

Paragraph .05 concerns the termination of the exposure period by unrelated orders. The Exchange proposes to extend these pilots for an additional year to give the Exchange and the Commission additional time to evaluate the effects of the provisions before requesting permanent approval of the rules.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>6</sup> in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Since the Price Improvement Mechanism has only been operating for a relatively short period of time, the Exchange believes it is appropriate to extend the pilot periods to provide the Exchange and the Commission more data upon which to evaluate the rules.

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

The proposed rule change does not 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 not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not

become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>9</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change immediately operative upon filing. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the pilots to continue without interruption until July 18, 2007. For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>10</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 Number SR-ISE-2006-39 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-ISE-2006-39. 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 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-ISE-2006-39 and should be submitted on or before August 11, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54140; File No. SR-NYSE-2006-48]

### **Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Moratorium on the Qualification and Registration of New Competitive Traders and New Registered Competitive Market Makers, Governed by NYSE Rules 110 and 107A, Respectively, for an Additional Six Months**

July 13, 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 June 30, 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 and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under Section 19(b)(3)(A)(iii) 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. The Commission is publishing this notice to

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

<sup>10</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>11</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> 15 U.S.C. 78s(b)(3)(A)(iii).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

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 extend for six months the present moratorium, as modified, related to the qualification and registration of Competitive Traders ("CTs") pursuant to NYSE Rule 110 and Registered Competitive Market Makers ("RCMMs") pursuant to NYSE Rule 107A. The text of the proposed rule change is available on the NYSE's Web site (<http://www.nyse.com>), at the NYSE's Office of the Secretary, 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 Exchange included statements concerning the purpose of, and basis for, 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 proposes to extend for six months the present moratorium, as modified, related to the qualification and registration of CTs pursuant to NYSE Rule 110 and RCMMs pursuant to NYSE Rule 107A.

On September 22, 2005, the Exchange filed SR-NYSE-2005-63<sup>5</sup> ("Filing 2005-63") with the Commission proposing to implement a moratorium on the qualification and registration of new CTs and RCMMs in order to allow the Exchange an opportunity to review the viability of CTs and RCMMs in the NYSE HYBRID MARKET<sup>SM</sup> ("Hybrid Market").<sup>6</sup>

Subsequent to the filing of Filing 2005-63, the Exchange filed SR-NYSE-2006-11<sup>7</sup> ("Filing 2006-11") proposing to modify the moratorium and grant

<sup>5</sup> See Securities Exchange Act Release No. 52648 (October 21, 2005), 70 FR 62155 (October 28, 2005) (SR-NYSE-2005-63).

<sup>6</sup> See Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR-NYSE-2004-05).

<sup>7</sup> See Securities Exchange Act Release No. 53549 (March 24, 2006), 71 FR 16388 (March 31, 2006) (SR-NYSE-2006-11).

RCMM firms the ability to replace a RCMM who relinquishes his or her registration and ceases to conduct business as a RCMM during the moratorium with a newly qualified and registered RCMM. The moratorium does not restrict RCMMs from joining any RCMM firm or becoming or remaining an independent RCMM. Neither does the moratorium restrict any RCMM firm from hiring any existing RCMMs. At that time, the Exchange represented to the Commission that it intended to complete its review regarding CTs and RCMMs by June 30, 2006.

In this filing, the Exchange seeks to extend the moratorium as amended for an additional six months in order to include in its review the impact of the Hybrid Market with respect to CTs and RCMMs. Additional phases of the Hybrid Market will be rolled out later this year and the Exchange plans to include the new data that these phases will provide into its evaluation.

The Exchange will issue an Information Memo announcing the extension of the moratorium. The review is currently estimated to be completed on or about December 31, 2006.

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

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>8</sup> that an exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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*

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the 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>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>11</sup> normally does not become operative prior to thirty days after the date of filing. NYSE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii), and designate the proposed rule change to become operative immediately. The Commission hereby grants the request. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the extension will give the Exchange time to fully study the future viability of CTs and RCMMs in order to improve their market.<sup>12</sup> For these reasons, the Commission designates the proposed rule change as effective and operative immediately.

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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required 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 Exchange has requested that the Commission waive the 5-day pre-filing notice requirement. The Commission has determined to waive this requirement.

<sup>11</sup> *Id.*

<sup>12</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2006-48 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-2006-48. 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-NYSE-2006-48 and should be submitted on or before August 11, 2006.

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

**Jill M. Peterson,**

*Assistant Secretary.*

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

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54142; File No. SR-NYSE-2006-46]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Revise Equity Transaction Fees and to Exempt Specialist Firms From ETF Transaction Fees**

July 13, 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 July 10, 2006, the New York Stock Exchange LLC ("Exchange" or "NYSE") 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 the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change 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 (i) to revise the fees it charges to its member organizations in connection with transactions in equity securities, and (ii) to exempt specialist firms from the fees it charges to its member organizations in connection with transactions in Exchange Traded Fund ("ETF") securities. The fee changes will take effect on August 1, 2006. The text of the proposed rule change is available on NYSE's Web site (<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, 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 proposes (i) to revise the fees it charges to its member organizations in connection with transactions in equity securities, and (ii) to exempt specialist firms from the fees it charges to its member organizations in connection with transactions in ETF securities. The fee changes will take effect on August 1, 2006. The amended section of the 2006 Exchange Price List was filed with the Commission as Exhibit 5 to the proposed rule filing. The fee changes are also described below.

The Exchange proposes to implement a more simplified transaction fee structure for equities that it believes will make its fees more transparent and will distribute costs more equitably across our customer base. In place of the current policy of charging a variable fee on equity transactions depending on the number of shares traded, the Exchange intends to implement a flat fee of \$0.00025 per share, which will continue to be subject to the current \$80 per transaction cap. System trades (trades executed electronically) for less than 2,100 shares, which were previously exempt from Exchange transaction fees, will be subject to the same \$0.00025 per share fee as all other equity transactions. The Exchange is also eliminating the 1.2% rebate on floor brokerage (fees a member organization receives from another member organization for which it executes a transaction) previously paid to the member organization that had paid the floor brokerage.

Monthly equity transaction fees are currently capped at the lesser of: (i) \$600,000 per month or (ii) 2% of the member organization's self-reported monthly net commissions.<sup>5</sup> The Exchange proposes to increase the cap, for the first time since 2003, from \$600,000 to \$750,000 per month and to eliminate the 2% cap alternative, which has been in place since 1981. The Exchange believes that doing so will enable it to grow its trading revenues

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

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

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

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

<sup>5</sup> A member organization's net commissions are calculated as the difference between gross commissions charged and commissions payable to other members.