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 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–NFA–2007–02 and should be submitted on or before June 6, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–9371 Filed 5–15–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55735; File No. SR–NYSE–2007–06]

Self-Regulatory Organizations; New York Stock Exchange LLC.; Order Approving Proposed Rule Change To Amend NYSE Rule 440A (''Telephone Solicitations'')

May 10, 2007.

I. Introduction

On January 25, 2007, the New York Stock Exchange LLC (''NYSE'' or the ''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 Rule 440A, addressing member organizations' telephone solicitations of customers. The proposed rule change was published for comment in the **Federal Register** on March 29, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

NYSE Rule 440A generally addresses member organizations' telephone solicitations of customers. Rule 440A(g) provides ''No member or member organization may use a telephone facsimile machine, computer or other device to send an unsolicited advertisement to a telephone facsimile machine, computer or other device.'' Subsection 440A(g)(1) further provides that a facsimile advertisement is not ''unsolicited'' where the recipient has granted the member organization prior express invitation or permission to deliver the advertisement, as further defined in the Rule. This proposed rule change provided that such an advertisement also will not be considered ''unsolicited'' where there is an ''established business relationship'' as defined in the present Rule 440A(j). In addition, the Exchange proposed to delete the term ''member'' as used in the Rule to reflect the recent reorganization of the Exchange,[4] and the term ''allied member'' as redundant within the context of the present regulation.

The amendments to Rule 440A(g) were adopted by the Exchange on December 2, 2004[5] to incorporate regulations issued by the Federal Communications Commission (''FCC'') and the Federal Trade Commission (''FTC'') relating to the implementation of the National Do Not Call registry and the amendments to the Telephone Consumer Protection Act of 1991.[6] The FCC and FTC regulations contained no exception for facsimiles sent to customers with which a broker-dealer had an ''established business relationship'' as such term was defined. Subsequently, Congress passed legislation[7] which restored an exemption for unsolicited faxes sent to a recipient with whom the sender had an established business relationship. Accordingly, the proposed amendments to NYSE Rule 440A(g)(1) added an exception for established business relationships to the definition of ''unsolicited'' and set forth the measures necessary for a customer to opt out of the receipt of further communications. These standards, which are taken from applicable FCC regulations,[8] generally require that the member organization and the person not only have an established business relationship,[9] but also that the member organization obtain the fax number from the recipient (or the recipient's web site, directory, or advertisement). Further, the recipient must not have stated on those materials that they do not accept unsolicited advertisements at the listed number. Under the proposed rule change, the member organization must also take reasonable steps to verify that the recipient consented to have the number listed.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the Act and, in particular, with Section 6(b)(5) of the Act, which requires, among other things, that the NYSE's rules be designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[10] The Commission believes that in bringing the NYSE's Rule setting forth the definition and treatment of unsolicited telemarketing communications into concurrence with FCC regulations, the proposed rule change will harmonize currently disparate regulations and therefore provide greater clarity, both to members and customers, as to which communications between members and customers qualify as ''unsolicited.''[11]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[12] that the proposed rule change (SR–NYSE–2007–06), be, and hereby is, approved.

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[7] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 55517 (Mar. 23, 2007), 72 FR 14842 (Mar. 29, 2007).

[4] *See* Exchange Act Release No. 53382 (Feb. 27, 2006), 71 FR 11251 (Mar. 6, 2006) (SR–NYSE–2005–77).

[5] *See* Exchange Act Release No. 34–52579 (Oct. 7, 2005), 70 FR 60119 (Oct. 14, 2005) (SR–NYSE–2004–73).

[6] Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, FCC 03–153 (Jun. 26, 2003), 68 FR 44144 (Jul. 25, 2003).

[7] Junk Fax Prevention Act of 2005, Pub. L. 109–21, 119 Stat. 359 (2005).

[8] FCC 06–42 (Apr. 5, 2006), 71 FR 56893 (Sept. 28, 2006).

[9] An established business relationship is defined as a prior existing relationship formed by voluntary two-way communication between a member organization and a person where the person has, generally speaking, done business with the member organization within the 18 months preceding the telephone call, the member organization is the broker-dealer of record for the person's account within those 18 months, or the person has contacted the member organization to inquire about a product or service within the three months preceding the telephone call.

[10] 15 U.S.C. 78f(b)(5).

