

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder,¹⁰ because the foregoing proposed rule does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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.

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.¹¹ However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.¹² The Exchange has requested that the Commission waive the 5-day pre-filing requirement and the 30-day operative delay. The Commission believes that waiving the 5-day pre-filing requirement and the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will ensure continuity of the Exchange's rules and will allow the Penny Pilot Program to remain in effect without interruption. For these reasons, the Commission designates the proposal to be operative upon filing with the Commission.¹³

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.¹⁴

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. Please include File Number SR-ISE-2007-68 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-2007-68. 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, 100 F. Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the ISE. 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-2007-68 and should be submitted on or before August 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56143; File No. SR-NYSE-2007-59]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Rules 342(c) ("Offices—Approval, Supervision and Control") and 343 ("Offices—Sole Tenancy, Hours, Display of Membership Certificates")

July 26, 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 June 29, 2007, 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 substantially prepared by NYSE. On July 26, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change. The Exchange filed the proposal as a "non-controversial" rule change pursuant to section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is filing with the Commission ("SEC" or "Commission") proposed amendments to NYSE Rules 342(c) ("Offices—Approval, Supervision and Control") to replace the prior consent requirement for branch office approval with a notice requirement and 343 ("Offices—Sole Tenancy, Hours, Display of Membership Certificates") to eliminate the requirement under Rule 343 that member organizations display an Exchange-provided "certificate of membership" at all branch office locations. The text of the proposal is available on the Exchange's Web site (<http://www.nyse.com>), at the principal office of the NYSE, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its intent 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.

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ 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).

¹⁴ See 15 U.S.C. 78s(b)(3)(C).

¹⁵ 17 CFR 200.30-3(a)(12).

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 proposed rule change. 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 is proposing to amend NYSE Rule 342(c) and delete paragraph (d) of Rule 343 as part of its continuing Self Regulatory Organization ("SRO") Rule Harmonization initiative.⁵ The proposed amendment to Rule 342(c) will replace the prior consent requirement for branch office approval with a notice requirement and make the provision consistent with the definition of "branch office" set forth in Rule 342.10. The proposed amendment to Rule 343 will delete the Rule 343(d) requirement that member organizations display an Exchange-provided "certificate of membership" at all branch offices.

a. Rule 342(c) ("Offices—Approval, Supervision and Control") Background

NYSE Rule 342.10 defines "branch office" as "any location where one or more associated persons of a member or member organization regularly conduct the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of any security, or is held out as such * * *" Rule 342(c) requires that member organizations obtain the Exchange's prior consent or approval (hereinafter referred to as the "prior consent" requirement) for each office to be established, other than a main office.

Currently, member organizations are required to submit requests for approval of branch office locations via Form BR (Uniform Branch Office Registration Form),⁶ filed with the Central Registration Depository ("CRD"). All filings made with CRD, whether Exchange member organizations or not,

⁵ See SR-NYSE-2007-22 for additional information.

⁶ See NYSE Information Memo 05-75 (Approval of Form BR (Uniform Branch Office Registration Form)).

are subjected to numerous system completeness checks.⁷

Once filed with CRD, a branch office application is routed to the NYSE via four daily feeds from the NASD, for review through the NYSE's Branch Office System ("BOS") application. BOS conducts a series of data validation reviews in addition to the CRD completeness checks on the filings received to determine whether to "auto-approve" the application when a filing does not have any validation issues, or route the filing to designated NYSE personnel for further review of the application.

Current Rule 342(c) Standard

Under the current prior consent requirement set forth by NYSE Rule 342(c), a vast majority of member organization branch offices are approved. In the limited situations where such consent is not initially given by the Exchange, a member organization may be required to amend its request for branch office approval. Even in these situations, however, such consent is nearly always granted by the Exchange, rendering the prior consent requirement unnecessary.⁸

Current NASD Standard

The NASD requires that any office other than the main office be properly designated and registered, if required, with the NASD⁹ (hereinafter referred to as the "notice" requirement). The NASD rule and a vast majority of the states' laws and regulations do not require prior consent to open a branch office. Since there is no corresponding requirement for NASD members, the NYSE's prior consent requirement results in disparate regulatory standards for dual NYSE/NASD member organizations, and the utility of the NASD registration requirement is

⁷ Completeness checks conducted on Form BR filings include, for example, a review for proper registration, pursuant to National Association of Securities Dealers, Inc. ("NASD") Rules, of supervisory individuals. A Form BR would not be processed by CRD if any completeness checks were not satisfied.

