

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–2007–028 and should be submitted on or before June 21, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55799; File No. SR–NSX–2006–16]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Order Approving Proposed Rule Change Regarding the Annual Certification of Compliance and Supervisory Processes

May 22, 2007.

I. Introduction

On November 22, 2006, the National Stock Exchange, Inc. (“NSX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change regarding the annual certification of compliance supervisory processes. On April 9, 2007, the NSX filed Amendment No. 1 to the proposed rule change (“Amendment No. 1”).³ The proposed rule change was published for comment in the **Federal Register** on April 19, 2007,⁴ and the Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposed Rule 5.7 to require each Equity Trading Permit (“ETP”) Holder to have its Chief Executive Officer (“CEO”), or equivalent

officer, certify annually to having in place processes to establish, maintain, review, modify, and test policies and procedures reasonably designed to achieve compliance with applicable NSX rules and federal securities laws and regulations. The Exchange explains that this will help promote comprehensive and effective compliance policies and written supervisory procedures among NSX ETP Holders, and that compliance with applicable NSX rules and federal securities laws and regulations is the foundation of ensuring investor protection and market integrity and is essential to the efficacy of self-regulation. Similar requirements are already in place for NASD and NYSE member firms, addressing their compliance with the rules of those self-regulatory organizations.⁵

The proposed rule change also would create a new Interpretation and Policy .01 to NSX Rule 5.7. This interpretation sets forth the language of the required certification.⁶ The interpretation also sets forth additional guidance for following those requirements, explaining that during the required annual meeting between the CEO and chief compliance officer, the parties should discuss and review the matters that are subject of the certification as

⁵ See NASD Rule 3013(b) and Interpretative Material 3013 (“IM 3013”); NYSE Rule 342.30.

⁶ The certification would state that the ETP Holder has in place processes to: (a) Establish and maintain policies and procedures reasonably designed to achieve compliance with applicable NSX rules and federal securities laws and regulations; (b) modify such policies and procedures as business, regulatory and legislative changes and events dictate; and (c) test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with applicable NSX rules, and federal securities laws and regulations. See Proposed Interpretation and Policy .01, paragraph 1.

In addition, the certification would have to state that the CEO or equivalent officer has conducted one or more meetings with the chief compliance officer in the preceding 12 months to satisfy these obligations. See Proposed Interpretation and Policy .01, paragraph 2.

The certification further would provide that the ETP Holder’s processes are evidenced in a report that has been reviewed by the CEO or equivalent officer, chief compliance officer, and such other officers as the ETP Holder may deem necessary, and that the final report would be submitted to the ETP Holder’s board of directors and audit committee at the earlier of their next scheduled meetings or within 45 days of the date of execution of the certification. See Proposed Interpretation and Policy .01, paragraph 3.

Finally, the certification would provide that the CEO or equivalent officer has consulted with the chief compliance officer and other officers as applicable, as well as such other employees, outside consultants, lawyers and accountants, to the extent deemed appropriate to attest to the statements made in the certification. See Proposed Interpretation and Policy .01, paragraph 4.

well as the ETP Holder’s compliance efforts to date, and also should identify and address significant compliance problems and plans for emerging business areas.⁷ ETP Holders must also prepare a report that documents the ETP Holder’s processes for establishing, maintaining, reviewing, testing and modifying compliance policies.⁸ The report may be combined with compliance reports or similar reports required by other self-regulatory organizations.⁹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ and, in particular, with Section 6(b)(5)¹¹ of the Act, which requires, among other things, that the NSX’s rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.¹²

The proposal that NSX ETP Holders follow procedures to help ensure compliance with NSX rules and the federal securities laws will complement broker-dealers’ obligations under other self-regulatory organization rules, while particularly promoting compliance with rules specific to NSX. By permitting member firms to make the required reports in conjunction with reports required by other self-regulatory organizations, moreover, the proposal should accomplish those aims in an efficient manner.

⁷ See Proposed Interpretation and Policy .01.

⁸ See *id.* Any principal designated by the ETP Holder may prepare the report, which must be produced prior to execution of the certification and be reviewed by the CEO or equivalent officer, chief compliance officer and any other officers the ETP Holder deems necessary to make the certification. It must be provided to the ETP Holder’s board of directors and audit committee in final form either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of execution of the certification. The report should include the manner and frequency in which the processes are administered, and identify the officers and supervisors responsible for that administration. The report, however, need not contain any conclusions resulting from following those processes.

