

does not make any financial or investment recommendation or otherwise promote a product or service of the member from coverage of the rule and did not require correspondence covered by the rule to be filed with the Department. The Commission believes that requiring pre-use approval by a principal of correspondence sent to 25 or more existing retail customers within any 30 calendar-day period appropriately balances the needs of members to contact existing customers without being unduly burdened against the goal of having communications with retail customers that are fair and balanced.

The Commission is not persuaded by the commenters' arguments that pre-use approval of emails is not workable given that pre-use approval is already required for certain emails.³⁷ The Commission commends NASD for attempting to address problems with correspondence, rather than waiting for additional inappropriate materials to reach retail customers. Finally, the Commission believes that NASD's proposed amendment to the rule text adequately addresses concerns that the proposed rule change lacks clarity.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁸ that the proposed rule change (SR-NASD-2006-011), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁹

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6-12443 Filed 8-1-06; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54223; File No. SR-NYSE-2006-43]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change To Amend Section 902.02 of the Listed Company Manual To Exempt Companies Transferring From NYSE Arca From Initial Listing Fees and the Annual Fee for the Year of Such Transfer

July 26, 2006.

On June 7, 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 amend Section 902.02 of its Listed Company Manual to provide that there shall be no initial listing and no prorated annual fee payable with respect to the first partial calendar year of listing for any company listed on NYSE Arca, Inc. ("NYSE Arca") that transfers the listing of its primary class of common shares to the Exchange. The Commission published notice of the proposal in the **Federal Register** on June 26, 2006.³ The Commission received no comments on the proposal.

The Commission has reviewed carefully the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Sections 6(b)(4)⁶ and 6(b)(5) of the Act,⁷ which require that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities, and are designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and are not designed to permit unfair

discrimination between issuers. The Commission believes that the fee waiver is reasonable, given the NYSE's representation that its review of companies transferring from NYSE Arca to the Exchange will be less costly than the review of a transfer from other self-regulatory organizations. While the Commission understands that the Exchange will rely on the baseline review of any NYSE Arca listed company performed by NYSE Regulation, the Commission notes that the Exchange must conduct a thorough regulatory review of companies transferring from NYSE Arca to the Exchange to ensure that the Exchange can independently confirm that such companies qualify for listing on the Exchange. The Commission also believes the proposed waiver may enhance competition by making NYSE Arca a more attractive listing venue and a viable alternative to listing on Nasdaq.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NYSE-2006-43) be, and it hereby is, approved.

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

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6-12427 Filed 8-1-06; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10482 and # 10481]

Massachusetts Disaster Number MA-00006

AGENCY: Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA-1642-DR), dated 05/25/2006.

Incident: Severe Storms and Flooding.

Incident Period: 05/12/2006 through 05/23/2006.

Effective Date: 07/24/2006.

Physical Loan Application Deadline Date: 08/07/2006.

EIDL Loan Application Deadline Date: 02/26/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 54008 (June 16, 2006), 71 FR 36370.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78f(b)(5).

³⁷ For example, emails sent to 25 or more prospective retail customers within a 30 calendar-day period currently require principal pre-use approval. See NASD Response Letter, *supra* note 5.

³⁸ *Id.*

³⁹ 17 CFR 200.30-3(a)(12).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).