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*. Please include File Number SR–NYSE–2008–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–51. 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. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. 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–NYSE–2008–51 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15067 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58050; File No. SR–NYSE–2008–53]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending NYSE Rule 123D (Openings and Halts in Trading) To Provide for a Limited Exemption for Securities Trading on the Exchange That Are Part of the Russell Index Reconstitution

June 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 27, 2008, 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 proposed rule change as a ''non-controversial'' proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NYSE proposes to amend NYSE Rule 123D to exempt orders for any security that is trading on the Exchange on June 27, 2008, and is part of the Russell Index Reconstitution[5] (a ''Russell Stock''), from the provisions of the non-regulatory trading halt condition designated as ''Sub-penny trading'' as set forth in subsection (3) of the rule. The text of the proposed rule change is available at the Exchange, 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.

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] On June 27, 2008, the Russell Investment Group will reconstitute certain of its indices, including the Russell 3000® Index and the Russell Microcap® Index.

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

1. Purpose

Through this filing, the Exchange proposes to amend NYSE Rule 123D to provide a limited exemption for orders in a Russell Stock that is trading on the Exchange on June 27, 2008, and is part of the Russell Index Reconstitution, from the provisions of the non-regulatory trading halt condition designated as ''Sub-penny trading'' pursuant to NYSE Rule 123D(3).

Background

Pursuant to NYSE Rule 123D(3), whenever a security trading on the Exchange is reported on the consolidated tape during normal trading hours as having traded at a price of $1.05 or less, or if a security would open on the Exchange at a price of $1.05 or less, trading in the security on the Exchange shall be immediately halted due to a ''Sub-penny trading'' condition. Once halted for such reason, trading shall not resume on the Exchange until the security has traded on another automated trading center, as defined in Rule 600(b)(4) of Regulation NMS (''Reg NMS''),[6] for at least one entire trading day at a price or prices that are at all times at or above $1.10. Any such resumption of trading shall occur at the beginning of a trading day, so that normal opening procedures can apply. In contrast to other trading halts described in NYSE Rule 123D, a ''Sub-penny trading'' halt is automatic and does not require the approval of any Floor Officials. However, if a determination is made by a Floor Official that a trade that triggered a halt because of a ''Sub-penny trading'' condition was made in error or otherwise was an anomaly, trading of the security on the Exchange will resume immediately. Orders entered with the Exchange in a security subject to a ''Sub-penny trading'' condition halt will be routed to NYSE Arca, where they will be handled in accordance with the rules governing that market. The

[6] *See* 17 CFR 242.600(b)(4).

Exchange will cancel any open limit orders in the Display Book system with respect to securities that become subject to a ''Sub-penny trading'' condition halt.

Exemption From NYSE Rule 123D(3)

The Exchange seeks, through this filing, a limited exemption from the provisions of NYSE Rule 123D(3) on June 27, 2008. The Exchange believes that this exemption is necessary to address the possibility that a particular Russell Stock might open or trade on the Exchange at a price of $1.05 or less, thereby invoking the ''Sub-penny trading'' condition halt. In that instance, trading in the Russell Stock would be halted on the Exchange for the rest of the trading day and unexecuted limit orders remaining on the Display Book would be cancelled. More importantly, there would be no closing transaction on the Exchange for the Russell Stock on the day a ''Sub-penny trading'' condition halt was in effect and thus, no ability to price such stock during the Russell Index Reconstitution.

Pursuant to this proposed limited exemption, the Exchange would not invoke the ''Sub-penny trading'' halt if the Russell Stock opened or traded on the Exchange at a price of $1.05 or less. Rather, the Exchange would permit the Russell Stock to continue to trade. If such stock were to trade at a price of $0.99 or less, a non-regulatory trading condition designated as ''Equipment Changeover'' would be implemented. When an ''Equipment Changeover'' condition trading halt is invoked, Exchange Systems will continue to accept all orders in the Russell Stock. Open orders in the Russell Stock on the NYSE Display Book system will not be cancelled nor will such orders be routed to NYSE Arca. Instead, all orders that have been entered will be aggregated for purposes of a closing transaction pursuant to all relevant NYSE rules governing the close. The Exchange believes that only one Russell Stock trading on the Exchange could potentially be eligible for a ''Sub-penny trading'' condition halt on June 27, 2008. Accordingly, the Exchange states that this limited exemption is applicable to only one such Russell Stock. If such security does not trade at a price of $1.05 or less, this limited exemption would prove unnecessary and would expire at the close of trading on June 27, 2008.

