 2006, the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the Nasdaq Stock Market LLC, the National Stock Exchange, the New York Stock Exchange LLC, and the NYSE Arca, Inc., executed and filed with the Commission a "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934" ("Linkage Plan").⁷ Pursuant to the Linkage Plan the Securities Industry Automation Corporation ("SIAC") will serve as the facilities manager for the data processing hardware, software and communications network (the "System") that links electronically the market participants. SIAC will further be responsible for the operation and maintenance of the System. The current ITS hardware will remain in use until June 30, 2007.

Under the Linkage Plan, member access is provided to each market participant through the clearing member on the order or through the mechanism of a default Sponsoring Member. Upon the effective date of the Linkage Plan (October 1, 2006), through the end of June 2007, the Exchange intends to provide member access to the other market center participants in the Linkage Plan by utilizing the identifier of the default Sponsoring Member.

Specifically, the System will automatically substitute the identifier of all member organizations' orders that are routed to other market centers with the identifier of the default Sponsoring Member prior to the routing of the orders to the appropriate destination market.

The Linkage Plan allows participants to charge for orders executed in their market through the Linkage Plan. The destination market may bill the default Sponsoring Member for executions in that market, pursuant to such market's transaction fee schedule, based on the monthly reports provided by SIAC. As a result, the Exchange anticipates charging a fee for the services of the

default Sponsoring Member. Charges related to the services of the default Sponsoring Member will be the subject of a separate fee filing.

In addition, pursuant to the proposed rule change, neither the Exchange nor the default Sponsoring Member shall be liable for any damages sustained by an allied member or member organization as a result of the services provided by the default Sponsoring Member, except as stated in Exchange Rules.

The interim establishment of the default Sponsoring Member serves only to provide member access to other destination market(s) for execution of orders at more favorable prices.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁸ in general and furthers the objectives of Section 6(b)(5)⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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.

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

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

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and
- (iii) 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

thereunder.¹¹ As required under Rule 19b-4(f)(6)(iii) under the Act,¹² the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹³ However, Rule 19b-4(f)(6)(iii)¹⁴ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and render the proposed rule change to become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Linkage Plan is expected to become operative on October 2, 2006, and waiving the 30-day operative period would enable the Exchange to implement the default Sponsoring Member mechanism at the start of the Linkage Plan's operation. For the reasons stated above, the Commission therefore designates the proposal to become operative upon filing with the Commission.¹⁵

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:

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

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ For purposes of waiving the operative date of this proposal only, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ The Commission approved the NMS Linkage Plan on September 29, 2006. See Securities Exchange Act Release No. 54551 (Sept. 29, 2006). It should be noted that the Philadelphia Stock Exchange, Inc. ("Phlx") executed the Linkage Plan on August 1, 2006.

Number SR-NYSE-2006-74 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-2006-74. 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 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-2006-74 and should be submitted on or before November 2, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54577; File No. SR-NYSE-2006-36]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto To Provide Floor Brokers With the Ability To Enter Discretionary Instructions and/or Pegging Instructions With Respect to Floor Broker Agency Interest Files (e-Quotes)

October 5, 2006.

I. Introduction

On May 16, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change to provide floor brokers with the ability to enter discretionary and pegging instructions with respect to their floor broker agency interest files. On June 14, 2006 and July 11, 2006, NYSE filed Amendment Nos. 1³ and 2⁴ to the proposed rule change, respectively. The proposed rule change, as amended, was published for comment in the **Federal Register** on July 21, 2006.⁵ The Commission received six comment letters from three commenters.⁶ On September 13, 2006, the Exchange filed a response to the comment letters.⁷ This order approves the proposed rule change, as amended.

II. Background

On March 22, 2006, the Commission approved NYSE's proposal to establish a Hybrid Market, which will alter the Exchange's market structure from a floor-based auction market with limited automated order interaction to a more

automated market with limited floor-based auction market availability.⁸ To create its Hybrid Market, NYSE changed its rules to permit its floor members to participate in the market electronically. For example, specialists will have the ability to manually and systematically place in a separate file ("specialist interest file") within the Display Book system⁹ their proprietary interest at prices at or outside the Exchange best bid or offer ("BBO"). In addition, specialists will establish algorithms ("Specialist Algorithm")¹⁰ to send messages via an Exchange-owned application program interface to quote and trade for their proprietary accounts.¹¹

As approved in the Hybrid Market Order, floor brokers will represent their customers' orders electronically in a separate file in the Display Book system ("floor broker agency interest file") at multiple prices at or outside the Exchange BBO ("e-Quotes"). As approved, e-Quotes can participate in automatic executions at the Exchange BBO or outside the Exchange BBO during a sweep. E-Quotes may not, however, initiate trades with incoming orders at prices better than the Exchange BBO. Accordingly, the Exchange now proposes additional changes that it believes will further replicate electronically the manner in which floor brokers represent their customers' orders on the floor. Specifically, NYSE proposes to provide floor brokers with the ability to enter discretionary instructions as to the size and/or price at which their e-Quotes may trade ("d-Quotes").¹² In addition, the Exchange proposes to provide floor brokers with the ability to set their e-Quotes and d-Quotes to peg to the Exchange BBO so that their e-Quotes or d-Quotes would be available for execution at the BBO as the Exchange BBO changes ("pegging").

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, NYSE proposed additional changes and clarifications to the proposal.

⁴ Amendment No. 2 supersedes and replaces the original rule change and Amendment No. 1 in their entirety.

⁵ See Securities and Exchange Act Release No. 54150 (July 14, 2006), 71 FR 41496.

⁶ See Letters from George Rutherford, Consultant, dated June 22, 2006 ("Rutherford I"), August 3, 2006 ("Rutherford II") and September 21, 2006 ("Rutherford Letter III"); Warren Meyers, President, Independent Brokers Action Committee, dated August 11, 2006 ("IBAC Letter"); and Junius W. Peake, Monfort Distinguished Emeritus Professor of Finance, Kenneth W. Monfort College of Business, dated August 18, 2006 ("Peake Letter I") and October 3, 2006 ("Peake Letter II").

⁷ See Letter from Mary Yeager, Secretary, NYSE, to Nancy Morris, Secretary, Commission, dated September 13, 2006 ("Response to Comments").

⁸ See Securities and Exchange Act Release No. 53539, 71 FR 16353 (March 31, 2006) ("Hybrid Market Order").

⁹ The Display Book system ("Display Book system") is an order management and execution facility. The Display Book system receives and displays orders to the specialists, contains the customer limit order display book ("Book"), and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. In addition, the Display Book system is connected to a variety of Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems, *i.e.*, the Intermarket Trading System, the Consolidated Tape Association, Consolidated Quotation System, etc.

¹⁰ See NYSE Rule 104(b).

¹¹ See NYSE Rule 104(e).

¹² NYSE also refers to d-Quotes as "discretionary e-Quotes" in its proposed rule text.

¹⁶ 17 CFR 200.30-3(a)(12).