

agreed upon. As with CBOE Rule 14.3, the Exchange believes that this rule is obsolete, since the commissions that this rule pertains to have not been charged since the early 1970s and the Exchange does not plan to charge such commissions in the future. For this reason, the Exchange believes that there is no need for this rule.

- CBOE Rule 15.4—This rule pertains to a monthly commission report that the Exchange required certain individual members and member organizations to submit to the Treasurer of the Exchange. Specifically, this rule required certain members to disclose commissions on business done on the Exchange for each month. The Exchange believes that this rule is obsolete, since such a report is no longer necessary given that such commissions are no longer charged and collected.

2. Statutory Basis

By deleting certain Exchange rules, or portions thereof, which have been determined to be obsolete or unnecessary, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ in particular, in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition 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

Written comments on the proposed rule change were neither solicited nor received.

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

Because the proposed rule change, as amended: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of

filing, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹ As required under Rule 19b-4(f)(6)(iii),¹⁰ the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

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 the furtherance of the purposes of the Act.¹¹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-CBOE-2005-69 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9309.

All submissions should refer to File Number SR-CBOE-2005-69. 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

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

¹¹ The effective date of Amendment No. 1 is November 8, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on November 8, 2005, the date on which the Exchange submitted Amendment No. 1.

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 Section. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-CBOE-2005-69 and should be submitted on or before December 23, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52838; File No. SR-NYSE-2005-66]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto To Amend Rule 460 (Specialists Participating in Contests)

November 28, 2005.

I. Introduction

On September 29, 2005, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to amend NYSE Rule 460 (Specialists Participating in Contests). On October 25, 2005, the NYSE amended the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on November 3, 2005.³ The Commission received no

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 52688 (October 27, 2005), 70 FR 66879.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

comments on the proposal. This order grants accelerated approval to the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to add an exemption to NYSE Rule 460, which generally restricts business transactions between a specialist or his affiliates and any company in whose stock the specialist is registered. The exemption, in new NYSE rule 460.25, would apply to business transactions between a specialist or his affiliates and the sponsor of any Exchange Traded Funds ("ETFs") in which the specialist is registered. For purposes of the proposed rule, ETFs are Investment Company Units (defined in paragraph 703.16 of the Exchange's Listed Company Manual), Trust Issued Receipts, such as HOLDRs (defined in NYSE Rule 1200), and derivative instruments based on one or more securities, currencies or commodities.

Since ETFs are based on derivatives or indices representing multiple securities, or a single commodity or currency, and the specialist registered to that ETF is not a market maker in any of the underlying component securities, commodities or currencies, the Exchange believes that any potential for conflicts which might have an undue influence or impact on the ETF trading price is removed. Furthermore, while the ETF sponsor generally oversees the performance of the trustee of the ETF and the trust's principal service providers, the trustee is responsible for the day-to-day administration of the trust.

The rule would provide that any fee or other compensation paid in connection with the business transaction to a specialist or his affiliates not have any relationship to the trading price or daily trading volume of the ETF. The rule also would provide that a specialist or his affiliates must notify and provide a full description to the Exchange of any business transaction or relationship it may have with any sponsor of an ETF in which the specialist is registered, except those of a routine and generally available nature.

The Exchange requested accelerated approval of the proposed rule change on November 25, 2005, prior to the thirtieth day after the date of publication of the notice in the **Federal Register**.⁴

⁴ Telephone conference between Donald Siemer, Director, NYSE, and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on November 21, 2005.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁵ In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,⁶ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁷ for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice in the **Federal Register**. The Commission notes that the proposal was noticed for the full 21-day comment period, and no comments were received. Accelerated approval will also accommodate the Exchange's trading of certain derivative products.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NYSE-2005-66), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,

Secretary.

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⁵ In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52842; File No. SR-NYSE-2005-50]

Self-Regulatory Organizations; New York Stock Exchange Inc.; Order Approving Proposed Rule Change Relating to Proposed Amendments to Rules 282 (Mandatory Buy-In), 284 (Procedure for Closing Defaulted Contract), 289 (Must Receive Delivery), and 290 (Defaulting Party May Deliver After Notice of Intention to Close)

November 28, 2005.

I. Introduction

On July 15, 2005, the New York Stock Exchange Inc. ("NYSE") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-NYSE-2005-50 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposed rule change was published in the **Federal Register** on September 28, 2005.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

The NYSE is amending NYSE Rules 282, 284, 289, and 290 to permit members and member organizations (collectively referred to as "member") to initiate buy-ins, reduce the waiting period to initiate a buy-in from thirty days to three days, and to otherwise provide more standardized and consistent industry buy-in rules and procedures.

Current Requirements

NYSE Rule 282 sets forth the "mandatory buy-in" process by which a member acting as a buyer ("initiating member") is required to close-out a contract that has not been completed by the member acting as the seller ("defaulting member") for a period of thirty calendar days. A mandatory buy-in requires that a buy-in notice be delivered in triplicate by the initiating member (buyer) to the defaulting member (seller). The defaulting member receiving the buy-in notice must indicate on the buy-in notice its position with respect to the resolution of the failed trade (e.g., doesn't know the trade, knows the trade but cannot deliver, will deliver) and return the buy-in notice to the initiating member. If the buy-in notice is not returned when due

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 52475 (September 20, 2005), 70 FR 56757.