

*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-NSCC-2007-09. 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 NSCC. 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-NSCC-2007-09 and should be submitted on or before August 22, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56140; File No. SR-NYSE-2007-55]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Rule 106 (Specialists' Contact With Listed Companies and Member Organizations)

July 26, 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 June 28, 2007, the New York Stock Exchange LLC ("NYSE" 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. NYSE filed the proposal pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. On July 25, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change. 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

The Exchange proposes to amend NYSE Rule 106 (Specialists' Contact with Listed Companies and Member Organizations). The text of the proposed rule change is available at NYSE, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### 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 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

The Exchange seeks to amend NYSE Rule 106 in order to modify the requirements related to specialist contact with listed companies and with Exchange member organizations. The proposal takes into consideration the reality that a listed company's, or a member organization's, access to electronic information may result in such listed company or member organization declining to have meetings with the specialist. Therefore, the Exchange seeks to amend the rule to require the specialist unit to make itself available for contact with its listed companies and with certain Exchange member organizations.

NYSE Rule 106 was adopted at a time when orders entered with the specialist were handled manually, and contact between a specialist unit and its listed companies was necessary to ensure that such listed companies were informed about the trading in its listed security on the Exchange trading floor.<sup>5</sup> As a result, NYSE Rule 106(a) mandates interaction between a specialist unit and representatives of its listed companies. The rule is very specific as to the frequency of contact (quarterly) and the status of the issuer representative with whom the contact must be had (Secretary or higher). Further, the rule mandates that at least one of the quarterly meetings be in person. NYSE Rule 106(a) was intended to help foster a better understanding of the specialist function, the operations of the Exchange market, and the markets that are maintained in the listed company's stock.

The Exchange is mindful of the busy schedules kept by the highest ranking corporate employees in listed companies. As such, the Exchange believes that NYSE Rule 106 no longer takes into consideration the possibility that in today's world of electronic messaging, Internet connectivity, and automated trading, a listed company may not need or want the type of contact with their specialist unit that is currently required by NYSE Rule 106(a).

In addition to the listed companies' ability to access public information, specialist units have internal departments that are responsible for

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

<sup>2</sup> 7 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> See Securities Exchange Act Release No. 27292 (September 26, 1989), 54 FR 41193 (October 5, 1989) (SR-NYSE-89-13).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

communicating with its listed companies during the trading day. Specifically, specialist units have corporate relations groups that serve to provide its listed companies with information and are available to answer questions from such listed companies during the trading day. As such, the requirements of NYSE Rule 106(a) are unnecessary since the specialist units are in contact with their listed companies on a daily basis as part of its regular course of business.

NYSE Rule 106(a) places the responsibility of contact between the specialist unit and the listed company solely on the proverbial "shoulders" of the specialist unit. If the current requirements of NYSE Rule 106(a) are not met by a specialist unit, it is the specialist unit, and not the listed company, that is in violation of the rule and potentially subject to disciplinary action.

Accordingly, the Exchange proposes that NYSE Rule 106(a) be amended to require a specialist unit to make itself available for contact with its listed companies. The proposal would continue to afford listed companies with opportunities for contact with its specialist unit, while removing potential for disciplinary action against a specialist unit that acts as the registered specialist for such listed company that declines to meet or have contact with the specialist unit.

Similarly, while NYSE Rule 106(b) was originally designed to foster a better understanding between the specialist units and the Exchange's fifteen largest member organizations through required, semi-annual "off the Exchange Trading Floor" contact, the Exchange believes that NYSE Rule 106(b) no longer reflects the needs of the member organizations. In today's world of electronic messaging, Internet connectivity, and 24-hour news coverage of market activity, a member organization may not want or need the type of contact with a specialist unit that is currently required by NYSE Rule 106(b). The interpersonal relationships between specialists and member organizations that once took front stage in the marketplace have been significantly replaced by automated trading initiatives and computerized market data reports. Moreover, the specialist units are generally in contact with member organizations on a regular basis through electronic and/or telephonic means, which render the requirements of NYSE Rule 106(b) unnecessary.

