

waive the 30-day operative date so that the proposal may take effect upon filing.<sup>13</sup>

At any time within 60 days of the filing of such 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 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2007-046 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-NASD-2007-046. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be

available for inspection and copying at the principal office of the NASD. 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-NASD-2007-046 and should be submitted on or before August 1, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

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

[FR Doc. E7-13398 Filed 7-10-07; 8:45 am]

BILLING CODE 8010-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56008; File No. SR-NSX-2007-07]

#### **Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Modify a Rule Relating to Market Data Revenue Credits for Transactions Executed Through NSX BLADE**

July 3, 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 May 18, 2007, the National Stock Exchange, Inc. ("NSX" 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 filed Amendment No. 1 to the proposed rule change on June 29, 2007. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons and is approving the proposal as modified by Amendment No. 1 on an accelerated basis.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange is proposing to amend Exchange Rule 16.2(b) to increase its tape credits from 50 percent to 100 percent of market data revenues generated by transactions in Tape A, Tape B, and Tape C securities and to

clarify that the Exchange will not provide any tape credits for market data revenue generated by quotes. The text of the proposed rule change is available at the NSX, the Commission's Public Reference Room, and <http://www.nsx.com/RulesFilings.asp>.

#### **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 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 III 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**

Exchange Rule 16.2(b) currently provides for a 50 percent transaction credit on revenues generated by transactions in Tape A, Tape B, and Tape C securities, using the Exchange's NSX BLADE.<sup>SM</sup> The credit is allocable to ETP Holders on a pro rata basis based upon Tape A, Tape B, and Tape C revenue generated by an ETP Holder's transactions on the Exchange. The Exchange derives the funds for these credits from payments it receives from the joint industry plans that allocate market data revenues to self-regulatory organizations ("SROs"). Prior to April 1, 2007, the formula to calculate market data revenue was based solely on the trading activity of an SRO. As of April 1, 2007, the market data formulas under the joint industry plans that allocate market data revenues to SROs were changed by Regulation NMS.<sup>3</sup> The joint industry plans' formula for market data revenue is now a new two-step process: First, distributable plan market data revenues are allocated among individual securities (symbol-by-symbol); and, second, revenues that are allocated to an individual security are allocated among the SROs such that 50% of the revenue is attributable to transactions on an SRO

<sup>13</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 17 CFR 242.600 to 242.612. See also Securities Exchange Act Release No. 53829 (May 18, 2006) 71 FR 30038 (May 24, 2006).

and 50% is attributable to certain types of quoting activity on an SRO.<sup>4</sup>

With the instant proposed rule change, the Exchange is proposing that Exchange Rule 16.2(b) be amended to increase from 50% to 100% the percentage of Tape A, Tape B, and Tape C revenue shared with its ETP Holders that is based on reporting transactions in securities on the Exchange. The Exchange is also proposing to clarify explicitly in Exchange Rule 16.2(b) its present practice of not providing any credit to ETP Holders with respect to market data revenue that is based on their reporting quotes of securities in the Exchange's system.

In addition, simultaneous with the implementation of this proposed rule change, the Exchange intends to harmonize its pro rata calculations of its credits to ETP Holders with the new Market Data formula under Regulation NMS to reflect the symbol-by-symbol and other components of the allocation of the Trading Share portion of the formula. Thus, the Exchange will begin providing credits to ETP Holders for market data revenue for transactions executed through the Exchange based on a pro rata distribution of the market data revenue actually generated by such ETP Holder's transactions in individual securities, as opposed to a pro rata distribution of that ETP Holder's total trading activity in a particular tape.

The Exchange has determined that this change is necessary for competitive reasons. The increase of the trade market data revenue credits to 100% will allow the Exchange to offer a more competitive program to its current and potential ETP Holders. The Exchange's retention of market data revenue based upon reporting quotes will be included in the Exchange's general operating revenues which are used to fund, among other things, the Exchange's regulatory oversight functions.

The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it lowers the cost of trading and market data to broker-dealers and the investing public and because it enhances competition in the trading of Tape A, Tape B and Tape C securities.

Beginning with the Exchange's second quarter of 2007, which began April 1st and ends June 30th, the Exchange intends to calculate its quarterly market data credits owed to its ETP Holders in accordance with the proposed rule change.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,<sup>5</sup> in general, and Section 6(b)(4) of the Act,<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

### 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. 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 No. SR-NSX-2007-07 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-NSX-2007-07. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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-NSX-2007-07 and should be submitted on or before August 1, 2007.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission 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 exchange,<sup>7</sup> and, in particular, with the requirements of Section 6(b) of the Act<sup>8</sup> and the rules and regulations thereunder. The Commission finds that the Exchange's proposal to increase its tape credits is consistent with Section 6(b)(4) of the Act,<sup>9</sup> which requires, among other things, that exchanges have an equitable allocation of reasonable dues, fees, and other charges among their members and issuers and other persons using their facilities. The Commission further notes that the Exchange's proposal to harmonize its market data revenue credit program with the new formula under Regulation NMS is consistent with the promotion of a national market system.

