

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53860; File No. SR-NSX-2006-07)

May 24, 2006

Self-Regulatory Organizations; National Stock Exchange; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Amend the Exchange's Tape B Market Data Revenue Sharing Program and to Establish a Tape C Market Data Revenue Sharing Program

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 April 26, 2006, National Stock Exchange ("NSX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by NSX. On May 23, 2006, NSX filed Amendment No. 1. NSX filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders it effective upon filing with the Commission.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

NSX proposes to amend NSX Rules 11.10(A)(k) and (l) to amend its Tape B

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁴ 17 CFR 240.19b-(4)(f)(6).

⁵ NSX provided the Commission with written notice of its intent to file the proposed rule change on April 20, 2006. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on May 23, 2006, the date NSX filed Amendment No. 1. See Section 19(b)(3)(A) of the Act, and Rule 19b-4(f)(6)(iii) thereunder. 15 U.S.C. 78s(b)(1), 17 CFR 240.19b-4(f)(6)(iii).

market data revenue sharing program, and to establish a Tape C market data revenue sharing program. The text of the proposed rule change is available at the Commission, at NSX, and on the NSX Web site at www.nsx.com/RulesFilings2.asp.

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

In its filing with the Commission, NSX 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. NSX 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

NSX Rule 11.10(A)(k) currently provides for a Tape B rebate program, consisting of a 50% transaction credit on revenues generated by transactions in Tape B securities. The credit is allocable to members on a pro rata basis based upon Tape B revenue generated by a member's transactions on the Exchange.

Under the current Tape B rebate program, the transaction credit is based on net revenue in those fiscal quarters where the overall revenue retained by the Exchange does not offset actual expenses and working capital needs. The Exchange is proposing to amend the Tape B program to remove this aspect, so that the Tape B rebate program will be based only on gross Tape B revenue. The Exchange believes this change will not impair its ability to carry out its regulatory responsibilities under the Act, as the change is likely to lead to greater transactional volume in Tape B securities on the Exchange and therefore greater revenues that may be applied to the Exchange's regulatory programs.

The Exchange is cognizant of its surveillance and compliance responsibilities as a self-regulatory organization. As such, the Exchange represents that its responsibilities as a self-regulatory organization will be in no way compromised by the implementation of the changes proposed herein. The Exchange notes that the calculation of rebates based on gross revenues is consistent with market data revenue rebate programs of other national securities exchanges.⁶

The Exchange also proposes to establish an equivalent market data revenue sharing program for Tape C securities. The proposed Tape C program will also provide a 50% transaction credit on revenues generated by transactions in Tape C securities, and will be allocable to members on a pro rata basis based upon the Tape C revenue generated by such member. The Exchange believes that there is no regulatory reason to distinguish Tape C transactions from Tape B transactions, and is therefore proposing an equivalent market data revenue sharing program. As with the current Tape B program, to the extent that market data revenue from Tape C transactions is subject to any adjustment, credits provided under the Tape C program may be adjusted accordingly.

⁶ The Exchange's definition of "gross revenue" is the revenue received by the Exchange from the tape associations after the tape associations take into account the "allocated support cost" and "unincorporated business costs." Some markets, such as the Chicago Stock Exchange ("CHX"), provide for rebates based upon monthly tape revenue from the Consolidated Tape Association (less all direct CTA costs) generated by a particular Tape A or Tape B security. See CHX Fee Schedule, Section M. Other markets, like the Nasdaq Stock Market, allow members to earn credits from one or two pools, with each pool representing 50% of the tape revenue paid by the Consolidated Tape Association for each of the Tape A or Tape B transactions after deducting the amount that the market pays to the Consolidated Tape Association for capacity usage. See NASD Rule 7010(c)(2). While NYSE Arca LLC has some limitations on who is eligible to receive rebates, the amount of the pool for calculation purposes is based on 50% of the gross revenues derived from market data fees. See NYSE Arca "Market Data Revenue Sharing Credits" under Exchange Fees.

In connection with these changes, the Exchange is proposing to move its current Tape B rebate program from NSX Rule 11.10(A)(k) to NSX Rule 11.10(A)(l), so that both the Tape B and Tape C programs will be contained in the same paragraph of NSX Rule 11.10(A).

The Exchange believes the proposed rule change is consistent with the protection of investors and the public interest because it will lower the cost of trading and market data to broker-dealers and the investing public, and because it may enhance competition in the trading of Tape B and Tape C securities.

2. Statutory Basis

NSX believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,⁷ in general, and with Section 6(b)(4) of the Act,⁸ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges by crediting members on a pro rata basis.

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

NSX does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4)

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ At any time within 60 days of the filing of the 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-NSX-2006-07 on the subject line.

Paper comments

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

- 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-NSX-2006-07. 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. Copies of such filing also will be available for inspection and copying at the principal office of NSX. 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-NSX-2006-07 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Nancy M. Morris
Secretary

¹¹ 17 CFR 200.30-3(a)(12).