

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54615; File No. SR-NYSE-2006-37)

October 17, 2006

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Exchange Rule 86 (Automated Bond System®)

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 May 16, 2006, the 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 Exchange filed Amendment Nos. 1 and 2 to the proposed rule change on August 4, 2006³ and October 10, 2006,⁴ respectively. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

NYSE seeks to replace Exchange Rule 86 to implement changes to the Automated Bond System (“ABS®”), which would be re-named “NYSE BondsSM.” The text of the proposed rule change is available on the NYSE’s Web site (www.nyse.com), at the NYSE’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the original filing in its entirety.

⁴ Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

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 the proposed rule change is to replace current Exchange Rule 86 with a new rule that would accommodate and promote increased bond market activity and greater transparency in bond trading on the Exchange. The new rule would continue to enumerate the NYSE's primary rule relating to bond trading as Exchange Rule 86. The automated system in which bonds would trade would be re-named "NYSE Bonds." Other Exchange rules that relate to trading of bonds in NYSE Bonds would be amended to conform to new Exchange Rule 86.

Users⁵ of NYSE Bonds would have the ability to buy and sell bonds through the NYSE Bonds automated execution facility. To obtain authorized access to NYSE Bonds, a member organization of the Exchange would have to enter into a service agreement with the Exchange thereby subscribing to NYSE Bonds. Non-members who wish to trade on NYSE Bonds would

⁵ In the proposed rules, "User" means any Subscriber, Sponsoring Member Organization, Sponsored Participant, or Authorized Trader that is authorized to obtain access to NYSE Bonds. See proposed NYSE Rule 86(b)(2)(M).

have to do so through a written sponsorship agreement with a subscribing member organization of the Exchange.

Bonds to be Traded on NYSE Bonds

Debt securities that currently trade on ABS would also trade on NYSE Bonds. Such debt securities include, but are not limited to the following: corporate bonds (including convertible bonds), international bank bonds, foreign government bonds, U.S. government bonds, government agency bonds, municipal bonds, and debt-based structured products. In a separate filing, the Exchange has requested that the Commission provide relief pursuant to Section 36 of the Act⁶ to provide an exemption from the provisions of Section 12(a) of the Act⁷ to permit NYSE member organizations to trade bonds that are not registered under Section 12(b) of the Act,⁸ but are issued by NYSE-listed companies and their wholly owned subsidiaries and that meet other conditions.⁹ Should this exemption be granted, trading in bonds covered by the exemption would occur via the NYSE Bonds system.

Any security traded on NYSE Bonds would be referred to as a “bond” for purposes of Exchange Rule 86. Any security traded on NYSE Bonds would have to be listed, or otherwise admitted to dealing, on the Exchange. Today, the majority of NYSE bond volume is in corporate debt, with approximately 94% in non-convertible bonds, including certain debt-based structured products, and approximately 6% in convertible bonds.

⁶ 15 U.S.C. 78mm.

⁷ 15 U.S.C. 781(a).

⁸ 15 U.S.C. 781(b).

⁹ See Securities Exchange Act Release No. 51998 (July 8, 2005), 70 FR 40748 (July 14, 2005) (File No. S7-06-05).

NYSE Bonds Trading Rules

The proposed rules designate the types of orders that could be entered into NYSE Bonds and the minimum unit of trading for bonds traded through the system. Initially, Users of NYSE Bonds would be allowed to enter limit orders (“NYSE Bonds Limit Orders”) and reserve orders (“NYSE Bonds Reserve Orders”). A NYSE Bonds Reserve Order would be a limit order, a portion of which would be displayed and a portion of which would remain as undisplayed or reserve size. As the technology of the NYSE Bonds system continues to be implemented, all order types that are currently available in ABS also could be available in NYSE Bonds. Such order types may include “Next Day,” “Cash,” “Day,”¹⁰ and “Good ‘til Cancelled” (“GTC”).¹¹ The Exchange would notify its member organizations when additional order types became available for use.

The minimum unit of trading in NYSE Bonds would be one bond. This minimum unit of trading would apply to both the displayed and undisplayed portion of a NYSE Bonds Reserve Order. A bond is usually traded in denominations of \$1,000 (i.e., the original principal amount of a bond is usually \$1,000). A unit of trading in bonds other than \$1,000 could be designated by the Exchange for specific issues of bonds denominated in U.S. dollars or foreign currencies. Bonds with less than \$1,000 original principal amount could trade on NYSE Bonds, provided the User first aggregated the bonds into denominations of \$1,000. Bids or offers for less than \$1,000 would have to specify the original principal amount of the bond. The maximum size for any

¹⁰ “NYSE Bonds Day Orders” would have to be designated for specific trading sessions or, by default, such orders would participate only in the Core Bond Auction and the Core Bond Trading Session.

