It is therefore ordered that ISE is relieved of those responsibilities allocated to the NASD under the Plan in File No. 4–529.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3837 Filed 3–5–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55361; File No. SR–NYSE–2006–28]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change as Modified by Amendment No. 2 Thereto Relating to NYSE Rules 134 and 411

February 27, 2007.

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 2, 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 substantially prepared by NYSE. NYSE filed Amendment No. 1 to the proposed rule change on September 22, 2006.[3] NYSE filed Amendment No. 2 to the proposed rule change on February 20, 2007.[4] 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

The proposed rule change consists of amendments to NYSE Rules 134 (Differences and Omissions-Cleared Transactions) and 411 (Erroneous Reports). The proposed amendments seek to incorporate recognized trading errors into NYSE Rule 134. The Exchange further seeks to expand the use of the Floor broker's error account to include certain situations involving ''not held'' orders. Furthermore, the proposed rule change would amend NYSE Rule 411 to allow erroneous reports of an execution involving an incorrect security, incorrect side of the market, incorrect price or whether an execution actually took place, to be treated as an erroneous trade.

The text of the proposed rule change appears below. Proposed new language is *italicized;* proposed deletions are in [brackets].[5]

* * * * *

Rule 134.

Differences and Omissions-Cleared Transactions

(''QTs'')

* * * * *

(d)

* * * * *

(iii) Records as to all errors shall *be contemporaneous to the error and* be maintained by the member or his or her member organization. Such records shall include the audit trail data elements prescribed in Rule 132, as well as the nature and amount of the error, the means whereby the member resolved the error with the member or member organization that cleared the error trade on the member's behalf, the aggregate amount of liability that the member has incurred and has outstanding, as of the time each such error trade entry is recorded, and such other information as the Exchange may from time to time require.

* * * * *

(g) For the purposes of this rule an ''error'' occurs as described in this subsection (g) and (h) below. When an order is executed outside of the customer instructions as entered in the electronic order tracking system of the Exchange pursuant to Rule 123(e). This includes, but is not limited to:

(i) When a held or a not held order is executed in:

(a) The wrong security; or

(b) on the wrong side of the market; or

(c) at a price outside the limit price of the order; or

(d) is over bought or over sold; or

(e) duplicates an execution.

(ii) When an error is committed in the execution of a not held order as it relates to symbol, side, or price as noted in (i) above, which causes such not held order to remain unexecuted.

(h) When: (i) There is a failure to execute a held order when market conditions permitted; or (ii) when a not held order remains unexecuted, in whole or in part, due to the order being lost or misplaced, or as a result of a system malfunction.

(i) The Floor broker must maintain a signed, time-stamped record, including supporting documentation of such error.

(j)(i) For the types of errors referred to in (h)(ii) above, such record and supporting documents must be provided to the Exchange Division of Market Surveillance prior to the opening of the Floor on the next trade date following the error.

(ii) With respect to the errors described in (h)(ii) above, the Floor broker may execute the order in alignment with half the volume of each Exchange tape print up to the size of the order between the time that the order was entered and the time that the Floor Broker realized that the order was lost, misplaced or not executed as a result of a system malfunction. If executing half the volume of an order based on the Exchange tape print would result in more than a unit of trading, but not a multiple thereof (such as 150 shares), the customer would be entitled to the nearest full unit of shares rounded down (such as 100 shares).

(iii) If the Floor broker fails to provide sufficient documentation, (which must include, but is not limited to, the date and time of the error, the date and time the error was discovered, the size of the error, the stock in which the error occurred, the original instructions, the names of all involved parties including the client and any upstairs trader, a detailed narrative of how the error occurred, detail narrative of discussions with relevant parties, the steps taken to correct the error and the ultimate resolution of the error) prior to the next trade date following the error, the Floor broker is prohibited from relying on the provisions of (j)(ii) above.

* * * * *

Rule 411.

Erroneous Reports

(a)

* * * * *

(iii) *Except as provided in (iv) below,* [A] *a* report shall not be binding and must be rescinded if an order was not actually executed but was in error reported to have been executed; an order which was executed, but in error reported as not executed, shall be binding; provided, however, when a member who is on the Floor reports in good faith the execution of an order entrusted to him by another member or

[22] 17 CFR 200.30–3(a)(34).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 supersedes the original filing in its entirety.

