

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56113; File No. SR-NSX-2007-05)

July 20, 2007

Self-Regulatory Organizations; National Stock Exchange, Inc.; Order Approving Proposed Rule Change to Modify Chapter VII of the Exchange's Rules Regarding Suspensions of an ETP Holder by Certain Exchange Officers

I. Introduction

On May 9, 2007, the National Stock Exchange, Inc. ("NSX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder² to modify Chapter VII of the Exchange's rules to provide that the Chairman of the Exchange's Board of Directors ("Chairman") or the Exchange's Chief Regulatory Officer, or their respective designees, would have the authority to summarily suspend or place limitations or conditions on an ETP Holder or summarily suspend a person from access to Exchange services in certain circumstances. Notice of the proposed rule change was published for comment in the Federal Register on June 18, 2007.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

NSX Rule 7.1 currently authorizes the Chairman of the NSX Board of Directors ("Chairman") or NSX's President ("President") to summarily suspend an ETP Holder, or impose such conditions and restrictions upon an ETP Holder as are reasonably necessary for the protection of investors, the Exchange, the creditors, and the customers of such ETP Holder, if

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 55893 (June 11, 2007), 72 FR 33551.

such ETP Holder, among other things, has failed to perform its contracts, is insolvent, or is in such financial or operational condition or operating its business in such a manner that it cannot be permitted to continue in business with safety to its customers, creditors, and other ETP Holders of the Exchange.⁴ The Chairman or President may also lift such a suspension without further proceedings, if appropriate.⁵ NSX Rule 7.6 currently permits the Chairman or President to, under certain circumstances, summary limit or prohibit, persons from access to services offered by the Exchange.

NSX proposes to amend Rules 7.1 and 7.6 to authorize the Chairman or NSX's Chief Regulatory Officer ("CRO"), or their respective designees, to impose and lift suspensions as described above. NSX's President would no longer have such authority. The Exchange represents that the designee for the Chairman would be the Chairman of the Exchange's Regulatory Oversight Committee ("ROC"), a member of the ROC, or another independent member of the Exchange's Board of Directors,⁶ in that order of priority. The designee for the CRO would be an officer in the Exchange's Regulatory Services Division. The proposal does not otherwise modify NSX's rules regarding suspension, including its provisions for review of summary actions.

III. Discussion and Commission Findings

The Commission has reviewed the proposed rule change and finds that it is consistent with the Act and the rules and regulations thereunder applicable to a national securities

⁴ See NSX Rule 7.1(a).

⁵ See NSX Rule 7.1(c).

⁶ NSX By-Law Section 1.1(I)(1) defines "Independent Director" as a member of the Board that the Board has determined to have no material relationship with the Exchange or any affiliate of the Exchange, or any ETP Holder or any affiliate of any ETP Holder, other than as a member of the Board.

exchange.⁷ Specifically, the Commission finds that the proposed rule change furthers the objectives of Section 6(b)(1)⁸ of the Act, which requires the Exchange to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members, with the Act and the rules of the Exchange. In addition, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,⁹ which requires, among other things, that the rules of a national securities exchange be 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 reallocation of authority under NSX Rules 7.1 and 7.6 from the Chairman and President to the Chairman and CRO, or their respective designees, is consistent with the Act. The Commission also believes that the reallocation is designed to provide for continuity in the event that the Chairman or CRO is unavailable. The Commission notes that the Exchange's rules governing the review of suspensions remain unchanged.

⁷ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(1).

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 (File No. SR-NSX-2007-05) be, and hereby 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).