

Act<sup>5</sup> which requires an Exchange to 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.<sup>6</sup> Specifically, the Commission believes that the proposal should benefit investors and the public interest by enabling customers to receive better priced executions than they otherwise would have received. Additionally, when specialists choose, through their algorithms, to partially or completely fill orders beyond the Exchange BBO, the Commission notes that the Exchange has represented that its systems would not permit a trading message to provide supplemental specialist volume that would trade through a protected quotation in violation of Rule 611 of Regulation NMS under the Act.<sup>7</sup> The Commission also notes that the supplemental specialist volume would yield to displayed and reserve interest (*i.e.*, customer limit orders, Floor broker agency interest and specialist interest).

## V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NYSE-2006-99), as amended, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56968; File No. SR-NYSE-2007-114]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to NYSE Rule 92 and Riskless Principal Trading at the Exchange

December 14, 2007.

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 December 11, 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 Exchange. The Exchange has designated the proposed rule change as a “non-controversial” rule change pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> 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 Exchange proposes to extend the operative date of NYSE Rule 92(c)(3) from January 16, 2008 to May 14, 2008. The text of the proposed rule change is available at NYSE, the Commission’s Public Reference Room, and <http://www.nyse.com>.

#### 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. 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 Exchange proposes to extend the delayed operative date of NYSE Rule 92(c)(3) from January 16, 2008 to May 14, 2008. On July 5, 2007, the Commission approved amendments to NYSE Rule 92 to permit riskless principal trading at the Exchange.<sup>5</sup> In connection with those amendments, the Exchange implemented NYSE Rule 92(c)(3), which requires members to

submit to a designated Exchange database a report of the execution of the facilitated order. That rule also requires members to submit to that same database sufficient information to provide an electronic link of the execution of the facilitated order to all of the underlying orders.

For purposes of NYSE Rule 92(c)(3), the Exchange requires that when executing riskless principal transactions, firms must submit order execution reports to the Exchange’s Front End Systemic Capture (“FESC”) database linking the execution of the riskless principal order on the Exchange to the specific underlying orders. The information provided must be sufficient for both member firms and the Exchange to reconstruct in a time-sequenced manner all orders, including allocations to the underlying orders, with respect to which a member organization is claiming the riskless principal exception.

Because the rule change required member organizations to make certain changes to their trading and order management systems, the Commission approved a delay to January 16, 2008 of the operative date of the NYSE Rule 92(c)(3) requirements, including submitting end-of-day allocation reports for riskless principal transactions and using the riskless principal account type indicator.

The Exchange has been working diligently to develop its FESC database to accept riskless principal order types and the underlying batch orders. On October 12, 2007, the Exchange published an Information Memo that provided member organizations with information relating to the FESC technology interface and data requirements for riskless principal trading at the Exchange. The development of the systems, however, has taken longer than anticipated, which could affect the ability of member organizations to meet the operative date. Several member organizations have informed the Exchange that they need additional time to program their respective systems to meet the new FESC requirements.

To accommodate both the Exchange’s and the member organization community’s need to complete the development of the FESC technology to both accept and route riskless principal orders, the Exchange proposes to delay the operative date for NYSE Rule 92(c)(3) from January 16, 2008 to May 14, 2008.

Pending implementation of the FESC database and use of the riskless principal account type indicator, the Exchange will continue to require that,

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

<sup>6</sup> In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 17 CFR 242.611.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

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

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

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

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

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

<sup>5</sup> See Securities Exchange Act Release No. 56017 (July 5, 2007), 72 FR 38110 (July 12, 2007) (SR-NYSE-2007-21).

as of the date each member organization implements riskless principal routing, the member organization have in place systems and controls that allow them to easily match and tie the riskless principal execution on the Exchange to the underlying orders and that they be able to provide this information to the Exchange upon request.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)<sup>6</sup> 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.

### 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

Because the proposed rule change: (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 after the date of the filing, 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<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2007-114 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-2007-114. 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, 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 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 you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2007-114 and should be submitted on or before January 10, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of Waiver of the Nonmanufacturer Rule for Electromedical and Electrotherapeutic Apparatus Manufacturing.

**SUMMARY:** The U. S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Electromedical and Electrotherapeutic Apparatus Manufacturing, Diagnostic equipment, MRI (magnetic resonance imaging) manufacturing; Magnetic resonance imaging (MRI) medical diagnostic equipment manufacturing; Medical ultrasound equipment manufacturing; MRI (magnetic resonance imaging) medical diagnostic equipment manufacturing; Patient monitoring equipment (e.g., intensive care coronary care unit) manufacturing; PET (positron emission tomography) scanners manufacturing; and Positron emission tomography (PET) scanners manufacturing. The basis for a waiver is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small business or SBA's 8(a) Business Development Program.

**DATE:** This waiver is effective January 4, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Edith Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at (202) 481-1788; or by e-mail at [edith.butler@sba.gov](mailto:edith.butler@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small

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

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

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

<sup>8</sup> 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give the Commission 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing requirement.