



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
MARKET REGULATION

January 30, 2007

Mary Yeager
Assistant Corporate Secretary
New York Stock Exchange, Inc.
11 Wall Street, Inc.
New York, NY 10005

**Re: Extension of the Exemption from the Order Protection Provisions of the
Intermarket Trading System ("ITS") Plan with Respect to Single-Priced Closing
Transactions**

Dear Ms. Yeager:

On October 5, 2006, the Commission granted to the New York Stock Exchange LLC ("NYSE" or the "Exchange") exemptions pursuant to Rule 608(e) under the Securities Exchange Act of 1934 ("Act")¹ from certain provisions of the ITS Plan, in connection with the implementation of Phase 3 of the NYSE HYBRID MARKETSM ("the Hybrid Market").² Specifically, the Commission granted the exemptions from Section 8(d)(i) (Trade-Throughs; Locked Markets), Section 8(d)(ii) (Adoption of Trade-Through Rules), and Exhibit B of the ITS Plan, with respect only to single-priced closing transactions, because the NYSE's Phase 3 programming does not include auto-routing to other market centers to avoid a trade-through in connection with the Exchange closing transactions.³

The Commission granted the exemptions through February 5, 2007, the established Trading Phase Date for Regulation NMS.⁴ On January 24, 2007, the Commission extended the

¹ 17 C.F.R. § 242.608(e). Rule 608(c) requires each participant in a national market system plan to comply, and enforce compliance with, the plan by its members and their associated persons. Rule 608(e) establishes the Commission's authority to exempt any self-regulatory organization ("SRO") or SRO member from the requirements of the Rule.

² See Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (approving the Hybrid Market).

³ See letter from David Shillman, Associate Director, Division of Market Regulation, Commission, to Mary Yeager, Assistant Corporate Secretary, NYSE, dated October 5, 2006.

⁴ Trading Phase Date is the required date for full operation of Regulation NMS-compliant trading systems of all automated trading centers that intend to qualify their quotations for

Trading Phase Date.⁵ Accordingly, the Commission hereby extends the previously granted exemptions to NYSE, effective February 6, 2007 up to the Trading Phase Date. These exemptions are subject to modification or revocation at any time, however, if the Commission determines that such action is necessary or appropriate to further the purposes of the Act.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶



Katherine A. England
Assistant Director

trade-through protection under Rule 611. See Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038 (May 24, 2006).

⁵ See Securities Exchange Act Release No. 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007) (extending the Trading Phase Date until March 5, 2007).

⁶ See 17 CFR § 200.30-3(a)(27).



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11 Wall Street, Inc.
New York, NY 10005

Dear Ms. Yeager:

On October 5, 2006, the Commission granted to the New York Stock Exchange LLC ("NYSE" or the "Exchange"), exemptions¹ pursuant to Rule 608(e) under the Securities Exchange Act of 1934 ("Act")² from certain trade-through provisions of the Intermarket Trading System ("ITS") Plan, with respect only to single-priced closing transactions, in connection with the implementation of Phase 3 of the NYSE HYBRID MARKETSM.

In addition, on October 5, 2006, the staff of the Division of Market Regulation issued a letter stating that it would not recommend enforcement action to the Commission under Section 19(g)(1) of the Act if NYSE did not enforce compliance with the portion of NYSE Rule 15A (ITS "Trade-Throughs" and "Locked Markets") with respect only to single-priced closing transactions.³

The Commission granted the exemptions through February 5, 2007, the established Trading Phase Date for Regulation NMS.⁴ On January 24, 2007, the Commission extended the

¹ See letter from David Shillman, Associate Director, Division of Market Regulation ("Division"), Commission, to Mary Yeager, Assistant Corporate Secretary, NYSE, dated October 5, 2006.

² 17 C.F.R. § 242.608(e). Rule 608(c) requires each participant in a national market system plan to comply, and enforce compliance with, the plan by its members and their associated persons. Rule 608(e) establishes the Commission's authority to exempt any self-regulatory organization ("SRO") or SRO member from the requirements of the Rule.

³ See letter from David Shillman, Associate Director, Division, Commission, to Mary Yeager, Assistant Corporate Secretary, NYSE, dated October 5, 2006.

⁴ Trading Phase Date is the required date for full operation of Regulation NMS-compliant trading systems of all automated trading centers that intend to qualify their quotations for trade-through protection under Rule 611. See Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038 (May 24, 2006).

Trading Phase Date.⁵ Accordingly, the staff of the Division of Market Regulation is hereby extending up to the Trading Phase Date the time period during which it will not recommend enforcement action to the Commission under Section 19(g)(1) of the Act if NYSE does not enforce compliance with the portion of NYSE Rule 15A (ITS “Trade-Throughs” and “Locked Markets”) with respect only to single-priced closing transactions.

This staff position is limited to enforcement action under Section 19(g)(1) of the Act and does not purport to express any legal conclusions with respect to the applicability of the statutory or regulatory provisions of the federal securities laws. The Staff's position is subject to modification or revocation at any time if the Commission or the Staff determines that such action is necessary or appropriate, in furtherance of the purposes of the Act.

Sincerely,



Katherine A. England
Assistant Director

⁵ See Securities Exchange Act Release No. 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007) (extending the Trading Phase Date until March 5, 2007).