[4] Amendment No. 2 supersedes Amendment No. 1 in its entirety.

[5] The Exchange inadvertently failed to identify the numbering of Rule 134(g)(i) and (ii) as proposed new text. For clarity, this numbering has been italicized herein. The Exchange has committed to file an amendment reflecting the fact that this section numbering is new text prior to Commission approval of the proposed rule change. Telephone conversation between Deanna Logan, Director, Office of the General Counsel, NYSE and David Michehl, Special Counsel, Commission, Division of Market Regulation, on February 21, 2007.

member organization and the other party to that transaction does not know it, the member or member organization to whom such report was rendered and the member Floor broker who made the report shall treat the transaction as made for the account of the member who made the report, or the account of his member organization, if the price and size of the transaction were within the price and volume of transactions in the security at the time that the member who made the report believed he had executed the order. A detailed memorandum of each such transaction shall be prepared and filed with the Exchange by the member assuming the transaction.

(iv) A Floor broker who fails to execute a not held order because of the Floor broker's error as to symbol, side or price, but reports to the customer the order had been executed in accordance with the customer's instructions, may treat the terms of the execution report as though they were the terms of a trade, provided:

(1) The price and size of the erroneous report are within the range of prices and sizes in the subject security reported on the Exchange portion of the Consolidated Tape on the day in which the order was erroneously reported;

(2) the Floor broker reports the error to the customer, and whether the error was favorable or unfavorable to the customer;

(3) the Floor broker documents, on a trade-by-trade basis, the name of individual authorized to accept the erroneous report for the customer, the amount of the error, and whether the error was in the customer's favor;

(4) the Floor broker treats the erroneous report as though it were an erroneous trade and his or her error account or the error account of the member organization becomes the opposite side to the report; and

(5) the Floor broker assumes any loss occasioned by the erroneous report, and pays any profit to the New York Stock Exchange Foundation.

* * * * *

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

This filing seeks to codify current recognized trading errors and to expand the use of the Floor broker's error account to include certain situations involving not held[6] orders. NYSE Rules 134 and 411, related to trading errors and erroneous reports, currently require members who ''assume or acquire'' a position as a result of an error when handling transactions for a customer to report such position in their designated error account. Pursuant to Information Memoranda 01–38, 02–07, 02–19, and 06–34, the Exchange currently interprets an error to be a mistake in the execution of the order.

Current Policy and Procedure for Recognized Trading Errors. At present, recognized trading errors fall into two categories. The first category applies to held[7] and not held orders and includes trades that are mistakenly executed outside the written order instructions. These types of errors encompass situations where the transaction was incorrectly executed: (i) In the wrong security; (ii) on the wrong side of the market; (iii) outside of the price instructions; (iv) for a quantity greater than specified in the instructions; or (v) duplicating a prior execution of the same original order. The second category of trading errors applies only to held orders and involves situations where a held order was executable in the prevailing market; however, the member failed to take advantage of the opportunity to execute the order at that time.

Under the current rules[8] and interpretations[9], a Floor broker's failure to execute a not held order when such not held order was executable in the prevailing market is not an error and the Floor broker cannot use his or her error account to issue reports at prices that the customer would have been entitled to, had the Floor broker executed the not held order in the prevailing market.

Similar to the second category of recognized trading errors noted above, that apply only to held orders, there can be instances where a not held order is accepted from a customer but is lost or misplaced or remains unexecuted as a result of a system malfunction and thus the Floor broker fails to execute the not held order when the order would have been executable in the prevailing market. If at the time the Floor broker identifies the execution failure, the customer's order can be executed in the market at an equal or better price than the customer could have received had the order been executed in the prevailing market, then the Floor broker will execute the order. In the event the market is adverse to the customer's interest at the time the error is identified, under the current rules and interpretation,[10] the remedy is to have the Floor broker issue a difference check[11] or offer a commission reduction to address any disadvantage to the customer.

