For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55132; File No. SR–NYSE–2006–57]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change Amending Rule 180 to Require Member Organizations to Use the Automated Liability Notification System of a Registered Clearing Agency

January 19, 2007.

I. Introduction

On August 3, 2006, the New York Stock Exchange LLC (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') and on November 15, 2006, amended proposed rule change SR–NYSE–2006–57 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on December 7, 2006.[2] One comment letter was received.[3] For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

Prior to the rule change, NYSE's Rule 180 provided that if securities were not delivered within the required time frame, the party who failed to deliver was liable for any resulting damages. Rule 180 also required that claims for damages had to be made promptly. It is industry practice when one party is owed and has not received securities that are the subject of a voluntary corporate action for the owed party to send to the failing counterparty a notice of the liability that will be attendant with the failure to deliver the securities in time for the owed party to participate in the voluntary corporate action.

It is also customary in the industry for the failing counterparty that receives a liability notification either to reject the notice, to deliver the securities that are the subject of the liability notification, or to convert or exchange the securities to the corresponding corporate actions proceeds and deliver the proceeds. Liability notifications are usually sent by fax directly to the responsible failing counterparty or to its designees.

Failing counterparties are subjected to potential liability by their failure to respond to liability notifications. Failure to respond typically occurs because of processing errors, such as overlooking the faxed liability notification or not receiving it all, and because of the overall lack of uniformity in the process. There is currently no uniform method of notifying and confirming the transmission and receipt of liability notifications.

In response to a need for a reliable and uniform method of transmitting liability notifications, The Depository Trust Company (''DTC'') developed the SMART/Track for Corporate Action Liability Notification Service (SMART/Track''), a web-based system for the communication of liability notifications that is currently available to all DTC participants. SMART/Track allows DTC participants to easily create, send, process, and track corporate action liability notifications. Email notifications are automatically generated when liability notifications or replies to liability notifications are sent.

In response to an industry request that NYSE adopt a rule that would mandate the use of a system that would make uniform the method by which liability notifications are sent and received, NYSE is amending Rule 180. As amended, Rule 180 clarifies that if securities that were to be delivered pursuant to the rules of a registered clearing agency are not so delivered, the contract may be closed as provided by the rules of that clearing agency. If the contracts are not so closed or if there is a failure to deliver securities which are to be delivered pursuant to NYSE Rule 176 or 177 and in the absence of any notice or agreement, the contract shall continue without interest until the following business day. However, in every such case of non-delivery, the party not delivering the securities shall be liable for any damages which accrue thereby.

Rule 180 is also being amended to require that when the parties to a failed contract are both participants in a registered clearing agency that has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver and the contract was to be settled through the facilities of that registered clearing agency, the transmission of the liability notification must be accomplished through the use of the registered clearing agency's automated liability notification system.[4]

III. Comment Letters

The Commission received one comment letter, which supported the rule as proposed.[5] The commenter stated, ''The Corporate Actions Division of the Securities Industry and Financial Markets Association is 100% in favor of this rule change.''

IV. Discussion

Section 6(b)(5) of the Act requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, 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 perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[6] Requiring the use of an automated liability notification system of a registered clearing agency should help reduce risk, costs, and delays resulting from processing errors and missing or inaccurate information that often occurs with manually processed liability notifications. Such an automated system should also provide broker-dealers with more timely receipt and distribution of such notices, immediate identification of the security affected by the notice, and a centralized system to manage and control all liability notifications. These benefits should, in turn, facilitate more efficient and cost-effective clearance and settlement of securities transactions.

Accordingly, for the reasons stated above the Commission finds that the rule change is consistent with NYSE's obligation under Section 6(b) of the Act to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest.

[11] 17 CFR 200.30–3(a)(12).

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

[2] Securities Exchange Act Release No. 54818 (November 27, 2006), 71 FR 71010 (December 7, 2006) [File No. SR–NYSE–2006–57].

[3] Letter from John J. Wagner, Past President, 2003–2005, Corporate Actions Division, Inc., SIFMA, to Nancy M. Morris, Secretary, Commission (January 11, 2007).