The Exchange believes further that this limited exception would ensure that on June 27, 2008, each Russell Stock would be subject to pricing on the NYSE close, removing the possibility that such stock might be adversely affected on the close, causing potential harm to the market and to investors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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. The Exchange believes the proposed rule change would ensure that trading in Russell Stocks and the Russell Index Reconstitution on June 27, 2008, would proceed without any impediment.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange states that 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[9] and Rule 19b–4(f)(6) thereunder.[10]

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. The Exchange requests that the Commission waive the five business-day pre-filing requirement and the 30-day operative delay so that it may immediately implement the limited exemption to the provisions of NYSE Rule 123D to ensure that Russell Stocks would be subject to pricing on the NYSE close on June 27, 2008. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition.

The Commission believes that waiving the 30-day operative delay and five business-day pre-filing requirement is consistent with the protection of investors and the public interest.[11] The Commission believes that this narrowly tailored exception to NYSE Rule 123D(3), lasting only for the duration of one trading day, should help to ensure fair and orderly markets on June 27, 2008, the day of the Russell Index Reconstitution. The Commission notes that the requirements of Rule 611 of Reg NMS[12] would still apply. For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the 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 an e-mail to *rule-comments@sec.gov*. Please include File

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

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). 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. The Commission is waiving the five business-day requirement.

[11] For purposes only of waiving the 30-day operative delay and five business-day pre-filing requirement, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] *See* 17 CFR 242.611.

Number SR–NYSE–2008–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–53. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–53 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15070 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58040; File No. SR–NYSE–2008–50]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend NYSE Rule 104.10 To Extend the Duration of the Pilot Program Applicable to Conditional Transactions in All Securities to September 30, 2008

June 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule19b–4 thereunder,[2] notice is hereby given that on June 23, 2008, the New York Stock Exchange LLC (''NYSE'' or the ''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 has designated the proposed rule change as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend NYSE Rule 104.10 to extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(i) in all securities to September 30, 2008. The text of the proposed rule change is available at NYSE, *http://www.nyse.com*, and 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 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 is proposing to amend NYSE Rule 104.10 to extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(i) in all securities for an additional three months until September 30, 2008.

On October 26, 2007, the Commission approved the ability of NYSE specialists to effect Conditional Transactions pursuant to NYSE Rule 104.10(6) in all securities traded on the NYSE to operate as a pilot through March 31, 2008 (the ''Conditional Transaction Pilot'').[5]

(a) Current Conditional Transaction Pilot

Conditional Transactions are specialists' transactions that establish or increase a position and reach across the market to trade as the contra-side to the Exchange published bid or offer. Under the current Conditional Transaction Pilot, NYSE specialists are allowed to effect Conditional Transactions in all securities traded on the NYSE until June 30, 2008.

When a specialist effects a Conditional Transaction, he or she has obligations to re-enter the market on the opposite side from which the specialist effected his or her Conditional Transaction pursuant to the rule. Specifically, pursuant to NYSE Rule 104.10(6)(ii), ''appropriate'' re-entry means ''re-entry on the opposite side of the market at or before the price participation point or the 'PPP.' '' [6] Depending on the type of Conditional Transaction, a specialist's obligation to re-enter may be immediate or subject to the same re-entry conditions of Non-Conditional Transactions.[7] Conditional

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 56711 (October 26, 2007), 72 FR 62504 (November 5, 2007) (SR–NYSE–2007–83). The Pilot was extended for an additional three months until June 30, 2008. *See* Securities Exchange Act Release No. 57592 (April 1, 2008), 73 FR 18836 (April 7, 2008) (SR–NYSE–2008–23).

[6] NYSE Rule 104.10(6)(iii)(a) provides that the PPP identifies the price at or before which a specialist is expected to re-enter the market after effecting a Conditional Transaction. PPPs are only minimum guidelines and compliance with them does not guarantee that a specialist is meeting its obligations. The Exchange issued guidance regarding PPPs in January 2007. *See* NYSE Member Education Bulletin 2007–1 (January 18, 2007).

[7] NYSE Rule 104.10(6)(iii)(c) provides that immediate re-entry is required after the following Conditional Transactions: