[Release No. 34–35309; File No. SR–NYSE–95–02]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval To Proposed Rule Change by New York Stock Exchange, Inc. Relating to an Extension of its Pilot Program for Stopping Stock Under Amendments to Rule 116.30

January 31, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 7s(b)(1), notice is hereby given that on January 18, 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 and II below, which Items have been prepared by the self-regulatory organizations. 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 proposed rule change consists of a request to extend amendments to Rule 116.30, with respect to the ability of specialists to stop stock in minimum variation markets, for four months until July 21, 1995.[1] The text of the proposed rule change is available at the Office of the Secretary, NYSE, and at the Commission.

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 III 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

1. Purpose

The purpose of the proposed rule change is to extend the effectiveness of amendments to Exchange Rule 116.30, which permit a specialist to grant a stop in a minimum variation market. The practice of ''stopping'' stock by specialists on the Exchange refers to a guarantee by the specialist that an order the specialist receives will be executed at no worse a price than the contra-side price in the market when the specialist receives the order, with the understanding that the order may in fact receive a better price.

Formerly, Exchange Rule 116.30 permitted a specialist to stop stock only when the quotation spread was at least twice the minimum variation (*i.e.*, for most stock, at least a ¼ point), with the specialist then being required to narrow the quotation spread by making a bid or offer, as appropriate, on behalf of the order that is being stopped.

For three years, on March 21, 1991, March 16, 1992, and March 22, 1993, the Commission approved, on a one-year pilot basis each time, amendments to the rule which permit a specialist to stop stock in a minimum variation market (generally referred to as an ''⅛th point market'').[2] The Exchange sought these amendments on the grounds that many orders would receive an improved price if stopping stock in ⅛th point markets were permitted. The amendments to Rule 116.30 permit a specialist, upon request, to stop individual orders of 2,000 shares or less, up to an aggregate of 5,000 shares when multiple orders are stopped in an ⅛th point market. A specialist may stop an order pursuant to a specified larger order size threshold, or a specified larger aggregate share threshold, after obtaining Floor Official approval.

On February 12, 1992, the Exchange requested that the Commission grant permanent approval to the amendments to Rule 116.30.[3] At that time, the Commission staff requested that the Exchange extend the pilot for an additional year to allow the Commission more time to consider the Exchange's request to make the amendments to Rule 116.30 permanent. At the request of Commission staff, the Exchange again filed for an extension of the rule's provisions, this time until March 21, 1995.[4] In its approval order, the Commission asked the Exchange to submit a fourth monitoring report on the stopping stock pilot and to submit a proposed rule change regarding Rule 116.30 by December 31, 1984. The monitoring report has been submitted to the Commission under separate cover. The Commission has asked the Exchange to file for a four month extension of the amendments to Rule 116.30 so that the Commission may evaluate the fourth monitoring report prior to determining if it will grant permanent approval to the amendments. The Exchange believes that the results obtained by its monitoring effort during the pilot period show that the amendments to Rule 116.30 enable specialists to better serve investors through the ability to offer price improvement to stopped orders, while having relatively little adverse impact on other orders on the book.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) 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, in general, to protect investors and the public interest. The amendments to Rule 116.30 are consistent with these objectives in that they permit the Exchange to better serve its customers by enabling specialists to execute customer orders at improved prices.

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. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

[1] The NYSE received approval to amend Rule 116.30, on a pilot basis, in Securities Exchange Act Release No. 28999 (March 21, 1991), 56 FR 12964 (March 28, 1991) (File No. SR–NYSE–90–48) (''1991 Approval Order''). The Commission subsequently extended the NYSE's pilot program in Securities Exchange Act Release Nos. 30482 (March 16, 1992), 57 FR 10198 (March 24, 1992) (File No. SR–NYSE–92–02) (''1992 Approval Order''); 32031 (March 22, 1993), 58 FR 16563 (March 29, 1993) (File No. SR–NYSE–93–18) (''1993 Approval Order''); and 33792 (March 21, 1994), 59 FR 14437 (March 28, 1994) (File No. SR–NYSE–94–06) (''1994 Approval Order''). Commission approval of these amendments to Rule 116.30 expires on March 21, 1995. The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program to continue without interruption. *See* letter from James E. Buck, Senior Vice President and Corporate Secretary, NYSE, to Glen Barrentine, Senior Counsel, Division of Market Regulation, SEC, dated January 31, 1995.

[2] *See* 1991, 1992 and 1993 Approval Orders, *supra*, note 1.

[3] *See* File No. SR–NYSE–93–11.

[4] *See* 1994 Approval Order, *supra,* note 1.