[4] Currently DTC is the only registered clearing agency operating an automated liability notification service. At present, approximately 155 DTC participants are voluntarily using SMART/Track.

[5] *Supra* note 3.

[6] 15 U.S.C. 78f(b)(5).

VI. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 6(b)(5) of the Act and the rules and regulations thereunder. It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–2006–57) be and hereby is approved.[7]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55141; File No. SR–NYSEArca–2006–55]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendments 1 and 2 Thereto Relating to Arbitration

January 19, 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 September 5, 2006, the NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule as described in Items I, II and III below, which Items have been prepared by NYSE Arca. On December 21, 2006, NYSE Arca amended the proposed rule change (''Amendment 1'').[3] NYSE Arca further amended the proposed rule change on January 5, 2007 (''Amendment 2'').[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The Exchange proposes to amend NYSE Arca Rule 12 to permit the arbitration rules of New York Stock Exchange, L.L.C. (NYSE Arbitration Rules) to govern arbitrations filed with the Exchange. The text of the proposed rule change is available on the Exchange's Web site (*http://www.nysearca.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, NYSE Arca included statements concerning the purpose of and basis for the proposed rule and discussed any comments it received on the proposed rule. The text of these statements may be examined at the places specified in Item IV below. The NYSE Arca 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 purpose of this proposed rule change is to amend NYSE Arca Rule 12 to permit all arbitrations filed with NYSE Arca after January 31, 2007, other than those arbitrations proposed to be specifically excepted in the rule, to be governed by the NYSE Arbitration Rules. In general, Rule 12, as proposed to be amended, would provide that any dispute, claim or controversy arising out of or in connection with the business of any Options Trading Permit Holder (''OTP Holders'') or OTP Firm or arising out of the employment or termination of employment of associated person(s) with any OTP Holder or OTP Firm may be arbitrated under Rule 12 as proposed to be amended. The rule, however, would except: (1) A dispute, claim, or controversy alleging employment discrimination (including a sexual harassment claim) in violation of a statute unless the parties have agreed to arbitrate it after the dispute arose; and (2) any type of dispute, claim, or controversy that is not permitted to be arbitrated under the NYSE Arbitration Rules, such as class action claims.

In addition, proposed Rule 12 would provide that the NYSE Arbitration Rules would apply to predispute arbitration agreements between NYSE Arca OTP Holders and OTP Firms and/or associated persons and their customers. Also, proposed Rule 12 would provide that if any matter comes to the attention of an arbitrator during and in connection with the arbitrator's participation in a proceeding, either from the record of the proceeding or from material or communications related to the proceeding, that the arbitrator has reason to believe may constitute a violation of the Exchange's rules or the federal securities law, the arbitrator may refer the matter to NYSE Regulation, Inc. for disciplinary investigation. With respect to payment of arbitration awards, proposed Rule 12 would provide that any OTP Holder, OTP Firm or associated person who fails to honor an award of arbitrators appointed will be subject to disciplinary proceedings in accordance with NYSE Arca Rule 10.

Finally, proposed Rule 12 would provide that the submission of any matter to arbitration would in no way limit or preclude the right, action or determination by the Exchange that it would otherwise be authorized to adopt, administer or enforce.

2. Statutory Basis

The Exchange states that the proposed change is consistent with Section 6(b)(5) of the Act[5] in that it promotes just and equitable principles of trade by ensuring that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

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

The Exchange does not believe that the proposed rule change, as amended, 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

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

III. 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.

[7] In approving the proposed rule change, the Commission considered the proposal's impact on the efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Amendment 1 provided that the NYSE Arbitration Rules would apply to all arbitrations filed with NYSE Arca after December 31, 2006, as well as made minor stylistic changes to the proposed rule change.

[4] Amendment 2 provided that the NYSE Arbitration Rules would apply to all arbitrations filed with NYSE Arca after January 31, 2007, as well as made a minor stylistic change to the proposed rule change.

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