⁹ In that case, the report must be titled in a manner that indicates it is responsive to the requirements of the certification and Rule 5.7; (2) an ETP Holder that submits a report for review in response to a NSX request must submit the report in its entirety; and (3) the ETP Holder must make the report in a timely manner.

¹⁰ 15 U.S.C. 78(f)(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ In Amendment No. 1, which supplemented the original filing, the NSX provided more information regarding the certification process and corrected a grammatical error.

⁴ See Exchange Act Release No. 55631 (April 13, 2007), 72 FR 19733 (April 19, 2007) (SR–NSX–2006–16).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act¹³ that the proposed rule change (SR-NSX-2006-16), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55807; File No. SR-NSX-2007-06]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Liquidity Provider Rebate Program for Transactions Executed Through NSX BLADE in Which the Order Delivery Mode of Interaction Has Been Selected

May 23, 2007.

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 May 14, 2007, the National Stock Exchange, Inc. ("NSX" 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 the Exchange. NSX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) 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 is proposing a change to its liquidity provider rebate program for transactions that are executed through NSX BLADE, the Exchange's new trading platform. The Exchange wishes to modify its liquidity provider rebate program for only those orders in which the User effecting such order has

chosen the order delivery mode of order interaction as set forth in NSX Rule 11.13(b)(2) ("Order Delivery"). The text of the proposed rule change is available at NSX, the Commission's Public Reference Room, and www.nsx.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, NSX 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. NSX 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 has created a new state of the art trading platform, known as NSX BLADE, which utilizes a strict price/time priority system. Pursuant to Exchange Rule 16.1(a), the Exchange maintains a Fee Schedule that contains its current fees, dues, and other charges applicable to transactions in NSX BLADE ("NSX BLADE Fee Schedule").

Currently, the NSX BLADE Fee Schedule provides for an execution fee of \$0.0030 per share for removing liquidity from NSX BLADE (in other words, a charge for taking liquidity against an order in NSX BLADE), and a rebate of \$0.0030 per share executed for adding liquidity into NSX BLADE (in other words, a rebate for the addition of liquidity to NSX BLADE, provided that it results in an execution through NSX BLADE) regardless of the mode of order interaction chosen by an ETP Holder. Thus, ETP Holders taking liquidity against an order in NSX BLADE are currently charged a fee of \$0.0030 per share executed, and ETP Holders providing liquidity into NSX BLADE are currently paid a rebate of \$0.0030 per share executed. Similarly, orders executed at less than \$1.00 per share will result in either a rebate or an execution fee for a dollar amount equal to 0.3% of the price per share, multiplied by the number of shares executed.

NSX Rule 11.13(b) establishes two separate modes of order interaction from which ETP Holders may choose: Automatic Execution and Order Delivery. The Exchange is proposing

that the NSX BLADE Fee Schedule be modified so that ETP Holders who have selected the Automatic Execution mode of order interaction pursuant to NSX Rule 11.13(b)(1) be granted rebates at a different rate than ETP Holders who have selected the Order Delivery mode of order interaction. Specifically, the Exchange is proposing that the rebate for adding liquidity for ETP Holders who have selected Order Delivery be reduced to \$0.0028 for orders executed at \$1.00 or more per share. The rebate for adding liquidity for ETP Holders who have selected Order Delivery for orders executed at less than \$1.00 per share will be reduced to 0.28% of the price per share, multiplied by the number of shares executed. The Exchange believes this change in its liquidity provider rebate is appropriate because the Order Delivery mode of order interaction involves greater cost and regulatory burden for the Exchange. All other liquidity taker fees and liquidity provider rebates will remain unchanged.

Pursuant to NSX Rule 16.1(c), the Exchange will "provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange." Accordingly, ETP Holders will, simultaneously with this filing, be notified through the issuance of a Regulatory Circular of the changes to the NSX BLADE Fee Schedule.

The Exchange liquidity taker fees and liquidity provider rebates have been designed in this manner in order to ensure that the Exchange can continue to fulfill its obligations under the Act.

2. Statutory Basis

NSX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Sections 6(b)(4) of the Act,⁶ in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges.

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

The Exchange does not believe that the proposed rule change will result in 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.

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

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)(2).