

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56037; File Nos. 4-533 and 4-534]

### Joint Industry Plan; American Stock Exchange LLC, New York Stock Exchange LLC, and NYSE Arca, Inc., and Chicago Stock Exchange, Inc., The Nasdaq Stock Market, Inc., National Association of Securities Dealers, Inc., National Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed National Market System Plans for the Selection and Reservation of Securities Symbols

July 10, 2007.

#### I. Introduction

Securities symbols are a key element in the operation of a national market system and essential to the dissemination of trade information in a common format. Historically, securities symbols have been assigned under an informal understanding among the listing markets. It has been the practice of the New York Stock Exchange LLC ("NYSE") to list securities of companies using one-, two-, or three-character symbols. Other exchanges, including the American Stock Exchange LLC ("Amex") and regional exchanges, have also listed securities of companies using two- and three-character symbols. Until recently, The Nasdaq Stock Market, Inc. ("Nasdaq") has always listed securities of companies using four- or five-character symbols.<sup>1</sup> Because securities symbols are an important part of a listed company's identity and because there is a limited supply of securities symbols—particularly one-, two-, and three-character symbols—developing a formal process to reserve, select, and allocate symbols among listing markets and their companies would help promote a fair and orderly national market system and prevent investor confusion.

In 1975, Congress directed the Securities and Exchange Commission ("Commission"), through its enactment of section 11A of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> to facilitate the establishment of a national market system to link together the individual markets that trade securities. Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among exchange markets.<sup>3</sup> Congress directed the Commission to authorize or require

self-regulatory organizations ("SROs") to act jointly with respect to matters as to which they share authority in planning, developing, operating, or regulating a national market system.<sup>4</sup> Consistent with the principles of section 11A of the Act, in February 2005, Commission staff asked the listing markets to commence joint discussions to develop a national market system plan for the process of reserving, selecting, and allocating securities ticker symbols.<sup>5</sup>

On March 23, 2007, pursuant to Rule 608 of Regulation NMS under the Act<sup>6</sup> ("Rule 608"), Amex, NYSE, and NYSE Arca filed with the Commission a proposed plan for the purpose of the selection and reservation of securities symbols ("Three-Characters Plan"). On March 23, 2007, Nasdaq, NASD, NSX, and Phlx also filed with the Commission a proposed plan for the purpose of the selection and reservation of securities symbols ("Five-Characters Plan"). On April 23, 2007, CHX, Nasdaq, NASD, NSX, and Phlx filed a supplement to the Five-Characters Plan.<sup>7</sup>

Although the two plans are identical in many respects, they also differ on several significant matters. The primary difference between the two plans is their scope. The Three-Characters Plan would only cover one-, two-, and three-character symbols; the Five-Characters Plan would cover one-, two-, three-, four-, and five-character symbols. In addition, the plans differ with regard to the number of, and the length of time that, symbols may be reserved, the portability of symbols for issuers that move their listing from one market to another, the allocation of costs relating to the plan, and the process of withdrawing from the plan. Pursuant to Rule 608, the Commission is publishing

this notice of, and soliciting comments on, both the Three-Characters Plan and the Five-Characters Plan.

Section 11A of the Act grants the Commission broad authority to authorize or require SROs, either by rule or order, to act jointly with respect to planning, developing, operating, or regulating a national market system.<sup>8</sup> Thus, the Commission may establish a single symbol reservation national market system plan by approving either the Three-Characters Plan or the Five-Characters Plan or may approve both the Three-Characters Plan and the Five-Characters Plan, in each case with such changes or subject to such conditions as the Commission may deem necessary or appropriate.<sup>9</sup> In addition, the Commission has authority to require SROs to participate in any approved national market system plan or plans, or otherwise act jointly with respect to matters related to the national market system.<sup>10</sup>

The Commission requests comment on whether all SROs that list securities should be required to join any symbol reservation national market system plan approved by the Commission. If commenters believe that SROs that list securities should not be required to join such an approved national market system plan, the Commission requests commenters to address how to preclude duplicative symbols from being selected and reserved, how to resolve disputes about symbols, or how otherwise to address concerns the plans are designed to address.

#### II. Background

Pursuant to Rule 601 of Regulation NMS under the Act,<sup>11</sup> all SROs are required to report every trade in listed equity securities<sup>12</sup> and Nasdaq securities<sup>13</sup> made through their facilities, and to make such information public. Each SRO reports every transaction to the ticker tape using the ticker symbol for that security, the volume of the trade, and the price of the trade. Currently, there are three ticker tapes: Tape A reports the stocks that are listed on NYSE, Tape B reports the stocks that are listed on Amex, as well as securities listed on any other national securities exchange (except securities

<sup>4</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>5</sup> See Letters from Annette L. Nazareth, then Director of the Division of Market Regulation, Commission, to Amex, Boston Stock Exchange ("BSE"), Chicago Board Options Exchange ("CBOE"), Chicago Stock Exchange ("CHX"), International Stock Exchange ("ISE"), Nasdaq, National Association of Securities Dealers, Inc. ("NASD"), National Stock Exchange, Inc. ("NSX"), NYSE, Pacific Exchange (the predecessor to NYSE Arca, Inc. ("NYSE Arca")) and Philadelphia Stock Exchange, Inc. ("Phlx"), dated February 7, 2005.

<sup>6</sup> 17 CFR 242.608.

<sup>7</sup> In the Supplement, CHX joined as a party proposing the Five-Characters Plan. In addition, the Supplement contained a revised version of the Five-Characters Plan. The parties to the Five-Characters Plan revised the plan as follows: (i) Changed the definition of securities for which an SRO must maintain facilities for the quoting and trade reporting of such securities in order to be party to the plan and corresponding changes throughout the plan and (ii) deleted the statement that new parties to the plan would pay an equal share of all development costs.

<sup>8</sup> See 15 U.S.C. 78k-1(a)(3).

<sup>9</sup> See 17 CFR 242.608(b)(2).

<sup>10</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>11</sup> 17 CFR 242.601.

<sup>12</sup> 17 CFR 242.600(b)(34) defines "listed equity security" as "any equity security listed and registered, or admitted to unlisted trading privileges, on a national securities exchange."

<sup>13</sup> 17 CFR 242.600(b)(41) defines "Nasdaq security" as "any registered security listed on The Nasdaq Stock Market, Inc."

<sup>1</sup> See *infra* note 19 and accompanying text.

