

particularly for retail investors, and such information does not appear to contribute to price discovery by market participants.

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

NASD does not believe that the proposed rule change would 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 NASD 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.

### **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-NASD-2006-103 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-2006-103. 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 NASD. 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-2006-103 and should be submitted on or before November 29, 2006.

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

Nancy M. Morris,

Secretary.

[FR Doc. E6-18798 Filed 11-7-06; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54685; File No. SR-NYSE-2006-95]

### **Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Include an Additional 32 Securities in the Current Exchange Pilot Operating in Conjunction With the Implementation of Hybrid Market Phase 3**

November 1, 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 October 26, 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 NYSE. The NYSE filed the proposal as a "non-

controversial" proposed rule change 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.<sup>5</sup> 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 is proposing to include an additional 32 securities to participate in the Exchange's current pilot ("Pilot") program which puts into operation certain rule changes pending before the Commission to coincide with the Exchange's implementation of NYSE HYBRID MARKET<sup>SM</sup> ("Hybrid Market")<sup>6</sup> Phase 3. The additional securities are identified in Exhibit 3 to the filing. The text of the proposed rule change is available on the NYSE's Web site (<http://www.nyse.com>), at the principal office of the NYSE 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 proposal. 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

On October 5, 2006 the Commission approved an Exchange Pilot<sup>7</sup> to, among other things, put into operation certain proposed modifications to Exchange

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

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

<sup>5</sup> The NYSE has asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii).

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

<sup>7</sup> Securities Exchange Act Release No. 54578, 71 FR 60216 (October 12, 2006) (SR-NYSE-2006-82). See also Securities Exchange Act Release No. 54610 (October 16, 2006), 71 FR 62142 (October 23, 2006) (SR-NYSE-2006-84) (amending the Pilot).

<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.

Rules that are currently pending<sup>8</sup> before the Commission to coincide with the Exchange's implementation of the Hybrid Market Phase 3. The Pilot commenced on October 6, 2006<sup>9</sup> and is scheduled to terminate on the close of business November 30, 2006.<sup>10</sup> The Pilot applies to a group of securities, known as Phase 3 Pilot securities ("Pilot securities").<sup>11</sup>

The Exchange is currently in the process of phasing in the securities operating under the Pilot. As expected, the Pilot is operating with minimal problems and the benefits are proving invaluable. The Pilot is providing the Exchange with the opportunity to identify and address any system problems. Moreover, the Exchange has the ability to identify and incorporate beneficial system changes that become apparent as a result of usage in real time and under real market conditions.

The Exchange further has the ability to have real time user interface that is proving very useful to the Exchange. In addition to its usefulness to the Exchange, the Pilot is providing the current users with essential practical experience with the new systems and processes in a well-modulated way, in real time and under real market conditions that cannot be completely replicated in the mock-trading environment.

The Exchange therefore seeks through this filing to include an additional 32 securities for participation in the Pilot. Among the securities the Exchange seeks to add to the Pilot is a security that was not listed on the Exchange when the Exchange initially sought approval for the Pilot. Specifically, the security traded under the symbol SAI was an initial public offering that occurred on October 13, 2006

<sup>8</sup> See Securities Exchange Act Release No. 54520 (September 27, 2006), 71 FR 57590 (September 29, 2006) (SR-NYSE-2006-65) (proposing to amend several Exchange Rules to clarify certain definitions and systemic processes) ("Omnibus Filing"); Securities Exchange Act Release No. 54504 (September 26, 2006), 71 FR 57011 (September 28, 2006) (SR-NYSE 2006-76) (proposing to amend the specialist stabilization requirements set forth in Exchange Rule 104.10). In addition, in SR-NYSE-2006-73, filed on September 13, 2006, and Amendment No. 1 thereto (filed on October 13, 2006), the Exchange proposes to amend Exchange Rule 127 which governs the execution of a block cross transaction at a price outside the prevailing NYSE quotation.

<sup>9</sup> The changes related to stop orders and stop limit orders proposed in the Omnibus Filing were implemented on October 16, 2006 in order to give customers and member organizations sufficient time to make any changes necessary as a result of the elimination of stop limit orders.

<sup>10</sup> See Securities Exchange Act Release No. 54675 (October 31, 2006).

<sup>11</sup> Phase 3 Pilot Securities will also be posted on the Exchange's Web site.

subsequent to the Exchange's request to operate the Pilot and thus was not available to be included at that time.

