

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55537; File No. SR-NYSE-2007-30)

March 27, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 123D (Openings and Halts In Trading)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 19, 2007, the New York Stock Exchange LLC (“NYSE” or the “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 substantially prepared by the Exchange. The NYSE has filed this proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(5) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. 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 NYSE proposes to amend NYSE Rule 123D(3) to establish that any orders received by the NYSE in a security subject to a “Sub-penny Trading” condition will be routed to NYSE Arca, Inc. (“NYSE Arca”) and handled in accordance with the rules governing that market. The text of the proposed rule change is available at the Exchange's Office of the Secretary, on the Exchange's Web site at

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(5).

<http://www.nyse.com/Frameset.html?displayPage=http://apps.nyse.com/commdata/pub19b4.nsf/rulefilings?openview>, 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

Recently, the Exchange amended NYSE Rule 123D to add subsection (3),<sup>5</sup> which provides for a non-regulatory trading halt on the NYSE when securities listed on the Exchange approach the price at which quoting and trading in sub-penny increments is permitted pursuant to SEC Rules.<sup>6</sup>

Pursuant to NYSE Rule 123D(3), whenever a security trading on the Exchange is reported on the consolidated tape during normal trading hours as having traded at a price of \$1.05 or less, or if a security would open on the Exchange at a price of \$1.05 or less,

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<sup>5</sup> See Securities Exchange Act Release No. 55398 (March 5, 2007), 72 FR 11072 (March 12, 2007) (SR-NYSE-2007-25).

<sup>6</sup> See Regulation NMS Rule 612, 17 CFR 242.612, which permits markets to accept bids, offers, orders and indications of interest in increments smaller than a \$0.01, but not less than \$0.0001, for stocks priced below \$1.00 per share and to quote and trade such stocks in sub-pennies. Markets may choose not to accept such bids, offers, orders or indications of interest and the NYSE has done so, maintaining a minimum trading and quoting variation of \$0.01 for all securities trading below \$100,000. See NYSE Rule 62.

trading in the security on the Exchange shall be immediately halted due to a “Sub-penny Trading” condition. Once halted for such reason, trading shall not resume on the Exchange until the security has traded on another automated trading center as defined in Commission Rule 600(b)(4)<sup>7</sup> for at least one entire trading day at a price or prices that are at all times at or above \$1.10. Any such resumption of trading shall occur at the beginning of a trading day, so that normal opening procedures can apply. In contrast to other trading halts described in NYSE Rule 123D, a “Sub-penny Trading” halt is automatic and does not require the approval of any Floor Officials. However, if a determination is made by a Floor Official that a trade that triggered a halt because of a “Sub-penny Trading” condition was made in error or otherwise was an anomaly, trading of the security on the Exchange will resume immediately.

The purpose of this filing is to amend NYSE Rule 123D(3) to reflect that orders entered with the Exchange in a security subject to a “Sub-penny Trading” condition halt will be immediately routed to NYSE Arca, where they will be handled in accordance with the rules governing that market. This process will facilitate customers who maintain systems connectivity with the Exchange, but may not have direct connectivity with NYSE Arca. If the entity entering the order on the Exchange is not an NYSE Arca “ETP Holder” as defined in NYSE Arca Rule 1.1(m), such order will be cancelled by NYSE Arca when received. Similarly, if an order routed by the NYSE to NYSE Arca contains execution instructions not supported by NYSE Arca, such order will be cancelled by NYSE Arca when received.

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<sup>7</sup> See 17 CFR. 242.600(b)(4).

In addition, NYSE Rule 123D(3) is amended to reflect that the Exchange will cancel any open limit orders in the Display Book system with respect to securities that become subject to a “Sub-penny Trading” condition halt.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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.

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<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>10</sup> and Rule 19b-4(f)(5) thereunder<sup>11</sup> because it effects a change in an existing order-entry or trading system of a self-regulatory organization that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. 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 that such action is necessary or appropriate in the public interest, for the 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](http://www.sec.gov/rules/sro.shtml)); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2007-30 on the subject line.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 19b-4(f)(5).

Paper comments:

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

All submissions should refer to File Number SR-NYSE-2007-30. 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 offices 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-2007-30 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.<sup>12</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>12</sup> 17 CFR 200.30-3(a)(12).