¹¹ “NYSE Bonds Good ‘Til Cancelled Orders” would be permitted to participate only in the Core Bond Auction and the Core Bond Trading Session.

bond order would be 1,000,000 bonds. NYSE Bonds would accept and display bids and offers in bonds priced to three decimal places.

The Exchange would place parameters on priced orders that crossed the market by establishing price collar thresholds. The Exchange believes that these thresholds would help avoid executions at erroneous prices. Initially, these collars would be set at one percentage point of par value outside the Exchange best bid and offer. The Exchange could modify the price collar thresholds from time to time, upon prior notice to NYSE Bonds Users. The Exchange would reject an order sent to NYSE Bonds if the limit price of an incoming order to buy were one percentage point of par value higher than the price of the then-current best offer displayed on NYSE Bonds, or if the limit price of an incoming order to sell were one percentage point of par value lower than the then-current price of the NYSE Bonds' best bid.

NYSE Bonds would be an electronic order-driven matching system. NYSE Bonds orders submitted by Users would be displayed, matched, and executed on a price/time priority basis. Orders that were marketable at the time of entry would be matched and executed. An order would be marketable when it entered the NYSE Bonds system if contra side interest were available at that price or a better price. Orders that were not marketable at the time of entry would post to the NYSE Bonds order "book." Orders that were marketable beyond the price collar threshold would be rejected by the system.

If an order were entered capable of trading at a better price than the then-best priced contra-side order on the NYSE Bonds book, the system would match the incoming order against the resting order at the resting order's price, thereby providing price improvement to the incoming order. For example, assume the NYSE Bonds market in the relevant bond is 101 bid, offered at 102 (1,000 x 1,000). A NYSE Bonds Limit Order to buy 1,000 bonds comes in priced

at 103. The order would be executed at 102, providing 1 point of price improvement to the incoming order. With the same market, assume a NYSE Bonds Limit Order to buy 1,000 bonds at 104 comes into the NYSE Bonds system. The order would be rejected as it would violate the price collar threshold of one percentage point of par value.

As previously discussed, NYSE Bonds would accept limit and reserve orders. Undisplayed reserve interest in NYSE Bonds would always yield to displayed orders at a particular price. Most orders matched on NYSE Bonds would be locked-in trades and would be submitted to a registered clearing agency with accrued interest calculated according to the defined eligibility characteristics of the particular bond.¹² Such accrued interest would be distributed to the seller. Settlement of corporate bond trades would be “regular way,” i.e., three-day settlement.

Bond Trading Sessions

NYSE Bonds would have three trading sessions during which ordinary trading would occur: (1) the Opening Bond Trading Session (4:00 a.m. until 9:30 a.m. ET); (2) the Core Bond

¹² The Exchange submits completed trades to one of the subsidiaries of the Depository Trust Clearing Corporation (“DTCC”) for clearance and settlement. The National Securities Clearing Corporation (“NSCC”), a subsidiary of DTCC, provides clearance and settlement services for government agency, corporate, and municipal bonds that trade on ABS. While the Government Securities Division of the Fixed Income Clearing Corporation (“FICC”), another subsidiary of DTCC, provides clearance and settlement services for transactions in U.S. government bonds, the Exchange does not currently have an agreement with FICC for such settlement and clearance. Presently, U.S. government bonds that trade on ABS are traded ex-clearing (i.e., the parties to the transaction arrange for manual clearing and settlement). The Exchange plans to submit trades on a locked-in basis to FICC for clearance and settlement in 2007. Until such time as the Exchange has such an agreement with the FICC, the U.S. government bonds that trade on NYSE Bonds would continue to trade ex-clearing as they do today on ABS. Trades that would not be locked-in would be those in bonds that are not set up for the Exchange’s registered clearing agency, or bonds having a face value other than \$1,000.