In practice, the issuance of a difference check or commission adjustment to resolve any monetary disadvantage suffered by the customer as a result of the Floor broker's failure to execute a not held order due to administrative mistake or system malfunction has proved cumbersome. Many institutional investors do not want the administrative burden of processing a difference check or commission adjustment. More importantly, the issuance of the difference check or commission adjustment is ultimately not in the best interest of the customer because the administrative cost associated with the processing of the difference check or commission adjustment is ultimately borne by the customer and thus the remedy does not serve to make the customer whole.

Proposed Amendments to Rule 134 (Differences and Omissions-Cleared Transactions). According to the Exchange, this proposed rule change seeks to create greater efficiency and increase uniformity in the handling of trading errors. This proposed rule change seeks to codify in NYSE Rule 134 the types of currently recognized trading errors. The filing further seeks to expand the currently recognized trading errors to include certain types of trading errors involving not held orders.

The proposed amendment seeks to define a trading error to include

[6] A ''not held'' order is a market or limit order that gives the broker both time and price discretion to attempt to get the best possible execution.

[7] A ''held'' order is a market or limit order that the broker must execute as instructed without discretion as to the time of an execution.

[8] *See* NYSE Rules 134 and 411.

[9] *See* NYSE Regulation, Information Memoranda 01–38, 02–07, 02–19, and 06–34.

[10] *See* NYSE Regulation, Information Memorandum 02–19, issued April 17, 2002, clarifying the application of NYSE Rules 134, 411, and 407A.

[11] A ''difference check'' is a check issued to the customer by the member to cover the monetary difference between the execution price and the price the customer and the member agree was the proper price.

situations when an order is executed outside of a customer's instructions as entered in the electronic order tracking systems[12] of the Exchange. Under the proposed amendment, types of recognized trading errors include, but are not limited to, the execution of a held or not held order: (i) In the incorrect security; (ii) on the wrong side of the market; (iii) at a price outside the price instructions; (iv) for a quantity of shares greater than the amount of shares specified in the order instructions; or (v) the execution of an order in duplicate.[13]

In addition, under the proposed amendment the definition of an error includes when a Floor broker: (i) Neglects to execute a not held order when market conditions permit;[14] (ii) fails to execute a not held order because he or she committed an error as to symbol, side or price in the execution of said order;[15] or (iii) fails to execute a not held order because the order was lost, misplaced or remains unexecuted as a result of a system malfunction.[16]

Pursuant to the above proposed definition of trading errors, a Floor broker would be allowed to use his or her error account to execute a customer's not held order in alignment with the Consolidated Tape, when the Floor broker incorrectly executed a customer's not held order: (i) In the incorrect security; (ii) on the wrong side of the market; or (iii) at a price outside the price instructions when the prevailing market is adverse to the customer's interest at the time that the error is discovered.[17]

a. *Not Held Orders—Incorrect Security.* [18] For example, in instances where the Floor broker purchases or sells the incorrect security, and the market in the correct security is adverse to the customer's interest when the error is discovered, the proposed rule change would allow the broker to review reports of executions on the Consolidated Tape in the correct security and determine if, from the time the Floor broker executed the order in the incorrect security until the time the error was discovered, the customer's order was executable in the correct security. In the event the customer's order was executable during that period of time, the customer is given an execution in the correct stock at the price the stock traded at the time of the broker's error or during the time the error remained unrecognized. The broker's error account is the contra-side of this trade and is then long or short the number of shares ordered by the customer at the price the stock was trading in the relevant time range. For example:

Order: Buy 10,000 *X*YZ at the market, not held.

Execution: Bought 10,000 *K*YZ at $98.05 at 11:20 a.m.

Error Discovered: 11:45 a.m. prior to rendering a report of execution.

Result: Error account long 10,000 *K*YZ at $98.05.

If between 11:20 a.m. and 11:45 a.m. the customer's order in XYZ was executable in its entirety, then the customer buys 10,000 XYZ in its entirety and error account is short 10,000 XYZ at the 11:20 a.m. price.

b. *Not Held Order—Wrong Side of Market* [19]. In instances where the broker incorrectly executes a customer's order on the wrong side of the market, and the market in the correct security is adverse to the customer's interest when the error is discovered, the proposed rule change seeks to allow the Floor broker to use his or her error account to take over the incorrect position and execute the customer's order on the correct side of the market. For example:

Order: Buy 10,000 XYZ at the market, not held.

