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Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Exchange's Wireless Data Communications Initiatives

June 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 1, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. 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 is proposing to introduce onto its trading floor wireless data communications technology that allows a member in a trading crowd or elsewhere on the floor to communicate with others by means of a hand-held wireless device. The Exchange is also proposing to issue an interpretation with respect to NYSE Rule 117 which requires members' orders to be in writing.

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 self-regulatory organization 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 self-regulatory organization 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

Purpose

The Exchange is proposing to introduce wireless data communications in order to expedite, and make more efficient, the process by which members receive and execute orders on the floor of the Exchange. The Exchange also is

proposing to issue an interpretation to NYSE Rule 117 (Orders of Members To Be in Writing) that would deem a transmission of an order that a member receives by means of an authorized hand-held device to constitute a "written order."

a. Interpretation of NYSE Rule 117

The use of the Exchange's proposed wireless data communications technology will affect Exchange Rule 117 which prohibits members on the floor of the Exchange from making a bid, offer or transaction for or on behalf of another member except pursuant to a written order.¹ The Exchange is proposing an interpretation that will deem a transmission of an order that a member located on the floor of the Exchange receives by means of an authorized hand-held device to constitute a "written order" for the purposes of Rule 117 if the member can show that the transmission of the order:

- (i) Provides adequate information relating to the price, size and time of the order, the cancellation of the order, and the like;²
- (ii) Satisfies the Exchange's audit trail requirements; and
- (iii) Satisfies all other Exchange reporting and recordkeeping requirements.³

¹ Rule 117 also provides that if a member to whom an order has been entrusted leaves the trading crowd without actually transferring the written order to another member, the order shall not be represented in the market during his absence. The use of wireless data communications devices does not affect this portion of Rule 117. If a member receives an order by means of a transmission to his wireless device and he leaves a trading crowd without transferring a written version of the order to another member, the order may not be represented in the market in his absence.

² All orders entered from off the floor must be transmitted to a booth terminal before they are retransmitted to a hand-held device.

³ In the case where an order is transmitted electronically from a member's off-floor location to a booth terminal and then the order is retransmitted from the booth terminal to a member's hand-held device, a record must be established and maintained which reflects the time the order was received by the booth terminal and the time the order was received by the hand-held device. The record of time of receipt by the booth terminal may be established and maintained by such terminal or by a server which records the time such terminal acknowledges receipt of the order. The booth terminal must display the order (and the time of receipt, on inquiry) and the automated record of the order (including time of receipt) must be supplemented by a paper record of the order at the booth. If the paper record cannot be produced at the booth terminal, it must then be produced by hand. The record of time of receipt by a hand-held device may be established and maintained by such device or by the server or the booth terminal which receives a message acknowledgement from the hand-held device. Regardless of whether the hand-held device records are maintained in such device or in the booth terminal or a server, such records must be capable of being printed at the booth location.

b. Wireless Communications Plan

The Exchange's proposed wireless data communications technology involves the floor-based use of wireless hand-held data communications devices. The Exchange proposes to adopt a four-phase process to integrate new technology into the floor environment. The Exchange's basic operating premise is to allow private vendors to provide wireless data communications services to Exchange members on the floor, but only in a manner that treats members equitably and does not unfairly discriminate among members. The Exchange also proposes to provide its own wireless data communications service on a non-discriminatory basis.

Phase I

In Phase I, which the Exchange has already completed, the Exchange supervised and monitored three "proof-of-concept" pilot programs on the floor of the Exchange.⁴ Each of the programs tested the viability of the operation and functionality of wireless hand-held data devices on the floor. Members participating in the pilot programs were instructed to use the devices strictly for the purposes of evaluating the devices and to compare results that might have been achieved had the devices been used for actual trading purposes with results from actual trades using traditional paper tickets, telephones and the like.

The Phase I pilot programs allowed the Exchange to conclude that the technology will function in the Exchange's floor environment and would improve broker efficiency. They also made clear that introducing the technology on the floor on a wide scale (*i.e.*, allowing the technology to be offered to all members) would require the Exchange to install a robust, standardized, Exchange-controlled infrastructure in order to ensure reliable, secure wireless data communications.

Phase II

Phase II, which the Exchange proposes to commence upon Commission approval of the proposed rule change, would involve additional, more structured, pilot testing of independent wireless data communications services, including that offered by the Exchange. A prototype of the infrastructure that the Exchange hopes will eventually support all such

⁴ One pilot program was conducted by the Exchange and the other two were conducted by member-sponsored, private wireless data communications vendors.