

procedures for reopening after a trading halt strike an appropriate balance between preserving the price discovery process while providing timely opportunities for investors to participate in the market. It should be noted, however, that it is not mandatory that a stock reopen at the end of the new, shorter time period. If at the end of the 5 minute period, an equilibrium has been established, there would be no purpose served by extending the halt for a longer period. It may be however, that more time will be needed to bring supply and demand into balance. Trading halts are overseen by Floor Officials who will use their judgment to see that the stock reopens at an appropriate time.

2. Statutory Basis

The NYSE believes that the basis under the Act for this proposed rule change is the requirement under section 6(b)(5)⁴ 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 a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of section 11A(a)(1)⁵ of the Act 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 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to

90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR-NYSE-2002-39 and should be submitted by December 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority⁶.

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46847; File No. SR-NYSE-2002-61]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Establishing Fees for the NYSE Broker Volume Service

November 19, 2002.

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 November 12, 2002, the New York Stock Exchange, Inc. (“NYSE” or “Exchange”) 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 prepared by the Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,³ 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 proposes to establish fees for the NYSE Broker Volume service (“Service”), a new information service that the Exchange plans to make available. The text of the proposed rule change is available at the NYSE and at the Commission.

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 its proposal and discussed any comments it received regarding the proposal. 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

The NYSE proposes to establish fees for the Service, which provides access to the NYSE Broker Volume Database (“Database”), and permits vendors to provide subscribers with NYSE Broker Volume Reports. The Database is an electronic database of share volume information relating to trades that each participating Exchange member has entered into on the Exchange in each

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). The NYSE provided the Commission with at least five business days' written notice of its intention to file this proposed rule change.

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78k-1(a)(1).

⁶ 17 CFR 200.30-3(a)(12).

Exchange traded issue.⁵ The Database will be updated on both a daily and monthly basis. The Database will have information only from Exchange members who have specifically agreed that their trades may be included in the Database, and members may elect whether to have their information included on a daily only basis, a monthly only basis, or on a both daily and monthly basis. Users of the Database will be able to sort and recall information either based on the traded security or based on the participating Exchange member.

NYSE Broker Volume Reports will consist of the controlled displays of data reports that a vendor will create from the information contained in the Database. While these Reports will be provided by various vendors and will be subject to each vendor's display preferences or styles, the NYSE anticipates that these Reports would provide a ranking of executed NYSE volume by participating Exchange member for each NYSE-traded issue, with total volume per issue indicated for each participating member. Of course, in these Reports, vendors will be free to also present the NYSE Broker Volume data in such manner as they may consider useful to their subscribers, such as sortable by industry, sector, *etc.*

The Exchange proposes to charge \$3,000 per month for access to the Database. The fee will entitle a recipient to use the information included in the database in any manner within its organization. It will also entitle a recipient to create NYSE Broker Volume Reports for distribution to subscribers. The Exchange will require each Database recipient to enter into an appropriate database-access agreement with the NYSE. That agreement will specify that a recipient that creates NYSE Broker Volume Reports for distribution to subscribers must identify distributed NYSE Broker Volume Reports as being based entirely on NYSE information. Note that there will be no restrictions on a vendor's separately displaying other markets' broker volume activity. A report that combines broker volume information from a variety of sources will also be permitted as long as the NYSE Broker Volume that is a component thereof is separately identified as such in the same display.

The Exchange proposes to charge vendors \$100 per month for each subscriber device to which the vendor provides NYSE Broker Volume Reports. The Exchange will require each

subscriber to execute a suitable subscriber agreement with the Exchange. The Exchange proposes to cap that monthly device charge at a maximum monthly amount of \$2,500 per subscriber.

The Exchange notes that the Service directly responds to requests from professional NYSE market participants to increase the availability of NYSE broker volume information. Sell-side representatives use currently available share volume information to display their trading activity in specific Exchange-listed issues, while buy-side representatives use the data to determine which sell-side representative to select for execution of their orders. The Service will supplement existing services with a secure, controlled mechanism that will enhance the ability of these representatives to use such data and to demonstrate or observe trading patterns.

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the provisions of section 6(b)(4) of the Act,⁶ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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

The Exchange believes that the proposed rule change would 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

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change.

The Exchange has not received any unsolicited written comments from members or other interested parties.

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, it has become effective pursuant to section 19(b)(3)(A) of the

Act⁷ and rule 19b-4(f)(6) thereunder.⁸ 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR-NYSE-2002-61 and should be submitted by December 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jill M. Peterson,

Assistant Secretary.

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SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying

⁵Note that the database will not contain information on bonds traded through the NYSE Automated Bond System.

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 200.30-3(a)(12).