As does the current version of NYSE Rule 106(a), NYSE Rule 106(b) currently places the responsibility of the semi-annual "off the Exchange Trading

Floor" contact on the specialist unit, not on the member organization, and if the member organization is unable or chooses not to have such contact with the specialist unit, the specialist unit may be in violation of NYSE Rule 106(b) and potentially subject to disciplinary action. Accordingly, the Exchange proposes to amend NYSE Rule 106(b) to require a specialist unit to "make itself available" semi-annually for "off the Exchange Trading Floor" contact with the fifteen largest member organizations of the Exchange and certain other members.

Finally, given the current frequency of contact as described above, the Exchange does not believe that it is necessary for specialist units to provide the Exchange with a record of their contacts. As such, the Exchange further proposes to amend NYSE Rule 106(c) to have the specialist report such contacts to the Exchange upon request of the Exchange.

## 2. Statutory Basis

The proposed rule change is consistent with the requirements of section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of section 6(b)(5) of the Act,<sup>7</sup> in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

### *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*

Written comments on the proposed rule change were neither solicited nor received.

## **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of

this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.<sup>10</sup>

The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to immediately implement the proposed rule change and avoid any rule violations by specialist units that are unable to fulfill the current obligations of NYSE Rule 106. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest<sup>11</sup> because the proposed rule change to amend NYSE Rules 106(a) and (b) would continue to foster contact and interaction between the specialist units and the Exchange's listed companies and member organizations, respectively, taking into consideration the contemporary, real-time means of communication, connectivity, and access to information. In addition, the Commission believes that the proposed amendment to NYSE Rule 106(c) is consistent with the requirements of the Act, and the Commission notes that, as proposed, the Exchange would still be able to obtain information regarding contact between the specialist units and their listed companies and certain member organizations upon request.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date. See 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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.<sup>12</sup>

#### 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 an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NYSE-2007-55 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.
- All submissions should refer to File No. SR-NYSE-2007-55. 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 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 No. SR-NYSE-2007-55 and should be submitted on or before August 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56142; File No. SR-NYSE-2007-22]

### Self-Regulatory Organizations; New York Stock Exchange, LLC.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Harmonization of NYSE and NASD Regulatory Standards, the Updating of Certain NYSE Terminology, and the Reorganization and Clarification of Certain NYSE Rules in Connection With the Harmonization Process

July 26, 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 February 27, 2007, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On July 26, 2007, NYSE filed Amendment No. 1 to the proposed rule change. 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

The proposed rule change consists of amendments to NYSE rules, organized categorically, that would advance the process of harmonizing the regulatory standards of the Exchange and the National Association of Securities Dealers, Inc. ("NASD"). In addition, the proposed rule change would update certain terminology and otherwise reorganize and clarify current NYSE

regulatory standards. The text of the proposed rule change is available on the Exchange's Web site (<http://www.nyse.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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 NYSE 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 the Statutory Basis for, the Proposed Rule Change*

###### 1. Purpose

The Exchange is proposing amendments to certain NYSE Rules pursuant to its SRO Rule Harmonization initiative. In connection with this filing, the Exchange is also separately submitting to the Commission a report that provides an overview of the Exchange's approach in this regard.

###### Introduction

Relative to the approval of the NYSE/ARCA merger,<sup>3</sup> the Exchange agreed to initiate a comparison of its regulatory requirements (as prescribed by the NYSE Rulebook and associated interpretive materials) to corresponding NASD regulatory provisions. The purpose of the process was to achieve, to the extent practicable,<sup>4</sup> substantive harmonization of the two regulatory schemes. To that end, this filing proposes amendments to an extensive range of NYSE rules which have been divided into four categories. In addition to organizing the rules conceptually, this serves to distinguish the review and recommendation process that has been applied to each category, discussed more fully below.

The categories are arranged as follows: Category 1 addresses Member Firm Organization/Structure and Governance; Supervision; Registration, Qualification and Continuing

<sup>12</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under section 19(b)(3)(C) of the Act, the Commission considers the period to commence on July 25, 2007, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 53382 (February 27, 2006) 71 FR 11251 (March 6, 2006) (order approving SR-NYSE-2005-77).

<sup>4</sup> The review process recognized the appropriateness of differing standards based upon the differences between the markets and membership of NYSE and NASD.