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

[12] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–9366 Filed 5–15–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55738; File No. SR–NYSEArca–2007–17]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change To Waive 2007 Annual Listing Fees for Certain Dually-Listed Issuers Who Delist During 2007

May 10, 2007.

I. Introduction

On March 6, 2007, NYSE Arca, Inc. (''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 waive 2007 annual listing fees for certain issuers listed on the Exchange. The proposed rule change was published for comment in the **Federal Register** on April 5, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange, through its wholly-owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), proposes to waive 2007 annual listing fees for any issuers, who, as of January 1, 2007, were dually-listed on NYSE Arca Equities and another securities exchange, provided that such dually-listed issuers provide notice to the Exchange by June 30, 2007 of their intention to voluntarily withdraw listing from NYSE Arca Equities and that such dually-listed issuers withdraw listing before December 31, 2007.

III. Discussion

After a careful review of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[5] which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facilities or system which it operates or controls.

The Commission notes that the Exchange increased its annual listing fees substantially as of January 1, 2007.[6] The Exchange represented that as a result, many dually-listed issuers notified the Exchange of their intent to voluntarily delist from NYSE Arca Equities prior to January 1, 2007. Some dually-listed issuers, however, were unable to voluntarily delist by January 1, 2007, due to their administrative or corporate governance process. The proposal will permit such dually-listed issuers, as well as any other dually-listed issuers who comply with the proposal's requirements, a reasonable period of time to comply with their administrative or corporate governance process to voluntarily delist from NYSE Arca Equities without paying the higher 2007 annual listing fees. The Commission believes that it is appropriate to waive the 2007 annual listing fees for the withdrawing dually-listed issuers because these issuers fully intend to withdraw their listing, must withdraw by December 31, 2007, and are already listed on another national securities exchange. Based on the above, the Commission believes that such waiver is consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NYSEArca–2007–17) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E7–9411 Filed 5–15–07; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55564 (March 30, 2007), 72 FR 16844.

[4] In approving the proposed rule change, the Commission notes that it 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(b)(4).

[6] *See* Securities Exchange Act Release No. 54007 (June 16, 2006), 71 FR 36155 (June 23, 2006) (SR–PCX–2006–16).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

SBA Lender Risk Rating System

AGENCY: Small Business Administration.

ACTION: Final notice.

SUMMARY: This final notice implements the Small Business Administration's (SBA's) risk rating system (Risk Rating System) as an internal tool to assist SBA in assessing the risk of each active 7(a) Lender's and Certified Development Company's (CDC's) SBA loan operations and loan portfolio. The Risk Rating System will enable SBA to monitor 7(a) Lenders and CDCs (collectively, ''SBA Lenders'') on a uniform basis and identify those institutions whose SBA loan operations and portfolio require additional SBA monitoring or other action. It is also a vehicle for assessing the aggregate strength of SBA's 7(a) and 504 portfolios. Under the Risk Rating System, SBA will assign each SBA Lender a composite rating based on certain portfolio performance factors, which may be overridden in some cases due to SBA Lender specific factors that may be indicative of a higher or lower level of risk. SBA Lenders will have access to their own ratings through SBA's Lender Portal (Portal).

DATES: This notice is effective June 15, 2007.

FOR FURTHER INFORMATION CONTACT: Bryan Hooper, Director, Office of Lender Oversight, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, (202) 205–3049.

SUPPLEMENTARY INFORMATION:

Background Information

On May 1, 2006, SBA published a notice and request for comment in the **Federal Register** seeking comments on a proposed SBA internal Risk Rating System for assessing an SBA Lender's SBA loan portfolio (i.e., loan portfolio performance). 71 FR 25624 Notice. SBA published a subsequent notice extending the comment period for the proposed Risk Rating System to July 15, 2006. 71 FR 34674. The Risk Rating System is an internal tool that uses data in SBA's Loan and Lender Monitoring System (L/LMS) to assist SBA in assessing the risk of an SBA Lender's SBA loan performance on a uniform basis and identify those SBA Lenders whose portfolio performance demonstrate the need for additional SBA monitoring or other action. The Risk Rating System will also serve as a vehicle to measure the aggregate strength of SBA's overall 7(a) and 504 loan portfolios and to assist SBA in managing the related risk. In addition, SBA will use risk ratings to make more