

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

No written comments were either solicited or received.

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

The NASD requests the Commission to find good cause, pursuant to section 19(b)(2) of the Act, for temporarily approving an extension of Rule 10334 prior to the thirtieth day after publication in the **Federal Register**. The Commission finds that extending Rule 10334 pending final action by the Commission on the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of section 15A(b)(6) of the Act.⁵ The Commission finds good cause for approving the temporary extension of Rule 10334 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in that temporary accelerated approval will benefit users of the arbitration process in that providing a temporary extension of the Procedures will permit arbitration participants to continue to use the Procedures. In addition, except with respect to the administrative conference required under the Rule, the current application of Rule 10334 to any case submitted to arbitration is voluntary. Thus, temporarily accelerating the approval of Rule 10334 while simultaneously requesting comment on the five year extension of the program and the amendment to make the entire program voluntary in nature will permit the NASD to maintain the continuity of the process will not have any adverse impact on the investing public.

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 the self-regulatory organization consents, the Commission will:

A. By order approved such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

⁵ 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-97-52 and should be submitted by August 22, 1997.

It is therefore ordered, pursuant to section 19(b)(2)⁶ that NASD Rule 10334 is temporarily extended until the Commission takes final action on the present proposal.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38874; File No. SR-NYSE-96-33]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval To Proposed Rule Change Relating to the Execution of Odd-Lot Orders

July 25, 1997.

I. Introduction

On November 25, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "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

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

price odd-lot transactions according to the next round-lot execution to occur on the Exchange under certain circumstances.

The proposed rule change was published for comment in the **Federal Register** on February 19, 1997,³ and no comments were received. This order approves the proposal.

II. Description

Currently, odd-lot market orders are executed in the odd-lot system against the specialist in that stock at a price based on the "best pricing quote" ("BPQ"). This is either the NYSE quote or the best quote from another Intermarket Trading System ("ITS") market center. (A buy odd-lot market order is executed at the offer price, and a sell odd-lot market order is executed at the bid price.) However, in situations where the quote for a stock does not qualify as a valid quote, either because it is designated as a non-firm quote or it fails a system validation check because it exceeds certain parameters, the current procedure prices odd-lot executions using the *last sale price* in the round lot market.⁴ The Exchange believes, however, that this may not reflect the current market for the stock because the quote condition (*i.e.* a non-firm or a gapped quote) strongly suggests that the market is likely to move away from that last price. In these situations, the Exchange believes the current procedure may disadvantage customers or the specialist.

In instances when quotation information is not available or the security has been determined to be in "non-firm mode,"⁵ the NYSE proposes to price odd-lot orders by utilizing the price of the *next* Exchange round sale or such other price deemed appropriate under prevailing market conditions by the member organization designated by the Exchange to act as a market maker for odd-lot orders. In instances where the quote in a security does not meet the Exchange's odd-lot system guidelines, the NYSE proposes to price odd-lot orders by utilizing the price of the *next* Exchange round sale or the next Exchange quote that is within the odd-lot system guidelines (whichever occurs

³ Securities Exchange Act Release No. 38267 (Feb. 11, 1997), 62 FR 7488 (Feb. 19, 1997).

⁴ See NYSE Rule 124.60 (detailing the circumstances when the ITS best bid or offer will not be utilized).

⁵ The Exchange considers a bid or offer as firm when the members of the market center disseminating the bid or offer are not relieved of their obligations with respect to such bid or offer under paragraph (c)(2) of Rule 11Ac1-1 pursuant to the "unusual market" exception of paragraph (b)(3) of Rule 11Ac1-1. See 17 CFR 240.11Ac1-1(b)(3); 17 CFR 240.11Ac1-1(c)(2).

first) or such other price deemed appropriate under prevailing market conditions by the member organization designated by the Exchange to act as a market maker for odd-lot orders.⁶ The Exchange believes this would provide more appropriate pricing of odd-lot orders as it would reflect actual round-lot market prices at the time the odd-lot orders are executed.