Execution: Sold 10,000 XYZ at $45.10.

Result: Floor broker takes over error; and Sells customer 10,000 XYZ at $45.10. The error account is ultimately short 20,000 shares XYZ at $45.10 which is the sum of the mistakenly sold 10,000 shares of XYZ taken over by the error account and 10,000 shares sold to the customer at a price of $45.10 from the error account.

c. Not Held Orders—Outside of Price Instructions [20]

In instances where the Floor broker executes the customer's order at the incorrect price, the proposed rule change seeks to allow the Floor broker to take the position into the Floor broker's error account. The Floor broker would then be allowed to execute the customer's order consistent with the executions, sizes and prices as printed on the Consolidated Tape, if between the time that the Floor broker committed the error and when the error was discovered, the stock traded within the customer's order price. For example:

Order: Buy 10,000 XYZ at $80.*50*, Not Held.

Execution: Bought 10,000 XYZ at $80.*80* at 3:00 p.m.

Error Discovered: After close buy order limited to $80.50 is unexecuted.

Result: Error Account Long 10,000 at $80.*80*.

If XYZ traded within the customer's limit anytime from 3 p.m. to the close, the error account sells 10,000 consistent with the executions, sizes and prices as printed on the Consolidated Tape and customer order is executed.

d. Not Held Orders—Over Buy or Over Sell [21]

In instances where the Floor broker executes a quantity greater than contained in the order instructions, the proposed rule change seeks to allow the Floor broker to take the position into the Floor broker's error account. When executing a held or not held order a Floor broker may incorrectly calculate the quantity of shares remaining to fill the order and execute a quantity of shares greater than the instructed amount. For example:

Order: Buy 50,000 XYZ at $80.50, Not Held.

Execution: Bought 5,000 XYZ at $80.50 at 3 p.m.

Bought 5,000 XYZ at $80.49 at 3:10 p.m.

Bought 15,000 XYZ at $80.48 at 3:30 p.m.

Bought 15,000 XYZ at $80.47 at 3:31 p.m.

Bought 5,000 XYZ at $80.48 at 3:36 p.m.

Bought 5,000 XYZ at $80.48 at 3:37 p.m. (Order filled)

Bought 5,000 XYZ at $80.50 at 3:48 p.m. (Overbuy)

Result: Error Account Long 5,000 at $80.50

The last execution of 5,000 shares of XYZ at $80.50 which exceed the quantity specified by the customer is taken into the Floor broker error account.

e. *Not Held Orders—Duplicate Execution.*[22] In instances where the Floor broker duplicates an execution, the proposed rule change seeks to allow the Floor broker to take the position into the Floor broker's error account. During the execution of an order a Floor broker may inadvertently fail to document the execution of an order or may receive a duplicate transmission of an order and thus execute the order in duplicate. The proposal would allow the Floor broker to take the duplicate execution into the Floor broker's error account. For example:

Order: Buy 10,000 XYZ at $80.50, Not Held.

Execution: Bought 10,000 XYZ at $80.50 at 3 p.m.

Duplicate: Bought 10,000 XYZ at $80.50 at 3:40 p.m.

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[12] *See* NYSE Rule 123(e).

[13] *See* proposed NYSE Rule 134(g)(i).

[14] *See* proposed NYSE Rule 134(h)(i).

[15] *See* proposed NYSE Rule 134(g)(ii).

[16] *See* proposed NYSE Rule 134(h)(ii)

[17] *See* NYSE Rule 134(d) and proposed NYSE Rule 134(g).

[18] *See* proposed NYSE Rule 134(g)(i)(a).

[19] *See* proposed NYSE Rule 134(g)(i)(b).

[20] *See* proposed NYSE Rule 134(g)(i)(c).

[21] *See* proposed NYSE Rule 134(g)(i)(d).

[22] *See* proposed NYSE Rule 134(g)(i)(e).

Result: Error Account Long 10,000 at $80.50.