<sup>2</sup> 15 U.S.C. 78k-1.

<sup>3</sup> 15 U.S.C. 78k-1(a)(1)(C).

also listed on NYSE and Nasdaq), and Tape C reports the stocks that are listed on Nasdaq. Tapes A and B disseminate market information pursuant to the Consolidated Tape Association Plan ("CTA Plan"), while Tape C disseminates market information pursuant to the Nasdaq Unlisted Trading Privileges Plan ("Nasdaq Plan").

The term "ticker symbol" originates from the ticker tape.<sup>14</sup> Instead of reporting trades using the full name of the security, a symbol was used to save time and resources when telegraph operators typed each transaction.<sup>15</sup> The most heavily traded stocks were assigned one-character symbols to speed up communication.<sup>16</sup> As noted earlier, it has been the practice of the NYSE to list companies using one-, two-, and three-character symbols. Other exchanges, including Amex and regional exchanges, have also listed companies using two- and three-character symbols. Until recently, Nasdaq, formerly a facility of the NASD, was the only market that did not list securities with one-, two-, and three-character symbols; instead, Nasdaq had always listed securities with four- and five-character symbols. In November 2005, however, Nasdaq announced its intention to begin listing companies with one-, two-, and three-character symbols.<sup>17</sup> Since that time, Nasdaq has made a series of announcements detailing its plans, and has worked with the industry to test trading systems to ensure the proper functionality for such symbols.<sup>18</sup> In March 2007, Nasdaq filed with the Commission a proposed rule change to allow companies transferring their

listings to Nasdaq to retain their three-character symbols.<sup>19</sup>

As the securities markets have grown over the years, one-, two-, and three-character symbols, traditionally used by the exchanges, have become scarce. There are 26 combinations for one-character symbols, 676 combinations for two-character symbols, and 17,576 combinations for three-character symbols, for a total of 18,278 one-, two-, and three-character symbols. Several factors have also been increasing the demand for one-, two-, and three-character symbols. In recent years, exchanges have begun listing new and innovative products, such as exchange-traded funds, that are also now competing with listed companies for symbols. In addition, Nasdaq has expressed its intention to start using one-, two-, and three-character symbols.<sup>20</sup> Finally, the proliferation of standardized options has decreased the availability of three-character symbols.<sup>21</sup>

Concerns about constraints on symbol supply heighten the need to revisit the existing informal symbol reservation system. Currently, the process of designating securities symbols is not done pursuant to a formal national market system plan or agreement, but is conducted informally among the SROs. Each SRO keeps its own records of reserved symbols. If an SRO wishes to reserve a particular symbol, the SRO will first consult its own list of reserved symbols to confirm that the desired symbol has not been reserved by another SRO. Once the listing SRO has verified that a particular symbol is not already reserved according to its own records of reserved symbols, the listing SRO will notify the other SROs that it wishes to reserve such symbol. If no other SRO objects, then the listing SRO has successfully reserved that symbol and each SRO would update its own records of reserved symbols accordingly.

While the existing informal reservation system has performed the function of allocating symbols among the listing markets in the past, the weakness in the current system could potentially have significant market

consequences as exchanges compete more aggressively for listings and the supply of available symbols becomes more restricted over time. The absence of universal reservation records, for example, could cause confusion about the availability of certain symbols and could lead to disputes between listing markets about the availability of a symbol. Such disputes raise the potential for investor confusion and symbol duplication. Under the existing system, listing markets may reserve an excess amount of symbols indefinitely, which may exacerbate the strain on symbol supply. The fear of symbol supply constraints could even drive listing markets to reserve an excess amount of symbols, either to protect their interests in the event of needing such symbols in the future or to give themselves advantages over their competitors in securing future listings. Moreover, the existing system does not limit the potential for symbol reservations to be used for anti-competitive purposes. For example, a listing market could use the existing symbol reservation system to withhold unused symbols from their competitors, trade reserved symbols only with certain, allied exchanges, or use their power to withhold desired symbols to compel other listing markets not to trade symbols with their direct competitors. Also, the existing system does not universally permit issuers transferring their listings to a new exchange to keep their ticker symbols. For example, the exchange where an issuer listed originally could dispute the new listing exchange's right to use the issuer's ticker symbol, which could disrupt the process of transferring the listing. In addition, issuers with one-, two-, or three-character symbols currently may not transfer their listings to Nasdaq,<sup>22</sup> though they may do so to any other national securities exchange. These weaknesses in the existing informal symbol reservation system could potentially lead to conditions that hamper competition among the listing markets and disrupt the marketplace.

### III. Description of the Plans

The two proposed plans are identical in numerous respects. A brief summary of the most significant aspects of the plans, highlighting their distinctions, is provided below. The full text of the separate plans submitted by the SROs is available on the Commission's Web site at: <http://www.sec.gov/rules/sro/4-534.pdf> and <http://www.sec.gov/rules/sro/4-533revised.pdf>, respectively, at

<sup>14</sup> The ticker tape started in 1867, when all trades made on an exchange were sent out by telegraph and printed on a piece of paper. Although the process is now automated, the securities industry participants continue to refer to the electronic reporting of information as the "tape." See Hal McIntyre, *How the U.S. Securities Industry Works*, 194-95 (The Summit Group Press) (2000).

<sup>15</sup> See, e.g., Brendan I. Koerner, *How Are Ticker Symbols Allotted?*, *Slate*, September 18, 2003, available at: <http://www.slate.com/id/2088587/>.

<sup>16</sup> See *id.*

<sup>17</sup> See, e.g., Head Trader Alert 2005-133 (November 14, 2005), available at: <http://www.nasdaqtrader.com/Trader/News/2005/headtraderalerts/hta2005-133.stm>.

<sup>18</sup> See, e.g., Head Trader Alert 2006-144 (September 29, 2006), available at: <http://www.nasdaqtrader.com/Trader/News/2006/headtraderalerts/hta2006-144.stm>; Head Trader Alert 2006-193 (November 16, 2006), available at: <http://www.nasdaqtrader.com/Trader/News/2006/headtraderalerts/hta2006-193.stm> and Head Trader Alert 2006-201 (December 6, 2006), available at: <http://www.nasdaqtrader.com/Trader/News/2006/headtraderalerts/hta2006-201.stm>; Head Trader Alert 2007-008 (January 25, 2007), available at: <http://www.nasdaqtrader.com/Trader/News/2007/headtraderalerts/hta2007-008.stm>.