III. Discussion

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 and, in particular, with the requirements of section 6(b).⁷ Specifically, the Commission believes the proposal is consistent with the section 6(b)(5)⁸ requirements that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market, to facilitate transactions in securities and, in general, to protect investors and the public interest.⁹

The Commission believes it is adequate for the NYSE to price standard odd-lot market orders at the price of the next Exchange round-lot sale when the BPQ is unavailable. Although the current pricing algorithm provides investors with more advantageous prices in a steadily declining market than the proposed algorithm, utilizing the next Exchange round-lot sale price when the BPQ is unavailable is a reasonable choice by the Exchange that is not inconsistent with the Act. The

⁶ These uncodified guidelines currently provide for the following maximum valid spread ranges:

Common stock for prices less than or equal to \$50, the valid spread is 1 point

for prices between \$50 1/64 and \$100, the valid spread is 1 3/4 points

for prices greater than \$100, the valid spread is 2 1/2 points

Preferred stock:

for prices less than or equal to \$50, the valid spread is 2 points

for prices between 50 1/64 and 100, the valid spread is 2 1/4 points

for prices greater than \$100, the valid spread is 2 1/2 points

Spread between quote and last sale must not exceed:

prices less than or equal to \$10, the valid spread is 3/8 point

prices between 10 1/8 and \$25, the valid spread is 1/2 point

prices between 25 1/8 and \$40, the valid spread is 5/8 point

prices greater than \$40, the valid spread is 2 1/2 points

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ In approving this rule, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with section 3 of the Act. 15 U.S.C. § 78c(f).

proposal continues to provide procedures that facilitate the execution of odd-lot orders when use of the ITS quote may not be appropriate.

The Commission also believes it is appropriate for the Exchange to price odd-lot orders by utilizing the price of the next Exchange round-lot sale or the next Exchange quote that is within the odd-lot system guidelines (whichever occurs first) in instances where the quote in a security does not meet the Exchange's odd-lot system guidelines. The Commission has previously found that it is appropriate for the Exchange to impose certain, limited prerequisites on quotes from other market centers before incorporating such quotes into the Exchange's odd-lot pricing system.¹⁰ The Commission stated that such limitations help protect the automatic execution features of the Exchange's odd-lot pricing system against the inclusion of aberrant quotations.¹¹ Similarly, the maximum valid spread parameters, as drafted, should help to exclude stale quotations from the odd-lot system. If the Exchange chooses to narrow these parameters, it must file the proposed change with the Commission pursuant to Section 19(b) of the Act.¹²

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-NYSE-96-33) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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¹⁰ NYSE Rule 124 generally provides that odd-lot market orders will be executed at the price of the "adjusted ITS bid (offer)" at the time the order is received by the Exchange. NYSE Rule 124.60 states that a quotation in a stock from another ITS market center will be considered if: (1) The stock is included in ITS in that market center, (2) the size of the quotation is greater than 100 shares, (3) the bid or offer is not more than one-quarter dollar away from the bid (offer) disseminated by the Exchange, (4) the quotation conforms to the Exchange's requirements concerning minimum fractional changes, (5) the quotation does not result in a "loket market," (6) the market center is not experiencing operational or system problems with respect to the dissemination of quotation information, and (7) the bid or offer is "firm" pursuant to the Commission's and the market's rules.

¹¹ Securities Exchange Act Release No. 27971 (May 2, 1990), 55 FR 19409 (May 9, 1990) (approving File No. SR-NYSE-90-60).

¹² 15 U.S.C. 78s(b).

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Testing Modifications to the Disability Determination Procedures; Federal Processing Center Testing

AGENCY: Social Security Administration.

ACTION: Notice of an additional test site and the duration of testing involving modifications to the disability determination procedures.

SUMMARY: The Social Security Administration (SSA) is announcing the location of additional testing that it will conduct under the current rules at 20 CFR 404.906, 404.943, 416.1406, and 416.1443. Those rules authorize the testing of several modifications to the disability determination procedures that we normally follow in adjudicating claims for disability insurance benefits under title II of the Social Security Act (the Act) and claims for supplemental security income based on disability under title XVI of the Act. This notice announces the test site and duration of testing involving a combination of features of the proposed redesigned disability process. The notice also describes additional features that will allow us to test the effectiveness of processing cases under a combination of the models in a Federal processing center.

FOR FURTHER INFORMATION CONTACT: Harry Pippin, Disability Models Team Leader, Office of Disability, Disability Process Redesign Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, 410-965-9203.

SUPPLEMENTARY INFORMATION: Current regulations at 20 CFR §§ 404.906, 404.943, 416.1406, and 416.1443 authorize us to test different modifications to the disability determination procedures. We describe the use of four features of the testing modifications to the disability determination procedures as the full process model. Those modifications are: the use of a single decisionmaker who may make the disability determination without requiring the signature of a medical consultant; the conducting of a predecisional interview in which a claimant, for whom SSA does not have sufficient information to make a fully favorable determination or for whom the evidence would require an initial determination denying the claim, can present additional information to the decisionmaker before an initial determination is made; the elimination