Trading Session, which would likely have the greatest market activity (9:30 a.m. until 4:00 p.m. ET); and (3) the Late Bond Trading Session (4:00 p.m. until 8:00 p.m. ET). Orders for one or more of these sessions could be entered in NYSE Bonds beginning at 3:30 a.m. ET, and the orders would queue until the beginning of the designated Bond Trading Session(s). Users entering orders into NYSE Bonds would be required to designate for each such order the trading session(s) for which the order would be available for execution. If an order were not designated for any particular trading session the order would, by default, be available for execution only in the Core Bond Auction and the Core Bond Trading Session.¹³

Orders could be designated only for Bond Trading Sessions – not Bond Auctions. Therefore, while orders could be designated and “available” only for Trading Sessions, they would be “eligible” for execution in the Auctions that would launch the designated Trading Session provided the orders were entered before the related Auction commenced. If orders were designated for either the Opening Bond Trading Session or the Core Bond Trading Session and were entered after commencement of the related Auction, the order would be available only for ordinary trading in the designated Bond Trading Session. The Late Bond Trading Session would not commence with a Bond Auction. An order designated for execution in any Trading Session could be cancelled at any time as long as the order had not been executed, except that a User could cancel an order eligible for execution in a Bond Auction at any time until two minutes prior to the beginning of the particular Auction.

¹³ “NYSE GTC Orders” could execute only in the Core Bond Auction and the Core Bond Trading Session.

Bond Auctions

At the commencement of both the Opening Bond Trading Session and the Core Bond Trading Session, there would be a single-priced execution called a Bond Auction. The Opening Bond Trading Session would begin with the Opening Bond Auction. The Core Bond Trading Session would begin with the Core Bond Auction. During these Bond Auctions, all marketable orders received by NYSE Bonds as of that time and, if so designated for the related Bond Trading Session, would be matched and executed at the Indicative Match Price (“IMP”).

The IMP would be defined as: (1) the price at which the maximum volume of bonds are executable; (2) if there are two or more prices at which the maximum volume of bonds are executable, the price that is closest to the closing price of that bond on the previous trading day, or if the bond did not trade on the previous day, the price that is closest to the closing price on the last day that the bond traded; or (3) if bond orders to buy and bond orders to sell are not marketable, the highest priced bid. The lowest priced offer would not become the IMP as the system would accept only one price for the IMP, and by default, that would be the highest priced bid. The price collar threshold would act as a determining factor for those orders that would either enter the system or be rejected by the system.

One initial order on a single side (i.e., only a buy order or only a sell order) could establish the IMP, but, unless marketable orders were entered into the NYSE Bonds system at appropriate times, no execution, and hence no Bond Auction, would take place. A Bond Auction would be an execution at the IMP. Therefore, to have a Bond Auction, at least one marketable bond order to buy or sell would have to be available to execute against contra-side interest. When the price of an order to buy is equal to or greater than the price of an order to sell, an Auction execution would occur. Beginning 30 minutes prior to the Opening Bond Trading

Session and various times thereafter, the IMP for the Opening Bond Auction and any Imbalance¹⁴ associated with it would be published by the Exchange.

A User could cancel an order eligible for execution in either Bond Auction at any time until two minutes prior to the beginning of the particular Auction. The matching and execution of orders in an Auction would be instantaneous. The sequence of Bond Auctions and Bond Trading Sessions on NYSE Bonds would provide a seamless, continuous trading day that would begin at 3:30 a.m. ET and would continue until 8:00 p.m. ET.

NYSE Bonds Order Entry and Execution

To post an order in a particular bond on NYSE Bonds, a User would be required to enter certain basic information including: cusip number, order quantity, order type (i.e., NYSE Bonds Limit Order or NYSE Bonds Reserve Order); price (up to three decimals); account type indicator (“P” for principle or “A” for agent); time in force (i.e., Opening Bond Trading Session, Core Bond Trading Session, and/or Late Bond Trading Session and GTC); and whether the order is buy, sell, or sell/short. The staff of the Division of Market Regulation of the Commission has stated that it would not recommend that the Commission take enforcement action if short sales in exchange-listed bonds and debentures are effected without complying with Rule 10a-1 under the Act.¹⁵ By this filing, the Exchange seeks continued effect of this ruling.

NYSE Bonds would accept orders beginning at 3:30 a.m. ET, and orders could be entered throughout the trading day. Orders designated for the Opening Bond Trading Session that are

¹⁴ See proposed NYSE Rule 86(b)(2)(F) (defining “Imbalance” as the number of buy or sell NYSE Bonds orders that cannot be matched with other orders at the Indicative Match Price at any given time).

