

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56305; File No. SR-NSX-2007-09)

August 22, 2007

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Amendment of its Rules in Light of Amendments to SEC Rule 10a-1 and Regulation SHO

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 3, 2007 and July 6, 2007, National Stock Exchange, Inc. (“NSX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission” or “SEC”) the proposed rule change and their corresponding amendments, as described in Items I and II below, which Items have been substantially prepared by the Exchange. NSX has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comment on the proposed rule change from interested parties.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend NSX Rules 11.21 and 14.2(b)(7) in light of the Commission’s short sale regulation, Regulation SHO under the Securities Exchange Act of 1934. Certain provisions of Regulation SHO adopted in the Commission’s 2007

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

release regarding the price test⁴ supercede the above NSX Rules related to short sales. As a result, the Exchange is filing this rule change to bring those rules in line with Regulation SHO, as now in effect. The text of the proposed rule change is below. Additions are underlined and deletions are bracketed.

**RULES
OF
NATIONAL STOCK EXCHANGE, INC.**

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CHAPTER XI

Trading Rules

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Rule 11.21 Short Sales

All short sale orders shall be identified as [either] a short sale [or short sale exempt] when entered into the System. [Any marketable order entered in the System that, if matched for execution, would violate the short sale provisions of the Act or the rules and regulations thereunder should be cancelled. The foregoing shall not be in limitation of the Exchange's ability to adopt additional Rules, interpretations or policies relating to short sales.]

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CHAPTER XIV

Intermarket Trading System Plan

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Rule 14.2 Intermarket Trading System Application

⁴ Securities Exchange Act Release No. 55970 (June 28, 2007), 72 FR 36348 (July 3, 2007)(“Price Test Adopting Release”).

(a) No change.

(b) Any commitment to trade which is transmitted to a User to another participating market center shall be firm and irrevocable for the period of time following transmission as was chosen by the sender of the commitment, and shall, at a minimum:

(1) – (6) No change.

(7) Reserved. [designate the commitment “short” or “short exempt” whenever it is a commitment to sell short which, if it should result in an execution in the market of the receiving market center, would result in a short sale to which the provisions of paragraph (a) of Rule 10a-1 under the Act would apply]; and

(8) No change.

(c) –(j) No change.

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II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 28, 2004, the Commission adopted certain provisions of a new short sale regulation, designated Regulation SHO. On June 28, 2007, the Commission amended Regulation SHO and also repealed Rule 10a-1 under the Act.⁵ We have reviewed the NSX Rules to eliminate those rules which we believe are duplicative of, inconsistent with, or otherwise superceded by, Regulation SHO and the repeal of Rule 10a-1 under the Act.⁶ Therefore, the Exchange is filing this proposed rule change to amend those NSX rules that are affected by the Commission's amended approach to short sale regulation.

First, in addition to the repeal of Rule 10a-1 under the Act, the Commission added Rule 201(b) to Regulation SHO, prohibiting any SRO from having a short sale price test. The Commission also amended Rule 200(g) of Regulation SHO to remove the requirement that a broker-dealer mark a sell order of an equity security as "short exempt," if the seller is relying on an exception from a price test. Accordingly, the Exchange proposes to amend NSX Rule 11.21 to remove the reference to "short exempt." Additionally, the Exchange proposes to remove the second sentence respecting the cancellation of violative orders because there would be no ability to violate a rule that no longer exists. Finally, the Exchange is eliminating the savings clause as duplicative and restating an inherent authority of the Exchange.

Further, the Exchange notes that NSX Rule 14.2(b)(7) regarding the Intermarket Trading System Plan (the "ITS Plan") describes marking requirements necessary to

⁵ Price Test Adopting Release.

⁶ Please note that NSX does not have any ETP Holder that is not a member of another self-regulatory organization nor is NSX a designated examining authority or a designated self-regulatory organization for any ETP Holder. Accordingly, it does not subject its members to short interest reporting that is mandated by the other markets.

comply with Rule 10a-1 under the Act.⁷ In light of the repeal of Rule 10a-1, the Exchange proposes to eliminate this provision from its Rules.

As noted below, the Exchange is filing the proposed rule change for immediate effectiveness, with an operative date of July 6, 2007, which is the same date as the effective date of Rule 201 and revised Rule 200(g) of Regulation SHO as well as the elimination of Rule 10a-1 under the Act.⁸

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act⁹ in general and furthers the objectives of Section 6(b)(5)¹⁰ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NSX believes that the proposed rule change is necessary and appropriate to comply with the amendments to SEC Rule 10a-1 and Regulation SHO.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

⁷ The Exchange will be filing a separate rule change to eliminate the entire chapter respecting the ITS Plan.

⁸ See Price Test Adopting Release.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6)¹² thereunder.

NSX has asked the Commission to waive the 30-day operative delay. The Commission believes such waiver is consistent with the protection of investors and the public interest because it would allow the proposed rule change to be effective on July 6, 2007, the compliance date for the amendments to Rule 10a-1 and Regulation SHO.¹³ For this reason, the Commission designates the proposal to be operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 19b-4(f)(6).

¹³ For purposes only of waiving the 30-day pre-operative period, the Commission has considered the proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

that such action is necessary or appropriate in the public interest, for protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NSX-2007-09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSX-2007-09. This file number should be included in the subject line if e-mail is used. To help the Commission process and review comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site

(<http://www.sec.gov/rules/sro/shtml>). Copies of the submission, all subsequent amendments, all written statement with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld

from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to file number SR-NSX-2007-09 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Nancy M. Morris
Secretary

¹⁴ 17 CFR 200.30-3(a)(12).