The Exchange believes that allowing additional securities to participate in the Pilot will increase the number of users that may benefit from the enhanced educational and supervisory training experience that the Pilot provides. Specialist firms will be able to provide an increased number of individual specialists with the educational opportunity of real time experience under real market conditions that cannot be completely replicated in the mock-trading environment. It will further provide an increased number of the specialists firms' supervisory personnel with additional opportunities for supervisory training in real time and under real market conditions.

Accordingly, the Exchange believes that the inclusion of additional securities will only further the Exchange's ability to identify and address any system problems and to identify and incorporate beneficial system changes while providing the new users with real time education.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5) of the Act<sup>12</sup> that a registered national securities exchange have rules 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. The proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act<sup>13</sup> in that it seeks to assure economically efficient execution of securities transactions.

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

The Exchange believes that the proposed rule change will 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 neither solicited nor received comments on the proposed rule change.

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78k-1(a)(1).

## 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 and Rule 19b-4(f)(6) thereunder. The Exchange has requested that the Commission waive the 30-day operative delay period for this "non-controversial" proposal.

The Commission has determined to waive the 30-day operative delay.<sup>14</sup> The Exchange states that this waiver will allow the Exchange to immediately implement this proposal, which will allow specialist firms to provide more of their specialists and supervisory personnel with the educational opportunity of real-time experience under real market conditions under the Pilot program. Inclusion of additional securities in the Pilot may allow the Exchange to identify and correct any system problems<sup>15</sup> and formulate any necessary corrective changes. Therefore, the Commission finds that it is consistent with the protection of investors and the public interest that the proposed rule change become effective and operative upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup>

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:

<sup>14</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>15</sup> The Exchange states that, currently, the Pilot is operating with minimal problems.

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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

*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-2006-95 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-2006-95. 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 NYSE's Office of the Secretary.

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-2006-95 and should be submitted on or before November 29, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Nancy M. Morris,**  
Secretary.

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54686; File No. SR-NYSEArca-2006-68]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Revision of Certain Equity Transaction Fees**

November 1, 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 September 29, 2006, NYSE Arca, Inc. ("NYSE Arca" 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 substantially prepared by NYSE Arca. The Exchange submitted the proposed rule change under Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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 the section of its Schedule of Fees and Charges for Exchange Services (the "Fee Schedule") that applies to ETP Holders<sup>5</sup> executing certain round-lot transactions in NYSE-listed (Tape A) equity securities (other than Exchange Traded Fund ("ETF") securities) on the Exchange. While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the new rates became operative on October 1, 2006. The text of the proposed rule change is available on the Exchange's Web site at <http://www.nysearca.com>, at the Exchange'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, NYSE Arca 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 to amend the section of its Fee Schedule that applies to ETP Holders executing certain round-lot transactions in NYSE-listed (Tape A) equity securities (other than ETF securities) on the Exchange.

The Fee Schedule currently provides that no transaction fee will be charged to ETP Holders for round-lot orders in NYSE-listed equity securities (other than ETF securities) that are executed in the NYSE Arca Book against inbound orders. The Exchange proposes to amend the Fee Schedule to provide that ETP Holders will be entitled to a \$0.002 per share credit for such orders. The Exchange proposes to offer this credit in order to compete more effectively with other exchanges that are offering liquidity rebates in NYSE-listed equity securities.

The Exchange's Fee Schedule currently provides that a transaction fee of \$0.001 per share will be charged to ETP Holders for round-lot orders in NYSE-listed equity securities (other than ETFs) that take liquidity from the NYSE Arca Book. The Exchange proposes to amend the Fee Schedule to provide that ETP Holders will be charged \$0.003 per share for such orders, including orders received through the Intermarket Trading System ("ITS").<sup>6</sup> In addition, the Exchange proposes to amend footnote 1 to the Fee Schedule to note that such fees will apply to orders received through ITS. The Exchange proposes to increase this fee in order to offset the proposed credit for round-lot orders in NYSE-listed equity securities (other than ETF securities) that are executed in the NYSE Arca Book against inbound orders, as described above.

<sup>6</sup> Since October 1, 2006, the effective date of the "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934" ("Linkage Plan"), connectivity between markets is provided pursuant to the Linkage Plan. The current ITS technology is used to effectuate both the ITS Plan and Linkage Plan. Therefore, the term "ITS" applies to the technology used to effectuate both the ITS Plan and the Linkage Plan.

<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).

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

<sup>5</sup> See NYSE Arca Equities Rule 1.1(n).

<sup>18</sup> 17 CFR 200.30-3(a)(12).