

Commission's examination authority under Section 17(b)(1) of the Act.<sup>58</sup>

The LLC Agreement also provides that the NASD and NSX, and each officer, director, agent, and employee thereof, irrevocably submits to the jurisdiction of the U.S. federal courts, the Commission, and the NASD for the purpose of any suit, action, or proceeding pursuant to the U.S. federal securities laws and the rules and regulations thereunder arising from, or relating to, the NASD/NSX TRF LLC's activities.

The Commission also believes that the requirements of Section 19(b) of the Act and Rule 19b-4 thereunder provide the Commission with sufficient authority over changes in control of the NASD/NSX TRF LLC to enable the Commission to carry out its regulatory oversight responsibilities with respect to the NASD and its facilities.

The Commission notes that the NASD is required to enforce compliance with the provisions of the LLC Agreement because they are "rules of the association" within the meaning of Section 3(a)(27) of the Act.<sup>59</sup> A failure on the part of the NASD to enforce its rules could result in a suspension or revocation of its registration pursuant to Section 19(h)(1) of the Act.<sup>60</sup>

#### C. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In Amendment No. 1, the NASD proposes to expand the NASD/NSX TRF to accept transaction reports in non-Nasdaq exchange-listed securities. The NASD had noted its intention to accept for these trades in the NASD/NSX TRF in its Notice. Because the NASD is obligated to collect these transaction reports, and allowing the NASD/NSX TRF to accept these trade reports may increase competition among the trade reporting facilities operated by the NASD, the Commission believes there is good cause to accelerate approval of this change to the NASD/NSX TRF. Second, the NASD proposes to implement the NASD/NSX TRF in two phases to allow it to make necessary systems changes. The Commission finds that good cause exists to accelerate approval of this implementation schedule as it will allow NASD to incrementally begin operations of this new trade reporting facility, as its systems are ready. The

Commission notes that NASD stated that it expects to announce the implementation date of the first phase no later than 30 days following approval and the second phase no later than 90 days following approval. Finally, NASD proposes to designate its Rule 5140 and IM-5140 regarding multiple MPIDs as a pilot that would expire on January 26, 2007 and to add language to clarify that members that use an MPID for quoting purposes must use the same MPID for trade reporting purposes for transactions that result from the member's quotation. Because the changes to its Rule 5140 and IM-5140 are designed to prevent potential misuse of MPIDs, the Commission believes that good cause exists to accelerate approval of the changes proposed in Amendment No. 1. Accordingly, the Commission finds that it is consistent with Sections 6(b)(5) and 19(b) of the Act to approve Amendment No. 1 on an accelerated basis.

#### V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 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 Number SR-NASD-2006-108 on the subject line.

##### Paper Comments

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

All submissions should refer to File Number SR-NASD-2006-108. 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 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-NASD-2006-108 and should be submitted on or before December 5, 2006.

#### VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>61</sup> that the proposed rule change (SR-NASD-2006-108), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>62</sup>

Nancy M. Morris,  
Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54713; File No. SR-NYSE-2006-98]

#### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change Regarding the Amendment of NYSE Rule 300 Relating to Trading Licenses and the Deletion of NYSE Rule 300T

November 6, 2006.

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 November 3, 2006, 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, II, and III below, which items have been prepared by NYSE. 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 300 relating to trading

<sup>61</sup> 15 U.S.C. 78s(b)(2).

<sup>62</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>58</sup> See Section 17(c) of the LLC Agreement.

<sup>59</sup> 15 U.S.C. 78c(a)(27).

<sup>60</sup> 15 U.S.C. 78s(h)(1).

licenses to charge a fixed price of \$50,000 for calendar year 2007 trading licenses that are purchased during the 2006 offering period, rather than using an auction to determine the trading license price as was done for calendar year 2006. The Exchange is also proposing to modify the fee relating to the approval of any new member or pre-qualified substitute. The Exchange is also deleting NYSE Rule 300T, which is no longer necessary.

The text of the proposed rule change is available on NYSE's Web site at <http://www.nyse.com>, at NYSE's principal office, 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, NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. 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 Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend NYSE Rule 300 relating to trading licenses to charge a fixed price of \$50,000 for calendar year 2007 trading licenses that are purchased during the 2006 offering period, rather than using an auction to determine the trading license price as was done for calendar year 2006. The Exchange is also proposing to modify the fee relating to the approval of any new member or pre-qualified substitute. The Exchange is also deleting NYSE Rule 300T, which is no longer necessary.