¹⁵ See Securities Exchange Act Release No. 30772 (June 3, 1992), 57 FR 24415 (June 9, 1992) (File No. S7-13-92). The Exchange deems this determination by the Commission Staff to apply to Exchange Rule 440B (Short Sales).

entered into the system before 4:00 a.m. ET also would be eligible for the Opening Bond Auction. At 4:00 a.m. ET, orders designated for the Opening Bond Trading Session would first be matched and executed in the Opening Bond Auction at the IMP. During this instantaneous Auction, the orders would be matched based on price/time priority. At various times during the period from 3:30 a.m. to 4:00 a.m., the IMP of the Opening Bond Auction, and any Imbalance associated therewith, would be published via a data feed. The data feed would provide Imbalance information in real time, and it would be available to Users, third-party data vendors, and other interested parties who agree to terms established by the Exchange. An Imbalance would be published any time one occurred, including when new orders are entered into NYSE Bonds that might affect the relevant Auction.

Orders designated for a specific Trading Session automatically would be included in the Bond Auction that launches the designated Trading Session. The Opening Bond Auction would launch the Opening Bond Trading Session, and the Core Bond Auction would launch the Core Bond Trading Session. Therefore, an order designated for the Opening Bond Trading Session would be “available” to participate in the Opening Bond Trading Session, and if such order were entered into the system before 4:00 a.m. ET, it also would be “eligible” for participation in the Opening Bond Auction. Similarly, an order designated for and thus “available” for the Core Bond Trading Session would be included in the Core Bond Auction if entered before the Core Bond Auction occurs at 9:30 a.m. ET.

An order designated for more than one Bond Trading Session would potentially straddle both Bond Auctions depending on the time the order is entered. As described above, an order designated for the Opening Bond Trading Session would first have an opportunity to match and execute in the Opening Bond Auction at the IMP. If such order does not execute in the Opening

Bond Auction, either because the Auction did not occur or because the order did not match with interest on the contra side, the order would then have a second opportunity to participate in ordinary trading in the Opening Bond Trading Session, which would last from 4:00 a.m. until 9:30 a.m. ET. Thereafter, if the same order does not trade in the Opening Bond Trading Session, it would have a third opportunity to trade in the Core Bond Auction at the IMP, which would occur at 9:30 a.m. ET. If the same order does not trade in the Core Bond Auction, it would be cancelled unless it is designated for either of the next two trading sessions (i.e., the Core Bond Trading Session (9:30 a.m. until 4:00 p.m. ET) and the Late Bond Trading Session (4:00 p.m. until 8:00 p.m. ET)). Therefore, if the same order is designated for the Core Bond Trading Session and the Late Bond Trading Session, it would get a fourth and perhaps a fifth opportunity to trade during the trading day, if not cancelled. Thus, the designation of a bond order in NYSE Bonds would determine the order's eligibility to participate in either or both of the Bond Auctions and its availability to participate in additional Bond Trading Sessions.

NYSE Bonds would accept orders for the Core Bond Auction and Core Bond Trading Session from 3:30 a.m. ET until 9:30 a.m. ET. Such orders would queue until 9:30 a.m. ET when the Core Bond Auction takes place. Like the Opening Bond Auction, marketable orders would be instantaneously matched and executed at the IMP in the Core Bond Auction. Those orders would be matched based on price/time priority. Like the Opening Bond Auction, at various times during the period from 3:30 a.m. to 9:30 a.m. ET, the IMP of the Core Bond Auction, and any Imbalance associated therewith, would be published via a data feed. As discussed above, an order designated for execution in the Core Bond Trading Session could be cancelled at any time as long as it had not been executed, except that a User could not cancel an

order eligible for execution in the Core Bond Auction inside of two minutes prior to the beginning of the Core Bond Auction.

An order designated for the Late Bond Trading Session would be eligible for ordinary trading in the Late Bond Trading Session beginning at 4:00 p.m. and lasting until 8:00 p.m ET. If the order does not trade in the Late Bond Trading Session, it would be cancelled. No Bond Auction would occur at the beginning of the Late Bond Trading Session. An order that is not designated for a particular trading session would be available only for the Core Bond Trading Session and the Core Bond Auction.

