

Items I, II and III below, which Items have been prepared by the Exchange. 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 proposed rule change consists of amendments to NYSE Rule 64. The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

### **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 and is set forth in Sections A, B, and C below.

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

##### **1. Purpose**

Currently, NYSE Rule 64 requires Floor Official approval for all "non-regular way"<sup>3</sup> trades during all but the final calendar week of the year. The Rule provides that during the last calendar week of the year such approval is required only for sales more than 4/16 point away from the regular way bid or offer. The Exchange is proposing that the rule be amended so that the current provision applicable for the last week of trading in the year applies at all times. Therefore, Floor Official approval would be required only for those "non-regular way" trades that are more than 4/16 point away from the regular way bid or offer.

Exchange staff has analyzed price changes from the current bid or offer for "non-regular way" trades during June 1998. Their analysis showed that 97% of such trades were 4/16 point or less away from the regular way bid or offer. This result indicates that a large proportion of "non-regular way" trades occur at a small variation from the current regular way market.

The Exchange believes that the proposed rule change would relieve members of the burden of obtaining

Floor Official approval for routine "non-regular way" trades at small price variations, while preserving Floor Official supervision for those instances where it is most needed. The Rule would retain the requirement for Floor Officials to "take into consideration whether the price of the transaction is reasonable in relation to the 'regular way' market" when deciding whether to grant approval for a "non-regular way" trade.

The Exchange believes that this proposal would allow Floor Officials to focus their attention on supervising those situations where oversight is most important.

##### **2. Statutory Basis**

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)<sup>4</sup> that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market 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*

The Exchange has neither solicited nor received written comments on the proposed rule change.

### **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 the self-regulatory organization consents, the Commission will:

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

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

### **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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. 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 will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-98-33 and should be submitted by December 3, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Jonathan G. Katz,**  
Secretary.

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## **STATE JUSTICE INSTITUTE**

### **Sunshine Act Meeting**

#### **DATE AND TIME:**

Friday, November 20, 1998 9:00 a.m.-  
5:00 p.m.

Saturday, November 21, 1998 9:00 a.m.-  
12:00 p.m.

**PLACE:** Hilton, Palm Springs Resort, 400 E. Tahquitz Canyon Way, Palm Springs, CA 92262.

**MATTERS TO BE CONSIDERED:** FY 1999 grant requests, internal Institute business matters.

**PORTIONS OPEN TO THE PUBLIC:** All matters other than those noted as closed below.

**PORTIONS CLOSED TO THE PUBLIC:** Internal personnel matters and Board of Directors' committee meetings.

**CONTACT PERSON FOR MORE INFORMATION:** David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, (703) 684-6100.

**David I. Tevelin,**

Executive Director.

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<sup>3</sup> A "non-regular way" trade is a trade that is settled in a different time frame from "regular-way" trades, which settle on the third business day following the transaction. See NYSE Rule 64(a)(3).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 17 CFR 200.30-3(a)(12).