

proposed rule change and discussed any comments it received regarding 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's Market Surveillance Division monitors all trading activity on the trading floor on a real-time basis. This surveillance applies to all members doing business on the trading floor. Market Surveillance has become increasingly important, visible, and costly over recent years. The proposed fee would partially offset that cost.

Specialists would pay a total of \$16 million per year to be allocated among specialist firms based on the number of memberships affiliated with each specialist firm.³ Non-specialist members would pay \$11,000 per membership per year up to a maximum of \$50,000 per member firm.

The Trading Floor Regulatory Fee will be implemented on January 1, 2001.

2. Statutory Basis

The NYSE believes that the basis under the Act for the proposed rule change is the requirement under section 6(b)(4)⁴ that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

The NYSE does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

³ Thus, according to the NYSE, each membership employed in the business of being a specialist will bear a *pro rata* portion of the \$16 million fee, and each specialist firm's obligation will be the sum of the portions ascribable to each specialist membership within that firm. Telephone conversation between James F. Duffy, Senior Vice President and Associate General Counsel, and Ricki Spinner, Principal Analyst, NYSE, and Michael Gaw, Attorney-Adviser, Division of Market Regulation, Commission, on December 13, 2000.

⁴ 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The NYSE 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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(B)(3)(A)(ii) of the Act⁵ and subparagraph (f)(2) of Rule 19b-4⁶ thereunder. 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-00-57 and should be submitted by January 18, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

⁶ 17 CFR 240.19b-4(f)(2).

⁷ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43741; File No. SR-NYSE-00-47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Listed Company Fees

December 19, 2000.

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 November 29, 2000, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 NYSE proposes to amend Paragraphs 902.02 through .04 of the Exchange's Listed Company Manual (the "Manual"), conforming the minimum original listing fee for overseas companies to that applied to domestic companies earlier this year, increasing the minimum continuing listing fee applicable to domestic companies, and adopting a specific schedule for closed-end funds. The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

II. Self-Regulatory Organization's Statements 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 III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

Earlier this year the Exchange amended its listing fee schedule to implement a minimum original listing fee for each domestic issuer (excluding closed-end funds).³ Having had a positive experience with this matter, and to achieve greater consistency in the minimum fee applicable to domestic and overseas companies, the Exchange proposes to raise the minimum original listing fee for overseas companies to \$150,000 as well, from its present level of \$100,000.

The Exchange also imposes on listed companies continuing annual fees, generally based on the number of shares listed on the Exchange. Currently the Exchange imposes a minimum continuing fee for overseas companies of \$35,000, while the minimum for domestic companies is \$16,170. Again, having had a positive experience with the minimum continuing annual fee applicable to overseas companies, the Exchange proposes to raise the minimum continuing annual fee for domestic companies to the same level, \$35,000. Companies with more than one class of common stock where both issues are below the new minimum fee would incur an increased fee only on the issue with the most shares outstanding. The other class would be charged at the per share and minimum rate in effect today. In addition, companies that listed during 2000 will be billed for the year 2001 only at the per share and minimum rate in effect today, moving to the new schedule in 2002.

The minimum continuing fee for closed-end funds would be \$25,000 for funds with ten million shares or less; those with greater than ten million shares would pay a minimum of \$35,000. Families of funds with from five to fifteen funds outstanding would receive a discount of 5%, while those with greater than fifteen funds listed on the Exchange would receive a 10% discount on the continuing annual fee applied to each fund.

The Exchange has a separate schedule of fees for "short-term securities," which are securities having a term of seven years or less (e.g., index warrants, foreign currency warrants, contingent value rights, etc.). The minimum continuing annual fee for short-term

securities is being raised to \$17,500, in line with the increase discussed above for regular common stock.

Finally, the Exchange considers it appropriate to specify a separate annual continuing fee minimum of \$3,600 for other equity issues as specified in Section 902.02 of the Manual.

The Exchange proposes to implement all the foregoing changes as of January 1, 2001.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act⁵ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

The Exchange believes that the proposed fee change will not impose any burden on competition that is not necessary or appropriate in the 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 neither solicited nor received any written comments on the proposed rule change.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the NYSE. All

submissions should refer to File No. SR-NYSE-00-47 and should be submitted by January 18, 2001.

IV. Commission's Findings and Order Granting accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act, which provides for the equitable allocation of reasonable dues, fees, and other charges among an exchange's members and issuers and other persons using its facilities.⁶ The Commission believes that the Exchange's changes to its listing fees are not unreasonable.

Finally, the Commission, pursuant to Section 19(b)(2) of the Act,⁷ finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.⁸ The Commission notes that granting accelerated approval to this proposal will allow the NYSE to implement the fee changes by January 1, 2001. Accordingly, the Commission finds that there is good cause, consistent with Section 19(b)(2) of the Act,⁹ to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-NYSE-00-47) is hereby approved on an accelerated basis.

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

Margaret H. McFarland,

Deputy Secretary.

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³ See Securities Exchange Act Release No. 42604 (March 31, 2000), 65 FR 18415 (April 7, 2000) (SR-NYSE-00-10).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(2).

⁸ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ *Id.*

¹¹ 17 CFR 200.30-3(a)(12).