

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:

##### *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-2007-82 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-2007-82. 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 NYSE. 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-2007-82 and should be submitted on or before October 24, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>34</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56554; File No. SR-NYSE-2007-84]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Rule 104.10(6) (Dealings With Specialists)

September 27, 2007.

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 September 25, 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 the NYSE. The NYSE has designated the proposed rule change as a "non-controversial" 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 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 NYSE is proposing to extend for three (3) months the current pilot related to specialist stabilization requirements operating pursuant to NYSE Rule 104.10(6) (Specialist Transactions in Active Securities that Establish or Increase the Specialist's Position) ("Stabilization Pilot"),<sup>5</sup> that is scheduled to terminate on September 30, 2007. The text of the proposed rule change is available on NYSE's Web site at <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 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. The 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 extend the operation of the Stabilization Pilot pursuant to NYSE Rule 104.10(6) from September 30, 2007 to the earlier of December 31, 2007 or such time as the Commission approves a proposal by the Exchange to modify the current Pilot.<sup>6</sup>

###### a. Stabilization Pilot

On December 1, 2006, the Commission approved changes to NYSE Rules 104.10(5) and 104.10(6) governing specialist stabilization requirements.<sup>7</sup> The amendments to the Rule moved away from defining stabilization in terms of the last sale to focus on market conditions, the type of trade in question and the specialist's existing position. The amendments to NYSE Rule 104.10(6) govern Conditional Transactions (as defined below) in active securities ("Stabilization Pilot").<sup>8</sup>

Pursuant to the Stabilization Pilot, specialists can trade in active securities that establish or increase a position by reaching across the market to trade in

<sup>6</sup> On September 14, 2007, the Exchange filed SR-NYSE-2007-83 in order to amend NYSE Rule 104.10 to (i) extend the duration of the Stabilization Pilot to March 31, 2008; (ii) remove the "active securities" limitation on Conditional Transactions that establish or increase a specialist's position and reach across the market to transact with the Exchange's published quote; and (iii) make certain conforming changes to NYSE Rule 104.10(5). See Securities Exchange Act Release No. 56455 (September 18, 2007), 72 FR 54499 (September 25, 2007) (SR-NYSE-2007-83).

<sup>7</sup> See Securities Exchange Act Release No. 54860, *supra* note 5.

<sup>8</sup> "Active" securities are: (a) securities comprising the S&P 500® Stock Index; (b) securities trading on the Exchange during the first five trading days following their initial public offering of such securities; and (c) securities that have been designated as "active" by a Floor Official subject to the provisions of the Rule.

<sup>34</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).

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

<sup>5</sup> See Securities Exchange Act Release No. 54860 (December 1, 2006), 71 FR 71221 (December 8, 2006) (SR-NYSE 2006-76).

the Exchange published bid (in the case of a specialist's sale) or offer (in the case of a specialist's purchase) when such bid (offer) is priced below (above) the last differently priced published bid (offer) ("Conditional Transaction"). A specialist is allowed to execute Conditional Transactions without restriction as to price provided the specialist follows said transaction with an appropriate transaction on the opposite side of the market commensurate with the size of the specialist's transaction, which is referred to as "appropriate re-entry."<sup>9</sup>

The Exchange states that the Stabilization Pilot provides the specialist with the ability to effect transactions for its dealer account to provide support to the Hybrid Market. The Exchange believes that the specialists have a greater ability to position themselves to provide more liquidity against market trend and thus moderate volatility. The Exchange, therefore, requests that the Stabilization Pilot be extended for three (3) months to continue to afford specialists this needed flexibility to continue their adaptation to the new challenges of the Hybrid Market.

The Exchange believes that extension of the Stabilization Pilot will continue to allow specialists to effectively manage their inventory in order to provide liquidity during times of market volatility. As such, the Exchange requests that the Commission extend the Stabilization Pilot to December 31, 2007, or such earlier time that the Commission approves the expansion of the Stabilization Pilot as discussed above.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5)<sup>10</sup> of the Act that an Exchange have rules that are 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 Exchange also believes that the proposed rule change also is designed to support the

principles of Section 11A(a)(1)<sup>11</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 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: (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)<sup>12</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>13</sup> As required under Rule 19b-4(f)(6)(iii),<sup>14</sup> the Exchange provided the Commission with 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 prior to the date of the filing of the proposed rule change.

