SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54530; File No. SR-NYSE-2006-49)

September 28, 2006

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to Amending Rule 123D (Openings and Halts in Trading) and Rule 15 to Shorten the Minimum Required Time Periods Between Tape Indications and Openings or Reopenings.

On June 30, 2006, 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 to amend NYSE Rules 123D and 15 to shorten the minimum time periods between tape indications and openings or reopenings of a security and after an "Equipment Changeover."[3] On August 14, 2006, the Exchange submitted Amendment No. 1 to the proposed rule change.[4] The proposed rule change, as amended, was published for comment in the Federal Register on August 28, 2006.[5] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

The Exchange proposes to amend NYSE Rules 123D and 15 to shorten the minimum time periods between tape indications and openings or reopenings of a security and after an "Equipment Changeover." In connection with a delayed opening of trading

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Exchange Rule 123D(2).

4 In Amendment No. 1, NYSE made minor revisions to the proposed rule text and clarified that all market participants may react to published price indications.

5 See Securities Exchange Act Release No. 54337 (August 21, 2006), 71 FR 50963 ("Notice").

in a security, Exchange Rule 123D currently requires a minimum of ten minutes to elapse between the first price indication and the opening of the stock, and where there is more than one indication, a minimum of five minutes to elapse after the last indication, provided in all cases that at least ten minutes have elapsed since the first indication. The Exchange's proposal would reduce these minimum time periods from ten to three minutes after the first indication, and to one minute after the last indication, provided that a minimum of three minutes have elapsed since the first indication.

With respect to the reopening of trading after a stock has been halted during the trading day, Exchange Rule 123D currently requires a minimum of five minutes to elapse between the first indication and the reopening of trading, and a minimum of three minutes to elapse after the last indication, provided that at least five minutes has elapsed since the first indication. The Exchange's proposal would reduce these minimum time periods to three minutes after the first indication, and to one minute after the last indication, provided that a minimum of three minutes has elapsed since the first indication.

With respect to the reopening of trading after a stock has been halted during the trading day because of "Equipment Changeover," Exchange Rule 123D currently requires a minimum of five minutes to elapse before trading resumes following an Equipment Changeover. Further, if, during the "Equipment Changeover" trading halt, a significant order imbalance[6] develops or a regulatory condition occurs, the nature of the

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[6] The Exchange indicated in the Notice that a "significant order imbalance" is one which would result in a price change from the last sale of one point or more for stocks under $10, the lesser of 10% or three points for stocks between $10—$99.99 and five points for stocks $100 or more—unless a Floor Governor deems circumstances warrant a lower parameter.

halt will be changed and notice must be disseminated and trading cannot resume until ten minutes after the first indication of the new halt condition. The Exchange's proposal would reduce these minimum time periods to one minute after an "Equipment Changeover" and to three minutes after an "Equipment Changeover" during which a significant order imbalance or regulatory condition develops.

Lastly, NYSE proposes to amend Exchange Rule 15 to conform with a recent amendment to the Intermarket Trading System Plan ("ITS Plan"). In particular, the Exchange's proposal would require that, when more than one indication is disseminated, a stock may reopen one minute after the last indication if three minutes have elapsed after the first indication.

The Commission 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 exchange.[7] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[8] 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 proposal appears designed to strike a reasonable balance between preserving the opportunity for price discovery before a stock opens or reopens while providing timely opportunities for investors to participate in the market.

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7 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).

8 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR-NYSE-2006-49), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Nancy M. Morris
Secretary

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[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30-3(a)(12).