Clearly Erroneous Executions

The NYSE Bonds rules would define a “clearly erroneous execution” to be one where there is an obvious error in any term, such as price, unit of trading, or identification of the bond.¹⁶ A User that receives an erroneous execution could request the Exchange review the transaction. A clearly erroneous execution would be determined by Exchange personnel. The request for review would have to be made via telephone, facsimile, or email and would have to be submitted within 30 minutes of the trade in question. The other party (or parties) to the trade would be notified of the request for review. Thereafter, an Officer of the Exchange or a designee would review the transaction and would make a determination as to whether there was a “clearly erroneous execution.” The reviewer could make this determination with or without supporting documentation from any party to the transaction. The Exchange would be able to review a request that is submitted more than 30 minutes after the transaction. This review would be

¹⁶ See proposed NYSE Rule 86(b)(2)(H) and (j)(1).

determined on a case-by-case basis in a manner that promotes a fair and orderly market and does not unfairly discriminate against Users of NYSE Bonds.

If the reviewer determined that the execution was not clearly erroneous, no corrective action would be taken in relation to the transaction. If the reviewer determined that the transaction were clearly erroneous, the transaction could be deemed null and void or equitably modified. If one party did not agree with the determination, that party could request further review or an appeal by a panel of reviewers that includes Exchange personnel and representatives of two NYSE Bonds subscribers who are not associated with the parties to the trade in question. Depending on the outcome of the appeal, the transaction would either remain unchanged or be deemed null and void. An appeal would not result in a new modification of the terms of the transaction, as this result would be available only at the initial review of the transaction.

NYSE Bonds System Disruption or Malfunction or Equipment Changeover

The proposed rule further provides that, in the event of any system disruption, malfunction, or equipment changeover in the NYSE Bonds trading facility, an Officer of the Exchange or a designee, without the need for a request for review, would review transactions affected by a system disruption, malfunction, or equipment changeover and decide if any transactions are erroneous. In such situations, the Officer of the Exchange or the designee could declare the transaction to be unchanged, null and void, or modified as appropriate. The rule also provides that, absent extraordinary circumstances, any such action of the Exchange Officer or a designee shall be taken within 30 minutes of detection of the system disruption, malfunction, or equipment changeover, or an erroneous transaction resulting from such system problem. If an erroneous transaction occurred as a result of a system disruption, system malfunction, or

equipment changeover, each party to the erroneous transaction would be notified of the situation and the specific action as soon as practicable. Thereafter, the User aggrieved by the action could appeal such action.¹⁷

Halting, Suspending, and Closing of Bond Trading on the Exchange

The proposed rule provides for the halting, suspension, and closing of bond trading on NYSE Bonds when: (1) in the Exchange's regulatory capacity, it is necessary or appropriate to maintain a fair and orderly market, to protect investors, or is in the public interest, due to extraordinary circumstances or unusual market conditions; (2) in the case of an individual bond, the related stock has been halted, suspended, or closed on the Exchange or the primary listing Exchange for regulatory purposes; (3) in the case of an individual bond, that bond has been halted, suspended, or closed on the primary listing Exchange for regulatory purposes; (4) news reports have a material impact on an individual bond, its issuer, or related stock of its issuer; and (5) the authority under which a bond trades on the Exchange or on its primary market is revoked (i.e., the bond is delisted).

When bond trading is halted under any of the circumstance described above, a halt message at the beginning and end of the halt would be disseminated to all NYSE Bonds Users. This trading halt would be referred to as a "Bond Halt." During the Bond Halt, orders could enter the system and queue according to price/time priority. The IMP, and any Imbalance associated with such halt, would be published as soon as the Bond Halt commenced and would continue to be published until the conclusion of the halt. When the Bond Halt is concluded, trading would resume with a Bond Halt Auction, which would include matching and execution of orders at the IMP. The IMP would be determined during the Bond Halt. At the conclusion of

¹⁷ See proposed NYSE Rule 86(j).

the Bond Halt Auction, ordinary trading would resume in the Bond Trading Session (“Opening,” “Core,” or “Late”) that is in progress at the conclusion of the halt. Bond halts would be implemented to maintain a fair and orderly market and to dampen volatility.

Dissemination of Trading Information

The Exchange would publish a real-time bond data feed to NYSE Bonds Users that would reflect all orders in time sequence in the NYSE Bonds order “book.” Because NYSE Bonds would be a purely order-driven system, the Exchange would not disseminate any information on a particular bond if there are no orders posted in the “book” for such bond. In addition to the NYSE Bonds order “book,” the data feed also would include the last sale price (with corresponding number of bonds) as executions occur. The NYSE Bonds data feed would be available for purchase by non-subscribing market participants, third-party data vendors, and other interested parties who agree to the Exchange’s terms.