<sup>19</sup> See Securities Exchange Act Release No. 55563 (March 30, 2007), 72 FR 16391 (April 4, 2007) (SR-NASDAQ-2007-031). See also Securities Exchange Act Release No. 55519 (March 26, 2007), 72 FR 15737 (April 2, 2007) (SR-NASDAQ-2007-025) (allowing a single company, Delta Financial Corp., to retain its three-character symbol upon transferring its listing from Amex to Nasdaq).

<sup>20</sup> See *supra* notes 17-19.

<sup>21</sup> The options exchanges have expressed their intention to shift to a different symbology in 2009. See <http://www.theocc.com/initiatives/symbology/default.jsp>.

<sup>22</sup> See *supra* note 19.

the respective SROs, and at the Commission's Public Reference Room.

#### A. Preambles

The preambles to the plans are nearly identical.<sup>23</sup> The Three-Characters Plan would establish a body composed of the signatory SROs called the International Symbols Reservation Authority. Similarly, the Five-Characters Plan would establish a body composed of the signatory SROs called the Intermarket Symbols Reservation Authority.<sup>24</sup>

#### B. Scope of Plans

Each of the proposed plans would cover only root symbols, without any suffix or special conditional identifier.<sup>25</sup>

- The Three-Characters Plan would be the exclusive means of allocating and using symbols of one-, two-, or three-characters in length and would not govern the use of four- or five-character symbols.<sup>26</sup> Specifically, the Three-Characters Plan would cover the allocation of all securities symbols disseminated through the CTA Plan, the Consolidated Quote Plan ("CQ Plan"), the Options Price Reporting Authority ("OPRA"), and any market data distribution network maintained by a party<sup>27</sup> to the plan or an affiliate of a party to the plan.

- The Five-Characters Plan would be the means of allocating and using symbols of one-, two-, three-, four-, or five-characters in length.<sup>28</sup> The Five-Characters Plan would cover securities that are NMS securities as currently defined in Rule 600(a)(46) of Regulation NMS<sup>29</sup> and any other equity securities quoted, traded and/or trade reported through an SRO facility.

The Commission requests comment on whether it would be advisable for it to approve one plan or two plans. For example, commenters views are requested on whether the Commission could approve a plan covering only one-, two-, and three-character symbols and a plan covering one-, two-, three-, four-, and five-character ticker symbols. Would there be any potential inefficiencies and inconsistencies

arising from having two plans that would render that situation unworkable or undesirable? Would there be any special benefit derived from having two plans that might justify the additional burden of administering two plans? The Commission also requests comment on whether it is advisable to have a single plan covering one-, two-, three-, four-, and five-character symbols. Would there be any difficulties with having a single plan for the allocation of all symbols? What are the benefits of having only one plan? In addition, the Commission requests comment on how having either a single plan or two plans would assure fair competition among all parties and, in particular, new listing markets.

#### C. Parties to the Plans

The proposed plans' provisions regarding qualifications to be a party to the plan are described below:

- The Three-Characters Plan would allow an SRO to join the plan if it maintains a market for the listing and trading of securities that are identified by one-, two-, or three-character symbols and that are identified as "eligible" securities for "Network A" or "Network B" as those terms are defined in the CTA Plan.<sup>30</sup> A party would also have to have the actual technical and physical capability through its facilities to immediately quote and report trades in securities using one-, two-, or three-character symbols. In addition, the plan would require, as a condition to becoming a new participant, that an SRO pay a proportionate share of the aggregate development costs, with the result that each party's share of all development costs<sup>31</sup> is approximately the same, and sign a current copy of the plan.

- The Five-Characters Plan would allow an SRO to join the plan if it maintains a market for the listing of securities that are identified by one-, two-, three-, four-, or five-character symbols.<sup>32</sup> A party would also have to have the actual technical and physical capability through its facilities to immediately quote and report trades in securities using one-, two-, or three-character symbols, if it seeks to reserve symbols of one-, two-, or three-characters in length, and using four- or five-character symbols, if it seeks to reserve symbols of four- or five-characters in length. In addition, this plan would require, as a condition to

becoming a new participant, that an SRO pay a proportionate share of the aggregate development costs, based on the number of symbols it reserves, and sign a current copy of the plan.<sup>33</sup>

The Commission requests comment on the proposed plans' requirements for SROs to join each plan. In particular, the Commission requests comment on whether it is appropriate to limit, as the Three-Character Plan proposes, participation in the plan to SROs that maintain a market for the listing and trading of eligible securities for Network A and Network B. Would such a requirement impede fair competition? More generally, would the proposed plans' provisions on eligibility assure fair competition among all parties and, in particular, new listing markets?

#### D. Administration of ISRA

Section II of each of the plans sets forth the administration of the ISRA. A Policy Committee would administer the ISRA and, unless expressly provided otherwise in the plan, the Policy Committee would make all policy decisions on behalf of the ISRA in furtherance of the functions and objectives of the ISRA under the Act and the plan. Specifically, the Policy Committee would: (1) Oversee the operation of the Symbol Reservation System;<sup>34</sup> (2) make all determinations pertaining to contracts with parties to the plan and persons who provide goods or services to the ISRA; and (3) determine all other questions pertaining to the planning, developing, and operating of the ISRA, including those pertaining to budgetary or financial matters.

Both of the proposed plans provide that one voting member and one alternate voting member representing each party would compose the Policy Committee.<sup>35</sup> Each party would have one vote on all matters voted upon by the Policy Committee and actions of the ISRA under each plan would be authorized by a majority vote of the Policy Committee members, subject to Commission approval when required by applicable securities law.<sup>36</sup> Authorized actions under each plan would be binding upon all the parties. However, an aggrieved party may present contrary views to any regulatory body or in any other appropriate forum.<sup>37</sup>

Both plans also provide that a meeting of the Policy Committee would be held

<sup>23</sup> See preambles of the proposed plans.

<sup>24</sup> International Symbols Reservation Authority and Intermarket Symbols Reservation Authority are referred to herein as "ISRA."

<sup>25</sup> See Section IV(a) of the proposed plans.

<sup>26</sup> See Sections I(b) and IV(a) of the Three-Characters Plan.

<sup>27</sup> The Commission notes that under Rule 600 of Regulation NMS, SROs who are parties to a national market system plan are referred to as "participants" while the proposed plans refer to such SROs as "parties." See 17 CFR 242.600(b)(53). For purposes of this notice, the term "participants" and "parties" shall have the same meaning.

