

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55793; File No. SR-NYSE-2007-34)

May 22, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change To Amend NYSE Rule 80A.40(b) to Update the Definition of “Program Trading,” to Substitute Simplified Audit Trail Requirements, and to Make Conforming Amendments to NYSE Rule 410B

On March 22, 2007, the New York Stock Exchange LLC (“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 that would (i) to amend NYSE Rule 80A.40 to eliminate the minimum dollar value from the definition of program trading, and (ii) substitute simplified audit trail requirements in place of the more cumbersome reporting requirements that currently apply to program trading. NYSE also proposed to make conforming amendments to NYSE Rule 410B. In connection with those changes, NYSE also would issue guidance regarding the definition of a “coordinated strategy,” as that term is used in Rule 80A.40. The Commission published notice of the proposal in the Federal Register on April 17, 2007.³ The Commission received no comments on the proposal.

The Commission has reviewed carefully the proposed rule change and 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 exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 55615 (April 11, 2007), 72 FR 19225.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

specifically that the proposed rule change is consistent with Section 6(b)(5),⁶ which requires 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 Commission notes that the NYSE has represented that it has carefully evaluated the change in definition of program trading and related changes effectuated in this proposed rule change, and the Exchange believes that these changes to the definition of program trading and the revised audit trail information should result in more effective surveillance of the market impact of program trading. Based on these representations, the Commission believes that the proposed rule change is

⁶ 15 U.S.C. 78f(b)(5).

reasonably designed to improve the quality of the program trading data for this vital surveillance program.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁷, that the proposed rule change (SR-NYSE-2007-34) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).