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Dated: February 14, 2008.

**Nancy M. Morris,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Securities Act of 1933, Release No. 8893/February 13, 2008; Securities Exchange Act of 1934, Release No. 57319/February 13, 2008]

### Order Regarding Review of FASB Accounting Support Fee for 2008 Under Section 109 of the Sarbanes-Oxley Act of 2002

The Sarbanes-Oxley Act of 2002 (the "Act") provides that the Securities and Exchange Commission (the "Commission") may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard setting body that meets certain criteria. Consequently, Section 109 of the Act provides that all of the budget of such a standard setting body shall be payable from an annual accounting support fee assessed and collected against each issuer, as may be necessary or appropriate to pay for the budget and provide for the expenses of the standard setting body, and to provide for an independent, stable source of funding, subject to review by the Commission. Under Section 109(f) of the Act, the amount of fees collected for a fiscal year shall not exceed the "recoverable budget expenses" of the standard setting body. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act.

On April 25, 2003, the Commission issued a policy statement concluding that the Financial Accounting Standards Board ("FASB") and its parent organization, the Financial Accounting Foundation ("FAF"), satisfied the criteria for an accounting standard-setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as "generally accepted" under Section 108 of the Act.<sup>1</sup> As a consequence of that recognition, the Commission undertook a review of the FASB's accounting support fee for calendar year 2008. In connection with its review, the

Commission also reviewed the budget for the FAF and the FASB for calendar year 2008.

Section 109 of the Act also provides that the standard setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB and the Governmental Accounting Standards Board ("GASB"), the FASB's sister organization, which sets accounting standards used by state and local government entities. The Commission has been advised by the FAF that neither the FAF, the FASB nor the GASB accept contributions from the accounting profession.

After its review, the Commission determined that the 2008 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly,

*It is ordered*, pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

**Nancy M. Morris,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57323; File No. SR-NYSE-2008-09]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendment No. 1 Thereto, To Permit the Exchange To Modify or Cancel Clearly Erroneous Trades

February 13, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 28, 2007, 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 substantially by NYSE.

On February 8, 2008, NYSE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> NYSE filed the proposed rule change as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders it effective upon filing with 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 Exchange proposes to adopt new Rule 128 on an interim, six month basis, to permit the Exchange to cancel or adjust clearly erroneous executions if they arise out of the use or operation of any quotation, execution or communication system owned or operated by the Exchange, including those executions that occur in the event of a system disruption, system malfunction or equipment changeover.

The text of the proposed rule change is available at <http://www.nyse.com>, the principal office of NYSE, and 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 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. 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 NYSE proposes a new rule to provide the Exchange with the authority to cancel or adjust clearly erroneous trades of securities executed on or through the systems and facilities of the NYSE. Currently, Rule 128B (Publication of Changes, Corrections, Cancellations or Omissions and Verifications of Transactions) permits the NYSE to cancel a trade when all

<sup>3</sup> In Amendment No. 1, the Exchange made technical and clarifying revisions to the purpose section and Exhibit 1 of the filing and amended the text of new Rule 128 to allow a request for review of a clearly erroneous execution to be made in person on the Floor of the Exchange.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>1</sup> Financial Reporting Release No. 70.

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

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