Member Organization and Non-Member Access to the NYSE Bonds System

Only member organizations of the Exchange would be able to enter into written service agreements with the Exchange specifically providing for authorized access to NYSE Bonds (*i.e.*, a “NYSE Bonds Service Agreement”). A non-member who wished to trade bonds on NYSE Bonds could do so as a “Sponsored Participant” of a subscribing member organization (“Sponsoring Member Organization”). The Sponsoring Member Organization’s service agreement with the Exchange would have to include the name of the Sponsored Participant and to identify such entity as the Sponsored Participant.

The proposed rule requires the Sponsoring Member Organization and the Sponsored Participant to maintain a written “sponsorship agreement.” The sponsorship agreement would have to be agreed to by both the Sponsoring Member Organization and the Sponsored

Participant. The proposed sponsorship agreement would have to include the following provisions:

(A) Sponsoring Member Organization must acknowledge and agree that:

- (i) All orders entered by a Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant and any executions occurring as a result of such orders are binding in all respects on the Sponsoring Member Organization;
- (ii) Sponsoring Member Organization is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant; and
- (iii) Sponsoring Member Organization must provide the Exchange with a Notice of Consent acknowledging its responsibility for the orders, executions, and actions of its Sponsored Participant at issue.

(B) Sponsored Participant must have written policies and procedures in place that comply with the Exchange's bylaws, rules, and procedures and with the rules of the Commission with regard to the Exchange, as if Sponsored Participant were a Member Organization of the Exchange.

(C) Sponsored Participant must maintain, keep current, and provide to the Sponsoring Member Organization a list of Authorized Traders who may obtain access to NYSE Bonds on behalf of the Sponsored Participant.

- (D) Sponsored Participant must provide training to its Authorized Traders regarding the Sponsored Participant's obligations under this rule, other rules of the Exchange, and the rules of the Commission, and assure that these Authorized Traders receive appropriate training prior to any use or access to NYSE Bonds.
- (E) Sponsored Participant must not permit anyone other than Authorized Traders to use or obtain access to NYSE Bonds.
- (F) Sponsored Participant must have in place and must enforce written policies and procedures that provide reasonable security precautions to prevent unauthorized use or access to NYSE Bonds, including unauthorized entry of information into NYSE Bonds or the information and data made available therein. Sponsored Participant understands and agrees that Sponsored Participant is responsible for any and all orders, trades, and other messages and instructions entered, transmitted, or received under identifiers, passwords, and security codes of Authorized Traders, and for the trading and other consequences thereof.
- (G) Sponsored Participant acknowledges its responsibility to establish adequate written procedures and controls that permit it to effectively monitor its employees', agents', and customers' use and access to the Exchange for compliance with the terms of this agreement and all relevant rules of the Exchange and the Commission.
- (H) Sponsored Participant shall pay when due all amounts, if any, payable to Sponsoring Member Organization, the Exchange, NYSE Bonds, or any other third parties that arise from the Sponsored Participants access to and use of NYSE Bonds. Such amounts include, but are not limited to, applicable exchange and regulatory fees.

Reports and Recordkeeping

Users of NYSE Bonds would have to comply with all relevant rules of the Exchange and the Commission in relation to reports and recordkeeping of transactions on NYSE Bonds, including Exchange Rules 342 and 440 and Rules 17a-3 and 17a-4 under the Act.¹⁸

Applicability of Section 11(a) and (b) of the Act

Section 11(a) of the Act¹⁹ prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion, unless an exception applies. This general prohibition would not impact trading on NYSE Bonds because Rule 11a1-4(T) under the Act²⁰ deems transactions in bonds on a national securities exchange for a member's own account to be consistent with Section 11(a). Similarly, Section 11(b) of the Act²¹ and Rule 11b-1 thereunder,²² which pertain to specialists and market-makers, would not be implicated because there would be no specialists or market makers on NYSE Bonds.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)²³ that an Exchange have rules that are 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.

¹⁸ 17 CFR 240.17a-3 and 240.17a-4.

¹⁹ 15 U.S.C. 78k(a).

²⁰ 17 CFR 240.11a1-4(T).

²¹ 15 U.S.C. 78k(b).

²² 17 CFR 240.11b-1.

²³ 15 U.S.C. 78f(b)(5).

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

The Exchange does not believe that the proposed rule change would 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 such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NYSE 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, as amended, 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-2006-37 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-2006-37. 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-2006-37 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.²⁴

Nancy M. Morris
Secretary

²⁴ 17 CFR 200.30-3(a)(12).