

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52026; File No. SR-NYSE-2005-26)

July 13, 2005

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto to Extend the Closing Time of Crossing Session II, and to Amend its Crossing Sessions III and IV to Eliminate the Share Size Restriction and the Process by Which an Order Is Executed if There Is No Execution Prior to 4:00 p.m.

On April 8, 2005, the New York Stock Exchange, Inc. (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend rules governing its Off-Hours Trading Facility (“OHTF”), Crossing Sessions II, III, and IV, in particular. On May 19, 2005, NYSE filed Amendment No. 1 to the proposed rule change.³ The proposed rule change as amended, was published for comment in the Federal Register on June 8, 2005.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The NYSE proposes to amend rules governing its OHTF. The proposed rule change would (1) extend the closing time of Crossing Session II from 6:15 p.m. to 6:30 p.m., and (2) amend rules governing Crossing Sessions III and IV to (i) eliminate the 10,000 share size restriction for both types of orders in Crossing Sessions III and IV, and (ii) provide that if there is no execution prior to 4:00 p.m, the entire order would be

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 made clarifying changes to the Purpose section of the filing.

⁴ See Securities Exchange Act Release No. 51747 (May 26, 2005), 70 FR 33571 (June 8, 2005) (SR-NYSE-2005-26).

eligible for execution in the crossing session, rather than just the portion of the customer's order that could not be executed prior to 4:00 p.m.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁵ and, in particular, the requirements of Section 6 of the Act⁶ and the rules and regulations thereunder. Specifically, the Commission finds the proposal to be consistent with Section 6(b)(5) of the Act,⁷ in that is 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 Commission believes that the changes should enhance the usefulness and practicality of Crossing Session II by making it available to member organizations for a greater time period and making its closing time consistent with the closing time of Crossing Sessions III and IV. Additionally, the Commission believes that the elimination of the size restriction for orders in Crossing Sessions III and IV should increase the availability of these sessions to member organizations.

⁵ In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NYSE-2005-26), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jill M. Peterson
Assistant Secretary

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).