The Commission finds good cause, pursuant to Section 19(b)(2)(B) of the Act,<sup>10</sup> for approving the proposed rule change prior to the 30th day after the date of publication of the notice of the

<sup>4</sup> The Allocation Amendment to the CTA, CQ, and the Nasdaq UTP Plans contains the market data formula respecting quotes. In general, Quote Credits can be earned for each second of time (with a minimum of one second) multiplied by the dollar value of size that an automated best bid or offer is submitted to the plan processors that is equal to the NBBO, provided the quote does not lock or cross a previously displayed automated quotation. See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> In approving this rule, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(2)(B).

filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval would facilitate the undelayed increase in the distribution of the market data revenue to ETP Holders and allow the Exchange to offer a more competitive market data revenue credit program.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act <sup>11</sup> that the proposed rule change (SR-NSX-2007-07), as modified by Amendment No. 1, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

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

[FR Doc. E7-13399 Filed 7-10-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56015; File No. SR-NYSE-2007-48]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No.1 Thereto Relating to Proposed Amendments to Rule 600 To Provide Guidance Regarding New and Pending Arbitration Claims in Light of the Consolidation of NYSE Regulation Into NASD DR

July 5, 2007.

On May 23, 2007, pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> the New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change that was published for comment in the **Federal Register** on June 4, 2007.<sup>4</sup> On June 21, 2007, the NYSE filed Amendment No. 1 to revise the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the NYSE.<sup>5</sup> The Commission is publishing this notice to solicit comments on the

proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE proposes to amend current Rule 600 and adopt a new Rule 600A. As part of the consolidation of the member firm regulation function of NYSE Regulation, Inc. ("NYSE Regulation") with the National Association of Securities Dealers, Inc. ("NASD"), NYSE Regulation will cease to provide an arbitration program, and its existing arbitration department ("NYSE Arbitration") will be consolidated with that of NASD Dispute Resolution, Inc. ("NASD DR"). The proposed amendments provide that the arbitration rules of the Exchange shall apply only to NYSE arbitration cases pending prior to the date which is the later of the date of approval of this proposed rule change or the date of the consolidation (the "Effective Date"), and that, thereafter, disputes between NYSE member organizations, associated persons, and/or their customers will be arbitrated under the NASD DR Codes of Arbitration Procedure. The text of the proposed rule is set forth below. Proposed new language is italicized.

\* \* \* \* \*

#### Rule 600 Arbitration

\* \* \* \* \*

#### Supplementary Material

*Rules 600 through 639, and Rule 347, with the exception of Rule 600A, apply only to arbitrations filed prior to [insert later of effective date of the consolidation or approval of this proposed rule change] and are otherwise of no force or effect. Notwithstanding the foregoing, arbitrations filed with NYSE Arca on or prior to January 31, 2007 continue to be governed by the NYSE Arca Rule 12 in effect on or prior to January 31, 2007, and arbitrations filed with NYSE Arca Equities on or prior to January 31, 2007 continue to be governed by the NYSE Arca Equities Rule 12 in effect on or prior to January 31, 2007. On and after [insert date of the consolidation] all such arbitrations filed prior to [insert later of effective date of the consolidation or approval of this proposed rule change] shall, until concluded, be administered by NASD Dispute Resolution, Inc. ("NASD DR") pursuant to a Regulatory Services Agreement with the Exchange.*

\* \* \* \* \*

### Rule 600A

*(a) Duty to Arbitrate. (i) Any dispute, claim or controversy between or among member organizations and/or associated persons shall be arbitrated pursuant to the NASD DR Codes of Arbitration Procedure; and, (ii) any dispute, claim or controversy between a customer or non-member and a member organization and/or associated person arising in connection with the business of such member organization and/or in connection with the activities of an associated person, shall be arbitrated pursuant to NASD DR Codes of Arbitration Procedure as provided by any duly executed and enforceable written agreement, or upon the demand of the customer or non-member. Such obligation to arbitrate shall extend only to those matters that are permitted to be arbitrated under NASD DR Codes of Arbitration Procedure.*

*(b) Referrals. The Exchange may receive, investigate and take disciplinary action with respect to any referral it receives from a NASD DR arbitrator of any matter which comes to the attention of such arbitrator during and in connection with the arbitrator's participation in a proceeding, either from the record of the proceeding or from material or communications related to the proceeding, that the arbitrator has reason to believe may constitute a violation of the Exchange's Rules or the federal securities laws.*

*(c) Failure to Arbitrate or to Pay an Arbitration Award. Any member organization or associated person who fails to submit to arbitration a matter required to be arbitrated pursuant to this Rule, or that fails to honor an arbitration award made pursuant to the NASD DR Codes of Arbitration Procedure, or made under the auspices of any other self-regulatory organization, shall be subject to disciplinary proceedings in accordance with Exchange Rule 476.*

*(d) Other Actions. The submission of any matter to arbitration as provided for under this Rule shall in no way limit or preclude any right, action or determination by the Exchange that it would otherwise be authorized to adopt, administer or enforce.*

\* \* \* \* \*

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

In its filing with the Commission, NYSE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Release No. 34-55818 (May 25, 2007), 72 FR 30898 (June 4, 2007).

<sup>5</sup> Amendment No. 1 replaced and superseded the original filing in its entirety.