The duplicate purchase is taken into the Floor broker's error account.

f. *Not Held Order—Lost or Misplaced.*[23] Pursuant to the proposed rule change, the Floor broker would be allowed to use his or her error account to report executions in alignment with the New York portion of the Consolidated Tape when the Floor broker fails to execute a not held order because of an administrative error that resulted in the order being lost or misplaced or remaining unexecuted as a result of a system malfunction and the market at the time the error is discovered is adverse to the customer's interest (*i.e.*, trading at a price worse than the customer could have received had the error not occurred). Significantly, this proposed amendment would not allow a Floor broker to issue a report of execution from his or her error account in instances where the customer merely did not like the execution, in order to prevent abuse of the new procedure.

In instances where the Floor broker fails to execute an order as a result of an administrative error, such as the loss or misplacement of an order or a system malfunction and the current market conditions are adverse to the customer's interests, the proposed rule change seeks to allow the Floor broker to use his or her error account as the contra party to the misplaced order in alignment with the New York portion of the Consolidated Tape. The Floor broker would be required to execute the customer's order in alignment with half the volume of every New York portion of the Consolidated Tape print up to the size of the customer order, from the time that the order was entered up to the time that the Floor broker realized that the order was lost, misplaced or not executed because of a system malfunction.[24] In the event that this results in a partial round lot, [25] the customer would be entitled to the nearest full lot, rounded down. Therefore if executed volume on the New York portion of the Consolidated Tape was 300 shares, half that volume would result in 150 shares and the customer would be entitled to a report of 100 shares. This is similar to how percentage orders are executed pursuant to NYSE Rules 13 and 123A.30. For example:

Order: Buy 50,000 XYZ at the market, not held.

Event: Order is lost or misplaced or system malfunction.

Execution: Execution in alignment according to the New York portion of the Consolidated Tape unless a better price is available in the market.

20,000 shares traded a minute after order entry time on the NYSE as reported to the Consolidated Tape. Floor broker sells 10,000 shares to customer at the same price of the 20,000 share execution.

Next transaction in XYZ on the New York portion of the Consolidated Tape was 30,000 shares executed. Floor broker sells 15,000 shares to customer from error account at same price as 30,000 share execution.

Next transaction on New York portion of the Consolidated Tape in XYZ was 50,000 shares traded. Floor broker sells 25,000 shares to customer at the same price as the 50,000 share execution.

Customer order is now complete.

Result: Error account sells to the customer and customer receives appropriate report without having to process adjustments.

In order to prevent abuse of the proposed new rules, the filing also seeks to amend NYSE Rule 134(d)(iii) to require a Floor broker to make and keep contemporaneous and detailed records documenting the circumstances surrounding errors. A Floor broker would be required to make and keep a time stamped record [26] of the error containing supporting information the Exchange shall, from time to time, require.[27] In addition, the Member Firm Regulation Division of NYSE Regulation, Inc. would include a review of these records during the course of its routine member firm examinations.

The burden of proof would be on the Floor broker to substantiate that a legitimate error occurred.[28] In instances where the Floor broker asserts that an error occurred as a result of an administrative error, such as the loss or misplacement of the order, or a system malfunction, the proposed amendment requires that a Floor broker submit the aforementioned time stamped record to the Exchange prior to the opening of the Floor on the next trade date following the error.[29] Absent the required documentation, the Floor broker would be prohibited from using his or her error account to address these situations.[30]

Proposed Amendments to NYSE Rule 411 (Erroneous Reports). The Exchange further proposes to amend NYSE Rule 411 to allow a Floor broker to treat erroneous reports [31] as erroneous trades when the Floor broker committed an error as to security, side, or price in order to alleviate disadvantage to the customer.

When a Floor broker commits an error as to security, side or price, there are instances where the Floor broker issues a report to the customer as a result of the execution. The report is issued to the customer prior to the Floor broker identifying that an error occurred. Currently, pursuant to NYSE Rule 411, in instances where a Floor broker issued a report to a customer based on a transaction that was made outside of the customer's instructions on a not held order as discussed above, the Floor broker would be required to rescind the report leaving the customer's order unexecuted and disadvantaging the customer. The actual execution price and size are binding, and the trade clears and settles in accordance with the terms of the transaction as executed. The member and the customer resolve any monetary issues between themselves.

In instances where a Floor broker executed an order in accordance with its terms but the execution details were reported in error, members and member organizations must always accept a corrected report. In the event the erroneous report was made to a non-member, then the non-member may choose to refuse acceptance of a corrected report. In those instances, the Floor broker is allowed to treat the erroneous report to a non-member as though it were an erroneous trade.