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) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The NYSE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii), which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Stabilization Pilot to continue without interruption through

the earlier of (i) December 30, 2007 or (ii) when the Commission acts on a corresponding proposed rule change,<sup>15</sup> and provide the Exchange and the Commission additional time to evaluate the pilot.<sup>16</sup> Accordingly, the Commission designates that the proposed rule change effective and operative upon filing with the Commission.

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.

## 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-NYSE-2007-84 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-2007-84. 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

<sup>9</sup> "Appropriate re-entry" for Conditional Transactions shall mean the specialist's stabilization obligation to re-enter a transaction on the opposite side of the market at or before the price participation point ("PPP"). The PPP is an Exchange-issued minimum guideline that identifies the price at or before which a specialist is expected to re-enter the market after effecting a Conditional Transaction. PPPs are only minimum guidelines and compliance with them does not guarantee a specialist is meeting his or her obligation.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78k-1(a)(1).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> See Securities Exchange Act Release No. 56455, *supra* note 6.

<sup>16</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).

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 such filing also will be available for inspection and copying at the principal office of the NYSE. 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-2007-84 and should be submitted on or before October 24, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56556; File No. SR-NYSE-2007-86]

### 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 Registered Competitive Market Makers and New Competitive Traders, Governed by Rules 107A and 110, Respectively, for an Additional Three Months

September 27, 2007.

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 27, 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 the Exchange. 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 NYSE proposes to extend for three months the moratorium related to the qualification and registration of Registered Competitive Market Makers ("RCMMs") pursuant to Exchange Rule 107A and Competitive Traders ("CTs") pursuant to Exchange Rule 110. The text of the proposed rule change is available on the NYSE's Web site (<http://www.nyse.com>), at 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 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 three months the current moratorium related to the qualification and registration of RCMMs pursuant to Exchange Rule 107A and CTs pursuant to Exchange Rule 110.

On September 22, 2005, the Exchange filed SR-NYSE-2005-63<sup>3</sup> with the Commission proposing to implement a moratorium on the qualification and registration of new RCMMs and CTs ("Moratorium"). The purpose of the Moratorium was to allow the Exchange an opportunity to review the viability of RCMMs and CTs in the NYSE HYBRID MARKET<sup>SM</sup> ("Hybrid Market").<sup>4</sup>

The phased-in implementation of the Hybrid Market required the Exchange to extend the Moratorium an additional three times over the next fifteen (15) months.<sup>5</sup> During each phase of the

Hybrid Market, new system functionality was included in the operation of Exchange systems and new data was generated. As a result, the Exchange was unable to make an informed decision as to the viability of RCMMs and CTs in the Hybrid Market.

The Exchange continued to review the data related to RCMMs and CTs generated during the phasing-in of the Hybrid Market. Based on its review, the Exchange believes that it now has the requisite data to decide what roles, if any, RCMMs and CTs should perform in the current Hybrid Market.

The Exchange now proposes to extend the Moratorium, as amended,<sup>6</sup> for an additional three months to December 31, 2007 in order to finalize its determination as to the roles of RCMMs and CTs in the Exchange's Hybrid Market and to formally submit a proposal to the Commission outlining these roles.

The Exchange will issue an Information Memo announcing the extension of the Moratorium.

###### 2. Statutory Basis

The basis under the Act<sup>7</sup> 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 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.

#### 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

<sup>3</sup> See Securities Exchange Act Release No. 52648 (October 21, 2005), 70 FR 62155 (October 28, 2005) (SR-NYSE-2005-63).

<sup>4</sup> See Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR-NYSE-2004-05) (establishing the Hybrid Market).

<sup>5</sup> See Securities Exchange Act Release Nos. 54140 (July 13, 2006), 71 FR 41491 (July 21, 2006) (SR-NYSE-2006-48); 54985 (December 21, 2006), 72 FR 171 (January 3, 2007) (SR-NYSE-2006-113); and 55992 (June 29, 2007), 72 FR 37289 (July 9, 2007) (SR-NYSE-2007-57).

<sup>6</sup> See Securities Exchange Act Release No. 53549 (2006), 71 FR 16388 (March 31, 2006) (SR-NYSE-2006-11) (making certain amendments to the Moratorium).

<sup>7</sup> 15 U.S.C. 78a.

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

<sup>17</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.