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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2007/ficc/2007–11.pdf*. 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–FICC–2007–11 and should be submitted on or before April 28, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7119 Filed 4–4–08; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57592; File No. SR–NYSE–2008–23]

Self-Regulatory Organizations; New York Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Rule 104.10 To Extend the Duration of the Pilot Program Applicable to Conditional Transactions in All Securities to June 30, 2008

April 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 27, 2008, 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 and II below, which Items have been substantially prepared by the NYSE. The NYSE has designated the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] 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 NYSE is proposing to amend NYSE Rule 104.10 to extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(i) in all securities to June 30, 2008. The text of the proposed rule change is available at NYSE, at *http://www.nyse.com,* 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, 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

The NYSE is proposing to amend NYSE Rule 104.10 to extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(i) in all securities for an additional three months until June 30, 2008.

On October 26, 2007, the Commission approved the ability of NYSE specialists to effect Conditional Transactions pursuant to NYSE Rule 104.10(6) in all securities traded on the NYSE to operate as a pilot through March 31, 2008 (the ''Conditional Transaction Pilot'').[5]

(a) *Current Conditional Transaction Pilot*

Conditional Transactions are specialists' transactions that establish or increase a position and reach across the market to trade as the contra-side to the Exchange published bid or offer. Under the current Conditional Transaction Pilot, NYSE specialists are allowed to effect Conditional Transactions in all securities traded on the NYSE until March 31, 2008.

When a specialist effects a Conditional Transaction he or she has obligations to re-enter the market on the opposite side from which the specialist effected his or her Conditional Transaction pursuant to the rule. Specifically, pursuant to NYSE Rule 104.10(6)(ii) ''appropriate'' re-entry means ''re-entry on the opposite side of the market at or before the price participation point or the 'PPP.' ''[6] Depending on the type of Conditional Transaction, a specialist's obligation to re-enter may be immediate or subject to the same re-entry conditions of Non-Conditional Transactions.[7] Conditional

[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).

[5] *See* Securities Exchange Act Release No. 56711 (October 26, 2007), 72 FR 62504 (November 5, 2007) (SR–NYSE–2007–83).

[6] NYSE Rule 104.10(6)(iii)(a) provides that the PPP identifies the price at or before which a specialist is expected to re-enter the market after effecting a Conditional Transaction. PPPs are only minimum guidelines and compliance with them does not guarantee that a specialist is meeting its obligations. The Exchange issued guidance regarding PPPs in January 2007. See NYSE Member Education Bulletin 2007–1 (January 18, 2007).

[7] NYSE Rule 104.10(6)(iii)(c) provides that immediate re-entry is required after the following Conditional Transactions:

As a condition of operating the Conditional Transaction Pilot, the Exchange committed to providing the Commission with data related to specialist executions of Conditional Transactions. The data includes the daily Consolidated Tape volume in shares, daily number of trades; daily high-low volatility in basis points and daily close price in dollars.

(I) A purchase that (1) reaches across the market to trade with an Exchange published offer that is above the last differently priced trade on the Exchange and above the last differently priced published offer on the Exchange, (2) is 10,000 shares or more or has a market value of $200,000 or more, and (3) exceeds 50% of the published offer size.

(II) A sale that (1) reaches across the market to trade with an Exchange published bid that is below the last differently priced trade on the Exchange and below the last differently priced published bid on the Exchange, (2) is 10,000 shares or more or has a market value of $200,000 or more, and (3) exceeds 50% of the published bid size. (Emphasis added.)

Moreover, pursuant to current NYSE Rule 104.10(6)(iv) Conditional Transactions that involve (a) a specialist's purchase from the Exchange published offer that is priced above the last differently-priced trade on the Exchange or above the last differently-priced published offer on the Exchange and (b) a specialist's sale to the Exchange published bid that is priced below the last differently-priced trade on the Exchange or below the last differently-priced published bid on the Exchange are subject to the re-entry requirements for Non-Conditional Transactions pursuant to Rule 104.10(5)(i)(a)(II)(c), which provides:

Re-entry Obligation Following Non-Conditional Transactions—The specialist's obligation to maintain a fair and orderly market may require re-entry on the opposite side of the market trend after effecting one or more Non-Conditional Transactions. Such re-entry transactions should be commensurate with the size of the Non-Conditional

Transactions are subject to a specialist's overall negative obligation.[8]

The Exchange continues to calculate the specialist's profit on round-trip Hit Bid and Take Offer (''HB/TO'') executions. This is accomplished by measuring the specialist's profit on HB/TO activity by taking the round-trip trading profits for all HB/TO trades where the specialist executes an offsetting trade within 30 seconds. In cases where the volume of the offsetting execution is less than the size of the HB/TO execution, the calculation will only include profits realized within the 30-second window.

The Exchange continues to calculate the quote-based specialist re-entry ratio. Each re-entry price level is categorized and reported separately. In addition, the Exchange continues to provide the Commission with data related to the average realized spread on specialist HB/TO executions. These calculations are done using the same formula as SEC Rule 605. Specifically, the average realized spread is a share-weighted average of realized spreads. For specialist buys, it is double the amount of difference between the execution price and the midpoint of the consolidated best bid and offer five minutes after the time of HB/TO execution. For specialist sells, it is double the amount of difference between the midpoint of the consolidated best bid and offer five minutes after the time of HB/TO execution and the execution price.

