

\$1,000,000 for each one tenth of one percent (.1%) of the Exchange transaction dollar volume in its registered securities, exclusive of Exchange Traded Funds, plus \$500,000 for each Exchange Traded Fund, in addition to the market risk add-on under Rule 104.21(2). Additionally, the filing noted that, as a result of the changes to the structure of the marketplace, NYSE would be assessing market risks annually to determine the continuing adequacy of the net liquid asset requirements.

Proposed Rule Change

The proposed rule change would reduce the total base capital requirement that must be maintained as net liquid assets for all specialists from \$1 billion to \$250 million. NYSE believes this amount will adequately protect specialist organizations during periods of market stress. Further, each of the specialist organizations have sources of funding that will provide necessary liquidity during a period of market stress. It is no longer necessary for this liquidity to be maintained as capital, as specialist positions and the likelihood of losses have been reduced dramatically due to changes in the structure of the market.

Analysis

The role of specialists has changed significantly as increased electronic trading and the Exchange's "Hybrid Market"⁷ have contributed to lower participation by, and

⁷ See Release No. 34-53539 (March 22, 2006); 71 FR 16353 (March 31, 2006) File No. SR-NYSE-2004-05) (approving amendments to NYSE Rules (approving the proposed rule change to establish the NYSE Hybrid Market). The rule change created a "Hybrid Market" by, among other things, increasing the availability of automatic executions in its existing automatic execution facility, NYSE Direct+, and providing a means for participation in the expanded automated market by its floor members. The change altered the way NYSE's market operates by allowing more orders to be executed directly in Direct+, which in essence moves NYSE from a

