

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53932; File No. SR-NYSE-2006-01)

June 1, 2006

Self-Regulatory Organizations; New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC); Notice of Filing of Proposed Rule Change Relating to Exchange Rule 1000 (NYSE Direct+)

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 January 17, 2006, the New York Stock Exchange, Inc.³ (n/k/a New York Stock Exchange LLC) (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Exchange Rule 1000 (NYSE Direct+[®]) to eliminate subsection (v), an exception to Exchange Rule 1000 which suspends the Exchange’s Direct+ facility if the specialist publishes a bid and/or offer that is more than five cents away from the last reported transaction price when an Exchange Rule 127 block cross transaction is being executed.⁴ The Exchange proposes to replace this procedure with a rule that requires the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange is now known as the New York Stock Exchange LLC. See Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006).

⁴ On March 22, 2006, the Commission approved the Exchange’s proposal to establish a “Hybrid Market.” See Securities Exchange Act Release No. 53539, 71 FR 16353 (March 31, 2006) (“Hybrid Market Approval Order”). In the Hybrid Market Approval Order, the Commission approved the Exchange’s plan to implement the Hybrid Market in multiple phases. To date, the Exchange has not implemented the approved changes to Exchange Rule 1000. The Commission notes that in this proposal, the Exchange proposes to amend existing Exchange Rule 1000, rather than the text of Rule 1000 as approved in the Hybrid

specialist to quote a 100 x 100 share market price when all Exchange Rule 127 block cross transactions are being executed, regardless of the amount the cross price is away from the last reported transaction price in the subject security on the Exchange. The text of the proposed rule change is available on the Exchange's Web site (<http://www.nyse.com>), at the Exchange's Office of Secretary, and at the Commission's Public Reference Room.

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 aspects of such statements.

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

1. Purpose

The purpose of this proposed rule change is to simplify and improve the protective measures afforded to Direct+ customers when automatic executions are delayed due to the completion of an Exchange Rule 127 block cross transaction.

Exchange Rule 1000 provides that auto ex orders receive an immediate, automatic execution against orders reflected in the Exchange's published quotation and are immediately reported as Exchange transactions. NYSE Direct+ currently provides for the automatic execution of straight limit orders ("auto ex orders") of 1,099 shares or less (10,000 shares or less

Market Approval Order. Once the Exchange implements the approved text to Exchange Rule 1000, the Commission notes that Rule 1000, as approved in the Hybrid Market Approval Order, would supersede the changes proposed herein.

for Investment Company Units, as defined in paragraph 703.16 of the Listed Company Manual, and any securities governed by the same rules as Investment Company Units, such as streetTRACKS[®] Gold Shares,⁵ and Trust Issued Receipts, such as HOLDRs, as defined in Exchange Rule 1200) against trading interest reflected in the Exchange's published quotation. Exchange Rule 1000 subsections (i) through (vi) allow for exceptions to Exchange Rule 1000, making Direct+ unavailable when any exception is in place. Exchange Rule 1000(ii) provides that Direct+ is unavailable when the execution price of an automatic execution "would be more than five cents away from the last reported transaction price in the subject security on the Exchange." Exchange Rule 1000(v) specifically provides that when a transaction outside the NYSE's published bid or offer pursuant to Rule 127 is in the process of being completed, the specialist should "publish a bid and/or offer that is more than five cents away from the last reported transaction price in the subject security on the Exchange." The proposed amendment seeks to amend the current Rule 1000(v) procedure.

Exchange Rule 127 (Block Positioning) describes the process required for proper execution of a block cross transaction. Exchange Rule 127 requires a member seeking to cross block orders outside the prevailing quotation to inform the specialist of his or her intention to execute the transaction at a pre-determined, specified price that is either a premium or discount from the prevailing bid/offer. In this situation, the executing broker will be bidding and offering on behalf of the cross away from the prevailing quotation to reflect the discount or premium from the current market. Any limit order that is received while the Rule 127 trade is being effected that would better the market represented by the broker's bid/offer on behalf of the Rule 127 cross trade would be included in such trade, thereby receiving the better price.

⁵ See Exchange Rule 1300.

When a Rule 127 trade is being executed, Exchange Rule 1000(v) is triggered. The Exchange seeks to amend and simplify the current Rule 1000(v) procedure for several reasons. First, the procedure outlined in Rule 1000(v), which requires the specialist to publish a bid or offer that is more than five cents away from the last reported transaction price when a Rule 127 transaction is being executed, and the proposed procedure, which requires the specialist to publish a 100 x 100 market quote during a Rule 127 transaction, have the same effect; both procedures would delay Direct+ for a period of time allowing the specialist to execute the block cross trade and disseminate a more accurate market price. By applying the proposed procedure for all Rule 127 trades, regardless of the amount the cross price is away from the last reported transaction price in the subject security on the Exchange, the Exchange is simplifying its process. Second, the Exchange believes that quoting a price that is more than five cents away from the last transaction price in order to suspend automatic executions may not accurately reflect the price of the block cross transaction, particularly where the cross transaction is at a price five cents or less than the last reported transaction price on the Exchange.

The Exchange also believes that the 100 x 100 market quote procedure set forth in the proposed amendment would lessen the appearance of volatility, as would happen from the “ping-pong” effect of an automatic execution at the initial bid/offer of a Rule 127 print outside the quote and then back to a (seemingly worse) subsequent bid/offer. Further, the Exchange believes that this proposed rule change will add uniformity of process and is consistent with the Commission’s Limit Order Display Rule⁶ and Exchange Rule 79A.15, the Commission’s Firm Quote Rule,⁷ and Exchange Rule 104.

⁶ 17 CFR 242.604.

⁷ 17 CFR 242.601.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act⁸ because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 Exchange also believes that the proposed rule change is designed to support the principles of Section 11A(a)(1) of the Act⁹ in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer.

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

The Exchange does not believe 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

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78k-1(a)(1).

such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-NYSE-2006-01 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NYSE-2006-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your 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 statements 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. Copies of such filing also will 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-NYSE-2006-01 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.¹⁰

Nancy M. Morris
Secretary

¹⁰ 17 CFR 200.30-3(a)(12).