

including the designated securities subject to the Pilot Order, regardless as to whether they are marked "short-exempt," is consistent with the requirements of the Exchange Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act, that the proposed rule change (SR-NYSE-2005-07) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51249; File No. SR-NYSE-2005-05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Requirements for Listing Stock Index Warrants

February 24, 2005.

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 7, 2005, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") 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 Exchange. The NYSE filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change 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 Exchange proposes to eliminate Exchange Rules 414(l) and 414(n). The Exchange also proposes to amend

in the period between the close of the consolidated tape (*i.e.*, after 8 p.m. EST) and the open of the consolidated tape the following day. The Commission's Second Pilot Order delayed the start date of the Pilot Program to May 2, 2005.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

section 703.17 of the NYSE's Listed Company Manual ("Manual") to incorporate those provisions.

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 the proposed rule change is available on NYSE's Web site (<http://www.nyse.com>), at the NYSE's Office of the Secretary, and at the Commission's Public Reference Room. 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

Exchange Rule 414(l) requires that stock index warrants base settlement value on opening prices when 25 percent or more of the value of the index consists of securities primarily traded in the United States. Exchange Rule 414(n) requires that issuers of stock index warrants to notify the Exchange immediately of any changes in the number of warrants outstanding that the Exchange may prescribe due to the early exercise of the warrants. The Exchange believes it is appropriate that the requirements set forth in Exchange Rules 414(l) and 414(n) be set forth in the Manual rather than in Exchange Rules, as the Exchange Rules are generally applicable only to member organizations while the Manual is generally applicable to listed companies. The Exchange represents that the proposed amendments to Section 703.17 of the Manual incorporate the substantially similar provisions of Exchange Rules 414(l) and (n).

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Act,⁵ in general, and section 6(b)(5) of the Act,⁶ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸ 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.

The NYSE has asked that the Commission waive the 30-day operative delay and the five-day pre-filing notice requirement. The Commission believes that waiver of the five-day pre-filing notice requirement is consistent with the protection of investors and the public interest, since the proposed rule change relocates provisions from the Exchange Rules to the Manual, without substantial change to the rule text. Thus, the Commission waives this pre-filing notice provision. However, waiver of the 30-day operative period is unnecessary because the Exchange currently does not trade stock index warrants.⁹

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ Telephone conference between John Carey, Assistant General Counsel, NYSE, and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on February 24, 2005.

⁵ 15 U.S.C. 78f(b).

⁶ 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, 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-2005-05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NYSE-2005-05. 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-2005-05 and should be submitted on or before March 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51240; File Nos. SR-NASD-2005-022; SR-NYSE-2005-12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes by the National Association of Securities Dealers, Inc. To Provide an Exemption From the Research Analyst Qualification Examination for Certain Associated Persons Who Prepare Technical Research Reports and the New York Stock Exchange, Inc. Relating to an Alternative Qualification Standard for the Research Analyst Qualification Examination Requirement for Technical Analysts

February 23, 2005.

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 27, 2005 the New York Stock Exchange ("NYSE" or the "Exchange"), and on February 4, 2005, the National Association of Securities Dealers, Inc. ("NASD"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule changes as described in items I, II, and III below, which items have been prepared by the respective self-regulatory organizations ("SROs"). The SROs have designated the proposed rule changes as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule series under paragraph (f)(1) of Rule 19b-4 under the Act,³ which renders the proposals effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

A. NASD

NASD is filing with the Securities and Exchange Commission a proposed rule

change to amend NASD Rule 1050 to provide for an exemption from the analytical portion of the Research Analyst Qualification Examination (Series 86) for certain applicants who prepare only "technical research reports" and have passed Levels I and II of the Chartered Market Technician ("CMT") certification examination administered by the Market Technicians Association ("MTA").

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

1050. Registration of Research Analysts

(a) All persons associated with a member who are to function as research analysts shall be registered with NASD. Before registration as a Research Analyst can become effective, an applicant shall:

- (1) be registered pursuant to Rule 1032 as a General Securities Representative; and
- (2) pass a Qualification Examination for Research Analysts as specified by the Board of Governors.⁴

(b) For the purposes of this Rule 1050, "research analyst" shall mean an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report.

(c) Upon written request pursuant to the Rule 9600 Series, NASD will grant a waiver from the analytical portion of the Research Analyst Qualification Examination (Series 86) upon verification that the applicant has passed:

- (1) Levels I and II of the Charter Financial Analyst ("CFA") Examination; or

(2) if the applicant functions as a research analyst who prepares only technical research reports as defined in paragraph (e), Levels I and II of the Chartered Market Technician ("CMT") Examination; and

(3) has either [(1)] functioned as a research analyst continuously since having passed the Level II CFA or CMT examination or [(2)] applied for registration as a research analyst within two years of having passed the Level II CFA or CMT examination.

(d) An applicant who has been granted [such] an exemption pursuant to paragraph (c) still must become registered as a General Securities Representative and then complete the regulatory portion of the Research Analyst Qualification Examination

¹⁰ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(1).

⁴ Correspondence between SEC staff and NASD staff.