

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55823; File No. SR-NYSE-2007-10)

May 29, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Amendments to Interpretation to Rule 311(b)(5) (“Co-Designation of Principal Executive Officers”) as Modified by Amendment No. 1

I. Introduction

On February 2, 2007, the New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”),² and Rule 19b-4 thereunder,³ a proposed rule change to amend Interpretation .05 to NYSE Rule 311(b)(5) regarding co-designation of principal executive officers. On April 16, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on April 26, 2007.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

NYSE Rule 311 (“Formation and Approval of Member Organizations”) and specifically Section (b)(5) thereof currently provide that principal executive officers⁵ shall exercise principal executive responsibility over the various areas of the business of the member corporation.

Interpretation .05 to Rule 311(b)(5) (the “Interpretation”) sets forth the regulatory framework

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78(a) et seq.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 55650 (April 19, 2007), 72 FR 20905.

⁵ The Exchange recognizes four such principal executive officers: chief executive officer (“CEO”), chief operations officer (“COO”), chief finance officer (“CFO”) and chief compliance officer (“CCO”).

under which member organizations may request approval for assigning two persons as the principal executive officers for the same function pursuant to Rule 311(b)(5). The Rule currently provides that no understanding or agreement purporting to limit or apportion the joint and several responsibility of each such co-officer will be recognized by the Exchange. The Exchange now believes, however, that there are situations in which CCOs and COOs can exercise supervisory authority over discrete and naturally separate business functions, consistent with the internal corporate structure of the particular member organization. Accordingly, the Exchange has proposed to permit co-CCOs and co-COO to allocate supervisory responsibility in a fashion acceptable to the Exchange.⁶

Specifically, where a member organization seeks to divide regulatory responsibility between more than one such principal executive officer bearing the same or similar titles without the assumption of joint and several responsibility, it must provide the Exchange with a plan acceptable to the Exchange allocating specific responsibility and making unambiguous provisions, especially for the supervision of areas where the separate functions interact. Joint and several responsibility would remain in effect for any area not specifically included in the plan approved by the Exchange.

In addition, because the CCO of a member organization has unique responsibilities under NYSE Rule 342.30 (“Annual Reports”), the revised Interpretation would also require a representation that the certification required by Rule 342.30(e) will confirm the qualification of each such co-CCO and that the responsibility of the co-CCOs encompasses every aspect of the

⁶ The Exchange continues to believe that the authority vested in CEOs and CFOs is indivisible, thus the proposed amendments to the Interpretation would not apply to these principal executive officers.

business of the member organization. Each of the co-CCOs would be required to meet with and advise the CEO as part of the Rule 342.30 certification process.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁷ and, in particular, the requirements of Section 6 of the Act.⁸ Specifically, the Commission finds that the proposal is consistent with Section (b)(5) of the Act,⁹ in that the proposal has been designed to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission believes that the proposal should provide the Exchange with flexibility in selecting, and offering positions to, qualified candidates to fill CCO and COO positions, thus helping to ensure skilled management of the Exchange.

⁷ The Commission has considered the amended proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-NYSE-2007-10), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).