The Exchange has provided the Commission's Division of Trading and Markets and the Office of Economic Analysis with statistics related to market quality, specialist trading activity, and sample statistics for the months of November and December 2007. The Exchange represents it will provide the relevant statistics for January and February 2008 no later than March 28, 2008. Commencing with the relevant statistics for the month of March 2008, the Exchange represents that it will provide all the aforementioned information to the Commission on or before the 15th of the calendar month directly following the data month. The Exchange represents it will maintain average measures for each stock-day during a particular month in order to provide such information to the Commission upon request.

Furthermore, NYSE Regulation, Inc. (''NYSER'') believes that it has appropriate surveillance procedures in place to surveil for compliance with the negative obligations of specialists. NYSER monitors, using a pattern and practice and/or outlier approach, specialist activity that appears to cause or exacerbate excessive price movement in the market (since such transactions would appear to be in violation of a specialist's negative obligation). In this connection, NYSER continues to surveil for specialist compliance with the PPP re-entry requirements, and based on its reviews of surveillance data to date, has not identified significant compliance issues. The Division of Market Surveillance of NYSER also monitors specialist trading to cushion such price movements.

(b) *Conclusion*

The Exchange believes that an extension of the current Conditional Transaction Pilot program will continue to provide NYSE specialists with the flexibility to compete and to efficiently and systematically trade and quote in their securities as well as equip them to fluidly manage their risk.

In view of the above, the NYSE believes it is appropriate to extend the operation of the Conditional Transaction Pilot program for an additional three months until June 30, 2008.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5)[9] of the Act that an Exchange have rules that are 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. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[10] in that it seeks to assure economically efficient execution of securities transactions. The Exchange believes that extending the operation of the Conditional Transaction Pilot will provide specialists with the required flexibility to compete, thus adding value to the Exchange market by encouraging specialists to continue to commit capital. Ultimately, the Exchange believes that the Conditional Transaction Pilot benefits the marketplace by allowing specialists to manage their risk and, therefore, gives them the ability to increase the liquidity they provide at prices outside the best bid and offer, as well as to meet their obligation to bridge temporary gaps in supply and demand, thereby dampening volatility.

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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)[11] of the Act and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The NYSE requests that the Commission waive the 5-day pre-filing notice requirement and the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[13] which would make the rule change effective and operative upon filing. The Commission believes that waiving the 5-day pre-filing notice and

Transactions and the immediate and anticipated needs of the market.

[8] The negative obligation, which is part of NYSE Rule 104, requires that specialists restrict their dealings so far as practicable to those reasonably necessary to permit the specialists to maintain a fair and orderly market. Specifically, NYSE Rule 104(a) provides:

No specialist shall effect on the Exchange purchases or sales of any security in which such specialist is registered, for any account in which he, his member organization or any other member, allied member, or approved person, (unless an exemption with respect to such approved person is in effect pursuant to Rule 98) in such organization or officer or employee thereof is directly or indirectly interested, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market, or to act as an odd-lot dealer in such security.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1(a)(1).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Conditional Transaction Pilot to continue without interruption through June 30, 2008 and provide the Exchange and the Commission additional time to evaluate the pilot.[14] Accordingly, the Commission designates that the proposed rule change effective and operative upon filing with the Commission.

At any time within 60 days of the filing of such 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.

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–2008–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–23. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. 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–2008–23 and should be submitted on or before April 28, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

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BILLING CODE 8011–01–P

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57591; File No. SR–NYSE–2008–21]

Self-Regulatory Organizations; New York Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Rule 103A (Specialist Stock Reallocation and Member Education and Performance) and Exchange Rule 103B (Specialist Stock Allocation)

April 1, 2008.

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 March 26, 2008, 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as ''non-controversial'' under Section 19(b)(3)(A)(iii)[3] of the Act and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal 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 extend to June 30, 2008, the moratorium on the administration of the Specialist Performance Evaluation Questionnaire (''SPEQ'') pursuant to Exchange Rule 103A and the use of the SPEQ pursuant to Exchange Rule 103B (''Moratorium''), which was implemented on June 8, 2007. In addition, the Exchange proposes to continue to suspend the use of SuperDot turnaround for orders received and the use of responses to administrative messages as objective measures in the assessment of specialist performance during the Moratorium. The Exchange further proposes that the SPEQ and Order Reports/Administrative Responses continue to be removed from the criteria used to commence a specialist performance improvement action during the Moratorium.

The text of the proposed rule changes is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, 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, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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

The Exchange proposes to extend to June 30, 2008, the Moratorium on the administration of the SPEQ pursuant to Exchange Rule 103A and the use of the SPEQ pursuant to Exchange Rule 103B. The Moratorium was implemented on June 8, 2007 and extended through March 31, 2008.[5]

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release Nos. 55852 (June 4, 2007), 72 FR 31868 (June 8, 2007) (NYSE–2007–47) (''Original Request'') and 57184 (January