

circumstances the foreign exchange market may constitute the best market for the securities that are listed on that market, and the time delay involved in contacting three dealers in advance of a customer transaction could hinder obtaining the best execution for the customer.

The Commission believes that the exemptive process provided by the rule change is reasonable under the Exchange Act. The Commission stresses that the NASD Regulation staff would not be able to grant an exemption (either for a particular market maker in a particular security, or for all market makers in a particular security or a class of securities) unless a market maker can demonstrate that adherence to the Rule could serve as an impediment to satisfying its best execution obligations with regard to a particular situation. The NASD Regulation Staff will not provide exemptions in response to hypothetical situations. The Commission also notes that if a particular exemption involves a particular class of transactions or class of customers that may be relevant to other member broker-dealers. The NASD Regulation staff will also publish such results to the membership through a Notice to Members or similar publication or broadcast. Further, the Commission notes that the grant of an exemption to the Three Quote Rule should not in any way limit a member's best execution obligation. Finally, the NASD Regulation staff determinations are subject to review by the NBCC.²³

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,²⁴ that the proposed rule change (SR-NASD-97-42) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁵
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security that is neither included in the Nasdaq Stock Market nor traded on any national securities exchange * * *. Therefore, the rule by its terms applies to transactions effected on any foreign exchange. The term "national securities exchange" is not defined in NASD rules, but the requirements to qualify are set forth in Sections 6(a) and 19(a) of the Exchange Act.

²³ After the NASD gains experience with this exemptive authority, the Commission expects the NASD to codify, to the extent possible, exceptions to the Rule. In particular, the NASD should amend the rule to incorporate exemptions provided to broad classes or types of transactions.

²⁴ 15 U.S.C. 78s(b)(2).

²⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39264; File No. SR-NYSE-97-26]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Listing Fees for Short-Term Instruments

October 22, 1997.

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 September 18, 1997, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is published this notice to solicit comments on the proposed rule change from interested persons. The Commission is also granting accelerated approval to this proposed rule change.

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

The Exchange is proposing to amend its rule regarding listing fees for short-term instruments contained in Paragraph 902.03 of the Listed Company Manual. Currently, the Exchange charges reduced listing fees for short term instruments with terms of less than five years. Pursuant to the proposed rule change, the Exchange will charge such reduced listing fees for instruments with a term of up to seven years.

The Exchange requests the Commission to find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register** because this rule change will benefit issuers and investors by reducing listing fees on certain short-term instruments and that accelerated approval will provide such benefits in an expedited fashion.

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 self-regulatory organization 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 III below. The self-regulatory organization 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 Exchange has listing standards for a variety of short-term special purpose securities (e.g., index warrants, foreign current warrants, contingent value rights). By their terms, these are instruments that will be listed on the Exchange for only a short period of time. Accordingly, in 1990 the Exchange adopted reduced listing fees for such short-term securities and defined such securities as having a term of less than five years.¹ Issuers now are seeking to list special purpose securities with a life of up to seven years. Thus, the purpose of this filing is to amend the definition of short-term securities to cover securities with a life of seven years or less. This effectively will reduce the listing fees for instruments with a term of five to seven years.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(4)² that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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.

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. 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.,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹ File No. SR-NYSE-91-01.

² 15 U.S.C. 78f(b)(4).

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 Exchange. All submissions should refer to File No. SR-NYSE-97-26 and should be submitted by November 19, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the NYSE's proposed rule change is consistent with the requirements of Section 6(b) of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act³ which provides that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.⁴ The Commission believes that the proposed rule change to amend the definition of short-term security, for purposes of listing fees only, is reasonable because it could help benefit issuers and investors by reducing listing fees on certain short-term products. The Commission notes that the NYSE has represented that this proposed change would not effect any other NYSE rules.⁵

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate because it will provide benefits to investors in an expedited way. Further, the Commission believes that the proposed rule change does not raise any new regulatory issues.

³ 15 U.S.C. 78f(b)(4).

⁴ In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ Telephone conversation between Vincent A. Patten, Assistant Vice President, NYSE, and Heather Seidel, Attorney, Market Regulation, Commission, on October 7, 1997.

It is therefore ordered, pursuant to Section 19(b)(2)⁶ that the proposed rule change is hereby approved on an accelerated basis.

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. 34-39262; File No. SR-NYSE-97-29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Subsequent Listing Applications

October 21, 1997.

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 October 17, 1997, the New York Stock Exchange, Inc. ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. 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 is proposing to amend the form of listing application for companies seeking, among other things, to list additional securities on the Exchange or seeking to make changes in securities already listed. The proposed rule change will change the format of the listing application into that of a memorandum and will remove from the application information not necessary for the Exchange to review in analyzing the transaction and authorizing the listing.

The text of the proposed rule change is available at the Office of the Secretary, NYSE, and at the Commission.

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.

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

In this filing with the Commission, the NYSE 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 NYSE 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

Under Section 7, ¶ 703.01 of the Listed Company Manual, NYSE-listed companies must apply for Exchange approval to list additional securities (such as additional shares of common stock the company may be issuing), to make changes in a listed security (such as with respect to a company's name change or change in state of incorporations), or to list securities that could be issued upon conversion of other securities. These subsequent listing applications generally are routine in nature. In 1995 and 1996, the Exchange authorized over 1805 and 2160 subsequent listing applications, respectively.

The NYSE believes that the current listing application format, as provided in Section 9, ¶ 903.02 of the Listed Company Manual, is cumbersome and requires companies to provide information beyond that necessary for the Exchange to analyze the transaction and authorize the listing of the securities. This proposed rule change would simplify the application process by changing the form of the application to a "memorandum format" and removing the requirement to provide information beyond that necessary to analyze the transaction and authorize the listing. Companies still would be required to submit all relevant supporting documents, such as a Commission registration statement and an opinion of counsel.

2. Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)³ that an exchange have rules that are designed to prevent fraudulent and

³ 15 U.S.C. 78f(b)(5).