Pursuant to the proposed rule change, a Floor broker would treat ''erroneous reports'' as erroneous trades when the price and size of the order would have been executable in the market at or near the time of the erroneous transaction. NYSE Rule 411 (Erroneous Reports), in part, addresses these situations and establishes procedures for members and member organizations to follow in handling erroneous report situations; however erroneous reports issued to

[23] *See* proposed NYSE Rule 134(h)(ii).

[24] *See* proposed NYSE Rule 134(j)(ii).

[25] Securities are generally traded in units of 100 shares referred to as lots. A full round lot is 100 shares. If a trade involves securities that are not in 100 share increments then it is referred to as a partial round lot, *e.g.*, 150 shares.

[26] *See* proposed NYSE Rule 134(i).

[27] The record must include the date and time of the error, the date and time the error was discovered, the size of the error, the stock in which the error occurred, the original instructions, the names of all involved parties including the client and any upstairs trader, a detailed narrative of how the error occurred, detail narrative of discussions with relevant parties, the steps taken to correct the error and the ultimate resolution of the error. *See* proposed NYSE Rule 134(j)(iii).

[28] *See* proposed NYSE Rule 134(j)(iii).

[29] *See* proposed NYSE Rule 134(j)(i).

[30] *See* proposed NYSE Rule 134(j)(iii).

[31] An ''erroneous report'' is a report of an execution that is incorrect as to stock, price or whether an execution actually took place.

customers based on a transaction that was made outside of the customer's instructions, as discussed above, must be rescinded, leaving the customer's order unexecuted.

The proposed rule change would allow the erroneous report based on a transaction that was made in error as to security, side or price to stand, provided the price and size of the erroneous report were within the range of prices and sizes in the specified security reported to the NYSE portion of the Consolidated Tape on the day in which the order was executed.[32] The Floor broker would be required to report the error to the customer, including explaining to the customer whether the error was favorable or unfavorable to the customer.[33] The Floor broker would also be required to document on a trade-by-trade basis, the name of the individual authorized to accept the erroneous report for the customer, the amount of the error and whether the error was favorable to the customer.[34] The Floor broker would then treat the erroneous report as though it was an erroneous trade and his or her error account would become the opposite side to the report.[35] In addition, the Floor broker would assume any loss incurred and any profit that resulted would be paid to the New York Stock Exchange Foundation [36] as currently required by NYSE Rule 411(a)(ii)(5). Thus, any disadvantage would be borne by the Floor broker who was responsible for committing the error, not the customer.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act [37] because it is 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.

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.

[32] *See* proposed NYSE Rule 411(a)(iv)(1).

[33] *See* proposed NYSE Rule 411(a)(iv)(2).

[34] *See* proposed NYSE Rule 411(a)(iv)(3).

[35] *See* proposed NYSE Rule 411(a)(iv)(4).

[36] *See* proposed NYSE Rule 411(a)(iv)(5).

[37] 15 U.S.C. 78f(b)(5).

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 the self-regulatory organization 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 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–2006–28 on the subject line.

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–2006–28. 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–2006–28 and should be submitted on or before March 27, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E7–3795 Filed 3–5–07; 8:45 am]

BILLING CODE 8010–01–P

[38] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board; Public Meeting

The U.S. Small Business Administration, National Small Business Development Center Advisory Board will be hosting a public meeting via conference call to discuss such matters that may be presented by members, staff of the U.S. Small Business Administration, or interested others. The conference call will be held on Tuesday, March 20, 2007 at 1 p.m. Eastern Standard Time.

The purpose of the meeting is to discuss the internal Board issues; the March 5th agency meeting with senior program management; the Association of Small Business Development Center (ASBC) Board March meeting; and congressional visits conducted by board members.

Anyone wishing to make an oral presentation to the Board must contact Erika Fischer, Senior Program Analyst, U.S. Small Business Administration, Office of Small Business Development Centers, 409 3rd Street, SW., Washington, DC 20416, telephone (202) 205–7045 or fax (202) 481–0681.

Matthew Teague,

Committee Management Officer.

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