

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47984; File No. SR-NYSE-2003-14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc.; Adding Rules 60, 124(A), 130, 407A, 411(b), 440I, and 445(4) to the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A"

June 4, 2003.

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 May 5, 2003, 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 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 proposed rule change would revise the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" for imposition of fines for minor violations of rules and/or policies ("List") by adding to the List failure to comply with the provisions of NYSE Rules 60, 124(A), 130, 407A, 411(b), 440I, and 445(4). The Exchange believes it is appropriate to make the failure to comply with the provisions of the cited rules subject to the possible imposition of a fine under NYSE Rule 476A procedures.

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 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 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

NYSE Rule 476A provides that the Exchange may impose a fine, not to exceed \$5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules. The purpose of the NYSE Rule 476A procedure is to provide a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under NYSE Rule 476 would be more costly and time-consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory response than an admonition letter would convey. NYSE believes that NYSE Rule 476A preserves due process rights, and further states that it identifies those rule violations which may be the subject of summary fines, and includes a schedule of fines. In SR-NYSE-84-27,³ which initially set forth the provisions and procedures of NYSE Rule 476A, the Exchange indicated it would amend the list of rules from time to time, as it considered appropriate, in order to phase-in the implementation of NYSE Rule 476A as experience with it was gained.

The Exchange is seeking approval to add failure to comply with the provisions of NYSE Rules 60, 124(A), 130, 407A, 411(b), 440I, and 445(4) to the List subject to imposition of fines under NYSE Rule 476A procedures.

NYSE Rule 60 pertains to the dissemination of quotations for reported securities.

NYSE Rule 124 relates to prohibited odd-lots, the unbundling of round-lot orders, failure to aggregate odd-lot orders into round-lot orders, the entry of both buy and sell odd-lot limit orders for the purpose of capturing the spread in the stock, and order entry practices intended to circumvent the round-lot market.

NYSE Rule 130 pertains to the submission of trade data required for overnight comparison of transactions effected on the Exchange.

NYSE Rule 407A requires members to report and update information to the Exchange regarding certain accounts in which they have an interest.

NYSE Rule 411(b) requires persons entering multiple odd-lot orders in the

same stock, which aggregate to 100 shares or more, to aggregate the orders into round-lots, where possible, for execution in the round-lot auction market.

NYSE Rule 440I requires the maintenance of certain compensation records by members and member organizations.

NYSE Rule 445(4) requires the designation and identification to the Exchange of a person or persons responsible for implementing and monitoring the day-to-day operations and internal controls of Anti-Money Laundering Programs.

The NYSE states that the purpose of the proposed change to the list is to facilitate the Exchange's ability to induce compliance with all aspects of the cited rules. The Exchange believes failure to comply with the requirements of the cited rules should be addressed with an appropriate sanction and seeks Commission approval to add violations of these requirements to the List so as to have a broad range of regulatory responses available. The Exchange believes that this would more effectively encourage compliance by enabling a prompt, meaningful and heightened regulatory response (e.g., the issuance of a fine rather than an admonition letter) to a minor violation of NYSE Rules 60, 124(A), 130, 407A, 411(b), 440I, and 445(4).

The Exchange wishes to emphasize the importance it places upon compliance with the NYSE Rules. While the Exchange, upon investigation, may determine that a violation of any of these rules is a minor violation of the type which is properly addressed by the procedures adopted under NYSE Rule 476A, in those instances where investigation reveals a more serious violation of the NYSE Rules, the Exchange will provide an appropriate regulatory response. This includes the full disciplinary procedures available under NYSE Rule 476.

2. Statutory Basis

The NYSE believes that the proposed rule change is consistent with the requirements of Section 6(b)(6)⁴ of the Act, which provides that members and persons associated with its members shall be appropriately disciplined for violation of the provisions of this title, the rules or regulations thereunder, or the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 21688 (January 25, 1985), 50 FR 5025 (February 5, 1985) (SR-NYSE-84-27).

⁴ 15 U.S.C. 78f(b)(6).

associated with a member, or any other fitting sanction.

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-2003-14 and should be submitted by July 2, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

J. Lynn Taylor,
Assistant Secretary.
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47985; File No. SR-NYSE-2003-13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend the Fine Schedule for Individuals and Member Organizations Who Commit Minor Rule Violations Under Rule 476A

June 4, 2003.

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 April 28, 2003, 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 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 proposed rule change seeks to amend the fine schedule for individuals and member organizations who commit minor rule violations under NYSE Rule 476A.

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 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

⁵ 17 CFR 200.30-3(a)(12).
¹ 15 U.S.C. 78s(b)(1).
² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of NYSE Rule 476A is to provide an efficient and effective way by which the Exchange may encourage full compliance with NYSE rules by its members, member organizations, allied members, approved persons and registered and non-registered employees of member organizations. The rule permits the Exchange to impose a fine (not to exceed \$5,000), in lieu of commencing a disciplinary proceeding before a Hearing Panel, for a rule violation which the NYSE determines to be minor in nature, but which the NYSE nevertheless believes requires the imposition of a meaningful sanction. Fines imposed pursuant to NYSE Rule 476A are not required to be reflected on a member or member organization's Form BD.

The person against whom the fine is sought to be imposed under NYSE Rule 476A is served with a written statement indicating the specific rule that has been violated, the act or omission constituting the violation, and the fine. The written statement also indicates the date by which the fine must be paid, or the person must submit a written response contesting the Exchange's determination to impose the fine. If the person against whom a fine is sought to be imposed under NYSE Rule 476A chooses to contest the fine and submits a written answer within the time allowed, the matter becomes a "disciplinary proceeding" subject to NYSE Rule 476, including review by an Exchange Hearing Panel, with the usual right of appeal to the Board of Directors. The NYSE believes that the freedom of the person charged to contest the fine and seek a full hearing on the charges in accordance with established procedures provides that person with his full "due process" rights and prevents misuse of NYSE Rule 476A.

Currently, the fine schedule is as follows:

Fine amount	Individual	Member organization
First Time Fined	\$500	\$1,000
Second Time Fined**	1,000	2,500
Subsequent Fines**	2,500	5,000

** Within a "rolling" 12-month period.

The purpose of the fine procedure is to deter violations of Exchange rules through the imposition of a meaningful sanction. The current fine schedule was