⁸ From November 1, 2005 through December 31, 2006, NYSE received 3,831 branch office applications, of which, slightly under half, that is 1,913, were "auto" or "managed" approved applications, requiring intervention only on a technical support level in some instances. Of the remaining applications received, 1,918, the vast majority were manually reviewed and approved by NYSE personnel. The 3,831 office applications received and reviewed resulted in only 76 rejections, or roughly 2% of the total received. These office applications were rejected for reasons such as individuals designated as supervisors not being properly qualified under NYSE requirements or incorrect designation of office type (e.g., "Small" instead of "Regular" branch office).

⁹ See NASD Rule 3010(g)(2)(A) and NASD IM-1000-4.

limited, as dual members have to comply with the more stringent NYSE requirement.

Proposed Rule Change

The Exchange proposes to replace the Rule 342(c) prior consent requirement for branch office approval with a notice requirement consistent with the NASD notice requirement. Specifically, the Exchange proposes to amend Rule 342(c) to state that a "member organization shall provide, in a manner prescribed by the Exchange, notice to the Exchange of each branch office established by such member organization." Under the proposed notice requirement, the Exchange will continue to receive the same information it currently receives under the prior consent requirement, which will still allow the Exchange to monitor branch office applications. Thus the front-end completeness checks in CRD, coupled with the continued receipt of branch office profile information contained on Form BR, will afford the Exchange the opportunity to thoroughly monitor branch office filings submitted and take action where appropriate without unduly delaying the initiation of business activities at such offices.

The Exchange also proposes to conform Rule 342(c) with the definition of "branch office" set forth in Rule 342.10. As noted above, Rule 342(c) currently applies to "each office * * * other than a main office." The Exchange proposes to delete the phrase "other than a main office" from Rule 342(c) because, based on the definition of branch office in Rule 342.10, a branch office may include a main office location, depending on the functions performed at that location.

In addition, the Exchange proposes to delete the term "member" from Rule 342(c) as part of an ongoing process to eliminate, where appropriate, this designation from its rules. The proposed deletion of the term reflects the fact that the Rule has been redefined in the context of the NYSE/ARCA business model¹⁰ and no longer has regulatory relevance in the context of Rule 342(c).

Also, the Exchange proposes deleting the requirement under Rule 343(d) that member organizations display an Exchange-provided "certificate of membership" at all branch office locations. The Exchange believes this practice has become outdated.

The Exchange requests that the rule change be effective immediately.

¹⁰ See Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (order approving SR-NYSE-2005-77) and SR-NYSE-2007-22.

2. Statutory Basis

The statutory basis for the proposed rule change is section 6(b)(5) of the Act¹¹ which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, 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 national market system, and in general, to protect investors and the public interest.

The Exchange believes the proposed amendment to Rule 342(c) will provide greater harmonization between the Exchange and NASD rules by eliminating the prior consent requirement for branch office approval and replacing it with a notice requirement so that dual NYSE/NASD member organizations must only comply with one standard.

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

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) 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 Act¹² and Rule 19b-4(f)(6) thereunder.¹³

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days

A proposed rule change filed under 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) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange believes that good cause exists to justify immediate effectiveness because under the proposed amendments to Rule 342(c), the Exchange will continue to receive the same information it currently receives under the prior consent requirement and thus, will be able to monitor branch office applications. Also, the front-end completeness checks in CRD, coupled with the continued receipt of branch office profile information contained on Form BR, will afford the Exchange the opportunity to thoroughly monitor branch office filings submitted and take action where appropriate without unduly delaying the initiation of business activities at such offices.

The Commission believes that for these reasons, and because the proposed rule change more closely conforms NYSE and NASD regulatory standards, waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing with the Commission.¹⁴

At any time within 60 days of the filing of such 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.¹⁵

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:

prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that NYSE has satisfied the five-day pre-filing notice requirement.

¹⁴ 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. See 15 U.S.C. 78c(f).

¹⁵ For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on July 26, 2007, the date on which NYSE submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

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. Please include File Number SR-NYSE-2007-59 on the subject line.

Paper Comments

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For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Florence E. Harmon,

Deputy Secretary.

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¹⁶ 17 CFR 200.30-3(a)(12).