<sup>28</sup> See Sections I(b) and IV(a) of the Five-Characters Plan.

<sup>29</sup> 17 CFR 600(a)(46).

<sup>30</sup> See Section I(b) and (c) of the Three-Characters Plan.

<sup>31</sup> For additional discussion regarding the plan's provision relating to costs, see discussion *infra* Part III(G).

<sup>32</sup> See Section I(b) and (c) of the Five-Characters Plan.

<sup>33</sup> For additional discussion regarding the plan's provision relating to costs, see discussion *infra* Part III(G).

<sup>34</sup> See discussion *infra* Part III(F).

<sup>35</sup> See Section II(c) of the proposed plans.

<sup>36</sup> See Section II(d) of the proposed plans.

<sup>37</sup> *Id.*

at least annually and that other meetings would be held as determined by the Policy Committee.<sup>38</sup> Each plan also specifies the notice provisions for regular and special meetings, and the organization of the meetings.

The Commission requests comment on the proposed plans' provisions relating to the administration of the ISRA by the Policy Committee. In particular, the Commission requests comment on the powers of the Policy Committee, as well as whether the committee's decision-making process by majority vote is appropriate. In addition, the Commission requests comment on the appeal procedures for an aggrieved party. Should the plans specify what is meant by the phrase "other appropriate forum"? Do the proposed plans provide enough clarity as to how an aggrieved party could pursue relief under the plans?

#### E. Performance of Functions

Section III of each of the proposed plans establishes that the ISRA would delegate the operation of the Symbol Reservation System to an independent third party (the "Processor") and would enter into contracts with the Processor relating to the operation of the Symbol Reservation System. The Processor would receive reservation requests from the parties and reserve and allocate symbols among the parties in accordance with the terms of the plan. To this end, the Processor would create and maintain a symbol reservation database.<sup>39</sup>

The Commission requests comment on the proposed plans' provisions related to the delegation of the operation of the Symbol Reservation System to a Processor.

#### F. The Symbol Reservation System

Section IV of each of the proposed plans sets forth the operating details of the Symbol Reservation System. Here, the plans diverge in key ways.

##### 1. Reservation and Use of Symbols

###### a. Submission of Initial Reservation Requests

Each plan would provide that, within a specified time period after the plan's approval, a participant in the plan may submit to the Processor requests for the initial reservation of symbols.<sup>40</sup> Both plans provide that a party may reserve symbols for: (i) The listing of common stock or any other security, including options; (ii) the dissemination of a securities index or other index

information; or (iii) any other purpose authorized by a majority vote. In addition, the Five-Characters Plan provides that a party may reserve symbols for the trading of any over-the-counter security. Initial reservation requests may be for perpetual or limited-time reservations, as discussed below.

##### Perpetual Reservations

Each of the proposed plans would permit a party to reserve a limited number of symbols in perpetuity ("perpetual reservations").<sup>41</sup>

- The Three-Characters Plan provides that NYSE and Amex each could reserve up to 200 symbols as perpetual reservations; other parties to the plan each could reserve up to 40 symbols as perpetual reservations.

- The Five-Characters Plan provides that there would be two perpetual reservation lists—one list for one-, two-, and three-character symbols and one list for four- and five-character symbols. Each party to the plan could reserve up to 20 one-, two-, or three-character symbols as perpetual reservations, and up to 20 four- or five-character symbols as perpetual reservations.

Both proposed plans provide that a party could not add symbols to its perpetual reservation list after the initial reservation process, except when reserving a symbol for re-use.<sup>42</sup> In addition, both plans would provide that a party that requests perpetual reservations for more symbols than permitted would be required to place its symbols requests in priority ranking.

The Commission requests comment on the plans' proposals to include perpetual reservations lists. Should SROs be permitted to reserve symbols in perpetuity? Commenters are requested to explain why SROs should or should not be permitted to reserve symbols into perpetuity. Would there be any public benefit derived from having perpetual reservations? What impact would allowing perpetual reservations have on competition, particularly for new markets? The Commission also requests commenters' views on the number of symbols an SRO should be permitted to reserve under any such list. Specifically, the Commission requests comment on whether all SROs should be given the same number of perpetual reservations, as proposed under the Five-Characters Plan, or whether it is reasonable to provide certain SROs a greater number of such reservations, as proposed under the Three-Characters Plan. In particular,

the Commission requests comment on what basis would be appropriate for certain SROs to receive more perpetual reservations than other SROs. For example, should the primary listing markets receive a greater number of perpetual reservations?

Finally, the Commission requests commenters' views on how the proposed provisions on perpetual reservations would affect new listing markets. How would an SRO that joins the plan after the initial reservation process be able to reserve symbols? Would the existence of perpetual reservations present a significant barrier to entry by new listing markets? Would it prevent or reduce competition from new listing markets? Would conducting another initial reservation process for all plan participants upon a new market joining the plan provide a more level playing field for a new entrant? How else could the provisions on perpetual reservations be adjusted to account for new listing markets?

##### (2) Limited-Time Reservations

Under both plans, symbols could also be reserved for 24 months ("limited-time reservations").<sup>43</sup>

- The Three-Characters Plan provides that Amex and NYSE each could reserve up to 1,500 symbols as limited-time reservations and NYSE Arca could reserve up to 500 symbols as limited-time reservations. The Three-Characters Plan does not specify the number of limited-time reservations for other parties. Instead, this plan would need to be amended when an additional party joins the plan to specify how many limited-time reservations such party is entitled.

- The Five-Characters Plan would provide two limited-time reservation lists—one list for one-, two-, and three-character symbols and one list for four- and five-character symbols. Each party could reserve up to 1,500 symbols under the one-, two-, or three-character limited-time reservations list and up to 1,500 symbols under the four- or five-character limited-time reservations list. Moreover, under the Five-Characters Plan, a party may not make any limited-time reservations with respect to a particular symbol unless the party has a reasonable basis to utilize the symbol within the next 24 months.

As with perpetual reservation requests, under both plans, a party that requests limited-time reservations for more symbols than permitted would be required to place its symbols requests in priority ranking.

<sup>38</sup> See Section II(e) of the proposed plans.

<sup>39</sup> See *infra* Part III(F)(4) for further discussion.

<sup>40</sup> See Section IV(b)(1) of the proposed plans.

<sup>41</sup> See Section IV(b)(1)(A) of the proposed plans.