The auction process used in anticipation of the merger between New York Stock Exchange, Inc. and Archipelago Holdings, Inc. in March 2006 produced a trading license price of \$49,290. The Exchange believes that this is evidence that a \$50,000 annual fee for a trading license is fair and reasonable. The Exchange believes that moving to a fixed price for trading licenses will also simplify the process under which member organizations obtain trading licenses, and that certainty regarding the price for a trading license will be a

benefit to both its member organizations and the Exchange.

Because there will be no chance of an unexpectedly high purchase price, as was the case when the price was set by auction, the Exchange believes that there is no need to provide for a repricing if fewer than 1,000 trading licenses are applied for. The Exchange also notes that since 1,279 trading licenses were purchased last year at \$49,290, there is no reason to believe that a price of \$50,000 would substantially reduce the number of trading licenses sold for calendar year 2007.

Nonetheless, to insure fairness in the allocation of trading licenses among those desiring them, the Exchange will retain certain restrictions imposed this past year. Accordingly, member organizations would initially be limited to applying for a number of licenses equal to the greater of 35 or 125% of the number of trading licenses they used in 2006. So that member organizations would not be affected by end-of-year fluctuations in the number of licenses held, the 125% will be calculated with reference to the greatest number of licenses held by the member organization during calendar year 2006. For example, if a member organization had, at its highest point in 2006, 36 trading licenses issued to it, the member organization would be entitled to apply for 45 trading licenses for 2007, even if at the time of the 2006 offering period, the member organization only held 32 trading licenses. In no event would the total number of trading licenses issued by the Exchange exceed 1,366, and if in the offering more than 1,366 licenses are applied for, the Exchange would allow member organizations to purchase up to the greatest number they used in calendar year 2006, with the additional trading licenses up to 1,366 apportioned among interested member organizations by lottery.

Since there is no longer a need to encourage participation in an auction, the Exchange would eliminate the requirement that trading licenses purchased after the annual offering pay a 10% premium. As was the case this year, the purchase price for all trading licenses would be paid in monthly installments, and early terminations would pay a termination fee equal to one month's installment of the purchase price.

The Exchange also proposes to modify the fee relating to the approval of any new member or pre-qualified substitute. Currently, the Exchange charges a fee of \$1,000 for the approval of new trading license holders or pre-qualified substitutes. The fee does not apply to

current trading license holders who are approved for trading floor access. Based on its experience with the administration of the approval process during 2006, the Exchange proposes to increase this fee from \$1,000 to \$5,000. The Exchange believes that the increase is appropriate to defray the administrative expenses associated with the approval of new members and pre-qualified substitutes, and notes that it is in line with the \$5,000 fee the Exchange charged prior to the merger for transfers of memberships.

Finally, the Exchange is eliminating NYSE Rule 300T, which was needed only with respect to the auction conducted in 2006, the year in which the merger between New York Stock Exchange, Inc. and Archipelago Holdings, Inc. occurred.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(4) of the Act<sup>3</sup> that a national securities exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

### 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 were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NYSE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

<sup>3</sup> 15 U.S.C. 78f(b)(4).

#### 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 Number SR-NYSE-2006-98 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-NYSE-2006-98. 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-2006-98 and should be submitted on or before December 5, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6-19165 Filed 11-13-06; 8:45 am]

**BILLING CODE 8011-01-P**

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#### **SOCIAL SECURITY ADMINISTRATION**

[Docket No. SSA 2006-0095]

#### **No Fear Act Notice**

**AGENCY:** Social Security Administration.  
**ACTION:** Notice.

**SUMMARY:** The Social Security Administration is required to provide notice to all of its employees, former employees, and applicants for Federal employment in order to inform them of applicable rights and remedies available under the Federal antidiscrimination and whistleblower Protection Laws. The notice is set forth below.

**DATES:** This notice will be effective on November 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Chester Kleinman, Senior Advisor, by mail at Office of Civil Rights and Equal Opportunity, Social Security Administration, P.O. Box 17712, Baltimore, Maryland 21235-7712; or by telephone at 410-965-0697.

**SUPPLEMENTARY INFORMATION:** On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

The Act also requires this agency to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

#### **Antidiscrimination Laws**

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these

bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e-16.

This agency also prohibits discrimination based on parental status and sexual orientation. Executive Order 13152 states explicitly that discrimination based upon an individual's status as a parent is prohibited within the Executive Branch of the Federal Government. The right to address sexual orientation discrimination derives from Agency policy.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, disability, parental status or sexual orientation you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with the Agency. *See e.g.* 29 CFR 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (*see* contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the Agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

#### **Whistleblower Protection Laws**

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of

<sup>4</sup> 17 CFR 200.30-3(a)(12).