<sup>42</sup> See discussion *infra* Part III(F)(3).

<sup>43</sup> See Section IV(b)(1)(B) of the proposed plans.

The Commission requests comment on the plans' proposals to include limited-time reservations. Should SROs be permitted to make limited-time reservations? Commenters are requested to explain why SROs should or should not be permitted to reserve symbols for a limited-time. Would there be any public benefit derived from having limited-time reservations? What impact would allowing limited-time reservations have on competition, particularly for new markets? The Commission also requests comment on the requirement for a "reasonable basis" for reserving a symbol, as articulated in the Five-Characters Plan. Specifically, should the plan be more specific as to what would be a "reasonable basis" or who would make such a determination and how?

The Commission requests comment on the number of symbols an SRO should be permitted to reserve as limited-time reservations. The Commission also requests comment on the length of time symbols may be reserved as limited-time reservations. Is 24 months an appropriate length of time—should it be shorter or longer? In addition, the Commission requests comment on whether all SROs should receive the same number of limited-time reservations, as provided under the Five-Characters Plan, or whether it is appropriate for certain SROs to receive a greater number of such reservations, as proposed under the Three-Characters Plan. In particular, the Commission requests comment on what basis would be appropriate for certain SROs to receive more limited-time reservations than other SROs. For example, should the primary listing markets receive a greater number of limited-time reservations? Finally, the Commission requests commenters' views on how the proposed provisions on limited-time reservations would affect new listing markets. How would an SRO join the plan after the initial reservation process reserve symbols? Would limited-time reservations prevent or reduce competition from new listing markets and present a significant barrier to entry by new listing markets? Would conducting a new initial reservation process for all plan participants upon a new market joining the plan provide a more level playing field for a new entrant? How else could the provisions on limited-time reservations be adjusted to account for new listing markets?

## b. Processing of Initial Reservation Requests

### (1) Claims to a Legacy Reservation

Both plans would permit a party to have priority over other parties in reserving a symbol that it claims was properly reserved under the current informal system ("legacy reservation"), prior to the effective date of the plan.

- Under the Three-Characters Plan, if there is only one party that claims such prior reservation of a symbol, such party would have priority over other SROs to retain its reservation of that symbol.<sup>44</sup> Such a symbol would be included on a party's perpetual or limited-time reservation list.

- Under the Five-Characters Plan, if there is only one party that claims such prior reservation of a symbol, such party would have priority over other SROs to retain reservation of that symbol only if the party represents that it has a reasonable basis to believe that it would utilize such symbol within the next six months.<sup>45</sup> Under the Five-Characters Plan, such reservation would not count towards the party's perpetual reservations or limited-time reservations, but instead be reserved as a separate, additional legacy reservation. However, if the party does not use such symbol within the allotted six-month period, it would lose the reservation unless the party requests an extension for an additional six-month period. In requesting such an extension, the party would have to have a reasonable basis to believe that it would utilize such symbol within the additional six-month period.

Both plans would provide the same process for resolving claims by more than one party to a legacy reservation.<sup>46</sup> This process is as follows: First, the Processor would notify all such parties of the conflicting claims. Then the parties would have five business days to reach a mutually acceptable agreement as to which party would be permitted to reserve the symbol. In the absence of an agreement, the Policy Committee would resolve the issue by a majority vote of the parties not claiming the symbol. Where there is no agreement but the Policy Committee is able to determine which party has the earliest proper claim to such symbol, the plans would require it to resolve the disagreement in favor of such party.

The Commission requests comment on the proposed plans' processes for recognizing legacy reservations. Should

parties have the right to reserve, under the plans, symbols for which they claim to have a legacy reservation? Should a party only be able to retain a legacy reservation if it is able to represent that it has a reasonable basis to believe that it would utilize such symbol within the next six months, as provided under the Five-Characters Plan? If so, the Commission requests comment on the requirement to have "a reasonable basis" for retaining legacy reservations. Specifically, should the plan be more specific as to what would be a "reasonable basis" or who would make such a determination and how?

The Commission also requests comment on the proposed process for resolving claims to legacy reservations. Could the requirement of a majority vote for resolving such claims affect fair competition among the parties? How could this process be adjusted to address any competitive concerns? The Commission also requests comment on how decisions to grant extensions of legacy reservations, as proposed under the Five-Characters Plan, would be made. Should the plan be more specific as to who would make a determination that a reasonable basis for an extension exists and how?

### (2) Other Initial Reservations

Both plans would provide the same process for initial reservations of symbols that have not been properly reserved prior to the effective date of the plan.<sup>47</sup> If only one party seeks to reserve a symbol, then the Processor would reserve such symbol for that party. If multiple parties seek to reserve a symbol, the Processor would reserve the symbol based on a random ordering established by the Policy Committee. If a symbol is not available for reservation, both plans would provide that the Processor would place the requesting party on a wait list.<sup>48</sup> Further, both plans would provide that the Processor would process a party's symbol reservation requests by first reserving symbols up to the party's limit for its perpetual reservations list and then reserving the remaining requested symbols up to the limit for its limited-time reservations.<sup>49</sup>

The Commission requests comment on the proposed plans' processes for initial reservation requests. In particular, the Commission requests comment on how the proposed processes would affect new listing markets. Would the proposed processes

<sup>44</sup> See Section IV(b)(2) of the Three-Characters Plan.

<sup>45</sup> See Section IV(b)(2) of the Five-Characters Plan.

<sup>46</sup> See Section IV(b)(2)(B) of the proposed plans.

<sup>47</sup> See Section IV(b)(2)(C)–(E) of the proposed plans.

<sup>48</sup> See discussion *infra* Part III(F)(2).

<sup>49</sup> See section IV(b)(2)(F) of the proposed plans.

for initial reservation requests affect competition? Should there be a special initial reservation process for a new listing market that joins the plan? Would a new listing market be adversely affected by the proposed methods of allocating initial reservation requests and its impact on the availability of symbols? How could the proposed plans assure fair competition among all parties and, in particular, new listing markets? How should the random order of priority for reserving a symbol requested by multiple parties be designed? For example, should the order be selected anew for every symbol? Would another assignment methodology be more appropriate or fair?

#### c. Subsequent Reservations

Both plans contain substantially identical provisions on reserving symbols after the initial reservation process.<sup>50</sup> Specifically, if a party submits to the Processor a request for a limited-time reservation and the symbol is available, the Processor would reserve such symbol, provided that the party has not already reached its maximum number of allowed limited-time reservations. If it has reached its maximum number of limited-time reservations, the party could surrender a reserved symbol in order to reserve the new symbol. If a symbol requested is not available, the Processor would place the requesting party on the waiting list for such symbol.

The Commission requests comment on the proposed plans' provisions for the subsequent reservations of symbols. In particular, the Commission requests comment on whether the proposed provisions assure fair competition among all parties and, in particular, new listing markets.

#### d. Non-Use or Release of Symbols Within Time Period

Both plans provide that the Processor would release any limited-time reservation symbols not used within the 24-month time period.<sup>51</sup> A party could also voluntarily release a reserved symbol. In either case, upon the release of a symbol, the Processor would notify the parties on the waiting list, if any, of the symbol's availability. If there is no waiting list or if no party on the waiting list elects to reserve such symbol, the Processor would notify all parties to the plan of the availability of the symbol. If more than one party requests the reservation of such symbol within two business days of the notice, the

Processor would assign the symbol to one party and place the other parties on the waiting list pursuant to a random order of priority established by the Policy Committee.

The Commission requests comment on the proposed plans' provisions for the non-use or release of symbols. How should the random order of priority for the waiting list be designed? For example, should the order be selected anew for every symbol? Would another assignment methodology be more appropriate or fair? Would the proposed plans' processes for the non-use or release of symbols affect competition?

#### e. Request for Release of a Symbol

Both plans would provide the same method for a party to request the release by another party of a reserved symbol.<sup>52</sup> Specifically, if a party has an immediate need to use a symbol that another party has reserved, the requesting party would ask the party that reserved the symbol, and any other parties on the waiting list, whether such parties would be willing to release the reserved symbol. If the parties do not agree to release the symbol, the requesting party would not obtain the reserved symbol. If the parties do agree to release the symbol, the requesting party could include such symbol as one of its limited-time reservations. If the requesting party is already at the maximum number of limited-time reservations, under the Three-Characters Plan, it would have to voluntarily surrender another reserved symbol before reserving the requested symbol. Under the Five-Characters Plan, if the requesting party is already at the maximum number of limited-time reservations, the party could either surrender or re-designate another symbol before reserving the requested symbol. If the requesting party does not use a released symbol within the 24-month period, absent the consent of all parties initially required to be contacted, the reservation and waiting list priority in effect when the requesting party first made its request for the release of the symbol would again be in effect.

The Commission requests comment on the proposed plans' processes for releasing symbols. The Commission requests commenters' views on whether a requesting party that is at the maximum number of limited-time reservations should be allowed to either surrender or re-designate another symbol in order to reserve the requested symbol. The Commission notes that the Five-Characters Plan does not define or describe the process of "re-designating"

a symbol. The Commission requests comment on whether it is necessary for the plan to describe the process of "re-designation." The Commission also requests comment on how a symbol could be "re-designated" if a requesting party is at its maximum number of limited-time reservations. Finally, the Commission requests comment on whether the proposed provisions on releasing symbols assure fair competition among all parties and, in particular, new listing markets.

#### 2. Waiting List

Both plans would provide substantially identical waiting list processes.<sup>53</sup> Specifically, when one or more parties request to reserve a symbol that another party has reserved, the Processor would place such parties on the waiting list for that symbol. The waiting list would be based on time priority—that is, the earliest request would have precedence. However, if more than one party seeks to use a symbol already in use within either 30 days of the effective date of the plan or two business days of notice of a symbol's availability, the Policy Committee would establish a random order of such parties to determine priority on the waiting list.

When a symbol becomes available, the Processor would notify the party with priority on the waiting list. Such party would then have two business days to reserve that symbol; otherwise, the Processor would repeat the process as necessary with all parties on the waiting list, in order of priority. The maximum number of symbols for which a party may be on the waiting list at any time would be 100 symbols.

The Commission requests comment on the proposed plans' waiting list provisions. In particular, the Commission requests comment on whether 100 symbols is an appropriate number of symbols for the waiting list. With respect to a party's request to use a symbol already in use either within 30 days of the effective date of the plan or within two business days of notice of a symbol's availability, the Commission requests comment on whether such time periods are appropriate. In addition, the Commission requests comment on whether the proposed provisions for waiting lists assure fair competition among all parties and, in particular, new listing markets. Finally, how should the random order of priority for the waiting list be designed? For example, should the order be selected anew for every symbol? Would another assignment

<sup>50</sup> See Section IV(b)(3) of the proposed plans.

<sup>51</sup> See Section IV(b)(5) of the proposed plans.

<sup>52</sup> See Section IV(b)(6) of the proposed plans.

<sup>53</sup> See Section IV(c) of the proposed plans.

methodology be more appropriate or fair?

### 3. Reuse of a Symbol and Portability of Symbols in Use

The plans propose different approaches to the reuse and portability of symbols.<sup>54</sup>

- The Three-Characters Plan would provide that if a party ceases to use a symbol,<sup>55</sup> such party automatically reserves that symbol, notwithstanding any other limits on the number of reserved symbols under the plan. The Three-Characters Plan would include within an SRO's right to automatically reserve a symbol it ceases to use the situation in which an issuer transfers its listing from one SRO to another.

This plan would provide that the SRO from which the issuer delisted its security would have the rights to the symbol for that security, unless it consents to the transfer of the symbol to the new SRO. If the SRO to which the issuer transferred its listing believes there is a compelling business reason why it should have the rights to the symbol (if it is a two-or three-character symbol, but not a one-character symbol), the new SRO may submit to the Processor the determination of which SRO shall have the rights in that symbol.<sup>56</sup> The Processor could only grant the rights in the symbol to the new SRO if the Processor determines that such SRO's business reasons for obtaining such rights substantially outweigh the business needs of the other SRO to that symbol. The Processor's decision would be final and not subject to appeal.

- The Five-Characters Plan would also provide that if a party ceases to use a symbol, such party automatically reserves that symbol, notwithstanding any other limits on the number of reserved symbols under the plan. However, this plan would provide an exception to this automatic reservation right when an issuer transfers its listing from one SRO to another. In this case, the SRO to which a listing is transferred would have the rights to that issuer's symbol.

Both plans provide that a symbol being reused pursuant to such provisions could be reserved as a perpetual reservation if the party has not yet reserved the full number of perpetual reservations available to it.<sup>57</sup>

Otherwise, such symbol would be reserved as a limited-time reservation and the additional symbol could exceed the limit of the maximum number of limited-time reservations permitted to a party under the plan. Finally, both plans would provide that a symbol could not be reused by a party to identify a new security unless the party reasonably determines that such use would not cause investor confusion.

The Commission requests comment on the proposed plans' provisions relating to the reuse of symbols. In particular, the Commission requests comment on the proposed plans' provisions regarding the portability of a securities symbol to a new listing market when an issuer transfers its listing. When an issuer moves its listing to a new listing market, should either the former listing market or the new listing market retain the right to use the issuer's symbol? How would awarding the rights to the symbol to the former listing market affect competition? How would awarding such rights to the new listing market affect competition? Should there be a process for resolving symbol disputes between the former listing market and the new listing market or should the plans categorically award the rights to the symbol to one market or the other? If the former, the Commission requests comment on the Three-Characters Plan's proposed process for resolving such disputes.

Under the Three-Characters Plan, the new listing market may request the transferred symbol if it believes that there is a compelling business reason for the transferred symbol. The Commission requests comment on whether the plan should be more specific as to what would be a "compelling business reason" and how the Processor should assess the various business needs of the two listing markets to make the decision as to who should have the rights to the symbol. Should the business reasons of the two listing markets be the only factor in the Processor's determination? Or should other factors also be considered? If so, what other factors should be considered? Is the Three-Characters Plan's provision that the Processor's decision is final and not subject to appeal fair and reasonable? Or would it be more appropriate to provide the parties with an alternative venue for pursuing relief? Finally, the Commission requests comment on whether single-character symbols should be subject to the same portability

limited-time reservations list in order to place the symbol being reused on its perpetual reservations list.

provisions as two- and three-character symbols.

### 4. Database

Both plans would provide that the Processor would create and maintain a symbol reservation database.<sup>58</sup> Except as required by applicable law, the Processor would grant access to the database only to the parties and the Commission. The database would show all symbols currently in use and the party using such symbols.<sup>59</sup> In this regard, both plans would require a party to notify the Processor when the party begins using a reserved symbol. In addition, the database would show all symbols reserved on the perpetual reservations and limited-time reservations lists, including the reserving party and the expiration date for limited-time reservations. The database would also show the waiting list and the priority order of the waiting list for each symbol. The Commission requests comment on the proposed plans' provisions related to the database.

### G. Financial Matters

Sections I and V of the plans set forth the manner in which the parties would share the initial development costs, as well as continuing costs. The proposed plans differ significantly in their method of cost allocation.

- Under the Three-Characters Plan, the parties would share the initial development costs equally. The Three-Characters Plan would also provide that the continuing costs and expenses of ISRA would be shared equally among the parties at the end of each calendar year. The continuing costs would only be prorated for a party that had not been a party for the entire calendar year. Section I of the Three-Characters Plan would provide that any new party that joins the plan would pay to the existing parties a proportionate share of the aggregate development costs previously paid by such existing parties, with the result that each party's share of all development costs is approximately the same.

- Under the Five-Characters Plan, the parties would share the initial development costs pro-rata based on the number of symbols initially reserved by each party. Section V of the Five-Characters Plan would provide that any new party that joins the plan would also be responsible for a pro-rata portion of the initial development costs based upon the number of symbols initially reserved by such new party during the

<sup>54</sup> See Section IV(d) and (f) of the proposed plans.

<sup>55</sup> For example, through merger or delisting of the issuer whereby the security is no longer listed.

<sup>56</sup> The Three-Characters Plan would not permit disputes over one-character symbols to be submitted to the Processor.

<sup>57</sup> The plans also provide that a party could move a symbol from its perpetual reservations list to its

<sup>58</sup> See Section IV(e) of the proposed plans.

<sup>59</sup> See Section IV(b)(4) of the proposed plans.



first twelve months of the new party's membership in the plan. The Five-Characters Plan would provide that the continuing costs and expenses of ISRA would be shared among the parties pro-rata based on the number of additional symbols reserved in each calendar year, estimated quarterly. In addition, under the Five-Characters Plan, the Policy Committee may develop alternative cost-allocation methodologies for special non-initial development projects.

The Commission requests comment on the proposed plans' provisions relating to financial matters. In particular, should the initial development and continuing costs be allocated by the number of parties, or by the number of reserved symbols of a party? Are there other cost allocation methodologies the Commission should consider? In addition, the Commission requests comment on the proposed plans' effects on new listing markets. Do the proposed plans' provisions on allocation of costs assure fair competition among all parties and, in particular, new listing markets? Would new listing markets be adversely affected by either formula for allocating initial development costs? The Commission also requests comment on whether the proposed plans should address the scenario of a former party who later wishes to rejoin the plan. Specifically, should such an entity be viewed as a new party who would be required to pay a share of the initial development costs according to the prescribed formula for new parties?

#### *H. Confidentiality*

Section VI of both plans would provide that the Processor would maintain all information received from the parties in strictest confidence and that the only information that the Processor would make available to the parties is the symbol reservation database. The Three-Characters Plan would also specifically provide that the Processor would make available to the parties any notices or other information specifically called for by the plan. Both plans would provide that the Processor would not make the symbol reservation database available to any person except the Commission or the parties, unless otherwise required by applicable law.

The Commission requests comment on the proposed plans' provisions with respect to the Processor's responsibility to keep information confidential.

#### *I. Term of Plan Withdrawal—Non-transferability of Rights Under the Plan*

Section VII of both plans would establish the method for a party to

withdraw from the plan. Specifically, to withdraw from the plan, a party would be required to provide at least six months prior written notice to the other parties. The withdrawing party would remain liable for its proportionate share of costs and expenses during the time it was a party to the plan, but would have no further obligations after the withdrawal. The Three-Characters Plan specifically states that withdrawal by a party would not result in any rebate or adjustment in the initial development costs paid, or payable, at the time of termination.

The Commission requests comment on the proposed plans' provisions related to withdrawal. If a party withdraws from the plan, to what extent should that party be responsible for costs paid or payable at the time of its termination from the plan? Should a party that lists securities be permitted to withdraw from the plan? The Commission requests comment on whether it should require all listing markets to join any approved national market system plan for the selection and reservation of securities symbols.

In addition, under both plans, an SRO would cease to be a party to the plan when it ceases to maintain a facility for the quoting and trade reporting of securities transactions or ceases to use symbols subject to the plan.<sup>60</sup> An SRO could continue to be a party of the plan upon the agreement of the remaining parties. To be approved as a continuing party, the Three-Characters Plan would require the unanimous vote of the remaining parties, while the Five-Characters Plan would require a majority vote.

The Commission requests comment on whether a vote is appropriate to allow an SRO that no longer maintains a facility for quoting or trade reporting of securities transactions or ceases to use symbols subject to the plan to remain a party to the plan. If so, the Commission requests comment on whether a unanimous or majority vote is appropriate. In particular, the Commission requests comment on how the requirement of either a majority vote, as proposed by the Five-Characters Plan, or unanimous vote, as proposed by the Three-Characters Plan, would affect competition among the listing markets.

Finally, both plans would provide that the right of a party to participate in the Symbol Reservation System under the plan is not transferable without the consent of the other parties.<sup>61</sup> However, if a party is subject to a merger, combination, or other reorganization or

the sale of all or substantially all of its assets, including its registration as an SRO, both plans would provide that the surviving entity would automatically become subject to the plan and could use the Symbol Reservation System.

The Commission requests comment on the proposed plans' provisions for the transfer of a party's rights under the plans. The Three-Characters Plan would subject the transferability provision to section I(d) of the plan. Section I(d) of the Three-Characters Plan states that an SRO that is a party to the plan would cease to be a party at such time as it ceases to maintain a facility for the quoting and trade reporting of securities or ceases to use symbols subject to the plan, unless such SRO asks to continue as a party and the other parties to the plan, by a unanimous vote, approve such SRO to continue as a party. Would the proposed plans' provisions for the transfer of a party's rights affect competition?

The Commission requests comment on this cross-reference to Section I(d), and notes that such cross-reference is not proposed in the Five-Characters Plan.

#### *J. Amendments to the Plan*

Section VIII of both plans would provide that the plan may be amended from time to time when authorized by the affirmative vote of all the parties, subject to any required approval of the Commission. The Commission notes that SROs proposing an amendment to a national market system plan must file such amendment with the Commission under Rule 608 of Regulation NMS.<sup>62</sup> The Commission requests comment on the proposed unanimity requirement for amending the plans. Would a majority or super-majority vote be more appropriate?

#### *K. Implementation of the Plans*

Both plans anticipate that the plan would be implemented upon the Commission's approval.<sup>63</sup>

#### *L. Development and Implementation Phases*

Parties to the Three-Characters Plan contemplate that the development and implementation phase would take place according to a timetable agreed to by the parties and the Processor. Parties to the Five-Characters Plan would determine

<sup>62</sup> The Commission may also propose amendments to any effective national market system plan. See 17 CFR 242.608(d)(2).

<sup>63</sup> Section IV in each plan provides that each party's initial symbol reservation requests would be due to the Processor within 30 days of Commission approval.

<sup>60</sup> See Section I(d) of the proposed plans.

<sup>61</sup> See Section VII of the proposed plans.



the development and implementation phase at a later time.

The Commission requests comment on whether the plans should specify the timetable for implementation. If so, what would be an appropriate timetable? In addition, the Commission requests comment on whether the plans should address the interim period when the symbol reservation system is not yet implemented and the parties are operating under the existing informal reservation system.

#### *M. Impact on Competition*

Parties to both plans do not believe that their plan would impose any burden on competition. Parties to the Five-Characters Plan believe that the plan would promote competition among exchanges by: (1) Providing all exchanges equal ability to use all symbols, (2) preserving full portability of symbols, and (3) allowing all exchanges equal ability to reserve symbols subject to equal application of reasonable time limits.

In addition to the questions above, the Commission requests comment on whether the proposed plans have adequately addressed the impact that they might have on competition. If not, what issues have not been adequately addressed?

#### *N. Written Understanding or Agreements Relating to Interpretation of or Participation in Plan*

Parties to both plans state that they do not have any written understanding or agreement relating to the interpretation of, or participation in, their plan.

#### *O. Operation of Facility Contemplated by the Plan*

Parties to both plans state that they do not intend to operate a "facility" as that term is defined under the Act.<sup>64</sup>

#### *P. Terms and Conditions of Access*

Section I of each of the plans contains a provision for the admission of new participants, under which any SRO that meets the eligibility standards of the plan may become a party thereto by signing a current copy of the plan and paying to the other parties a share of the aggregate development costs previously paid by such parties to the Processor.

The Commission requests comment on the proposed plans' provision with respect to new participants. In particular, the Commission requests commenters' view on whether the provisions set forth fair terms for access for all parties and, in particular, new listing markets.

#### *Q. Method and Frequency of Processor Evaluation*

Parties to the Three-Characters Plan contemplate that they would evaluate the Processor on a periodic basis, with a formal evaluation timetable, after they have selected the Processor. Parties to the Five-Characters Plan would determine the method and frequency of the evaluation of the Processor at a later time.

#### *R. Dispute Resolution*

Generally, parties to the Three-Characters Plan would seek to resolve disputes by means of negotiation and discussion among their ISRA Policy Committee representatives; parties to the Five-Characters Plan would seek to resolve disputes by communication among parties. Except in the specific instances noted below, both plans do not provide for a specific mechanism for the resolution of disputes arising under the plan but acknowledge that all parties retain the right to present their views on issues relating to the plan and their rights in the appropriate forum.

There are two instances in which the proposed plans provide mechanisms for dispute resolution. Under Section IV(b)(2)(B) of each of the plans, the Policy Committee would resolve disputes related to the initial reservation requests. Under Section IV(f) of the Three-Characters Plan, the Processor would resolve disputes with respect to which SRO would retain the rights to the symbol when an issuer moves its listing to a new SRO.

The Commission requests comment on the proposed plans' provisions on dispute resolution. Specifically, the Commission requests commenters' view whether the proposed plans should prescribe the appropriate forums that aggrieved parties may seek to present their views.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed plans are consistent with the Act. The Commission invites comments on whether the foregoing assures fair competition among all parties, including new listing markets. 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

Numbers 4-533 and 4-534 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 Numbers 4-533 and 4-534. The file numbers 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/nms.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plans that are filed with the Commission, and all written communications relating to the proposed plans 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 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 Numbers 4-533 and 4-534 and should be submitted on or before August 16, 2007.

By the Commission.

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

### **Sunshine Act Meeting**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of July 16, 2007:

A Closed Meeting will be held on Tuesday, July 17, 2007 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries

<sup>64</sup> See 15 U.S.C. 78c(a)(2).