

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57664; File No. SR-NSX-2008-09)

April 15, 2008

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend NSX Rule 16.2(b) and the NSX BLADESM Fee and Rebate Schedule to Reflect the Availability and Pricing of the Zero Display Reserve Order Type Previously Approved by the Commission

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 11, 2008, National Stock Exchange, Inc. (“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 substantially prepared by NSX. NSX filed the proposal pursuant to Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2)⁴ thereunder, as establishing or changing a due, fee, or other charges applicable to a member, 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

NSX proposes to amend NSX Rule 16.2(b)(2) and the NSX BLADESM Fee and Rebate Schedule (“Fee Schedule”) in order to reflect the availability and pricing of the Zero Display

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

Reserve Order⁵ type previously approved by the Commission.⁶

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nsx.com>, at the principal office of the Exchange, 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 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 Exchange 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

Description

With this rule change, the Exchange is proposing to amend NSX Rule 16.2(b)(2) and the NSX Fee Schedule to reflect the rollout of the Zero Display Reserve Order⁷ type previously approved by the Commission.⁸ Specifically, Zero Display Reserve Orders are proposed to be excluded from the liquidity provider rebate structure payable to ETP Holders⁹ in the Automatic

⁵ As specified in NSX Rule 11.11(c)(2)(A).

⁶ See Securities Exchange Act Release No. 57311 (February 12, 2008), 73 FR 9148 (February 19, 2008) (SR-NSX-2008-03).

⁷ See supra note 5.

⁸ See supra note 6.

⁹ An ETP Holder is a registered broker or dealer that has been issued an Equity Trading Permit ("ETP") by the NSX. An ETP Holder will have the status of a "member" of the Exchange as that term is defined in Section 3 of the Act.

Execution mode of order interaction (“AutoEx”).¹⁰ Accordingly, ETP Holders will receive no rebate for adding liquidity with Zero Display Reserve Orders in AutoEx. In addition, in the Order Delivery¹¹ mode of order interaction, Zero Display Reserve Orders are proposed under NSX Rule 16.2(b)(2) and the Fee Schedule to be ineligible for both liquidity provider rebates and market data credits. Accordingly, ETP Holders will receive no rebate for adding liquidity, and will receive no market data credits, with respect to Zero Display Reserve Orders in Order Delivery. However, like other order types, Zero Display Reserve Orders are subject to fees for taking liquidity. This proposed fee and rebate structure applies to all securities, regardless of price, which are Zero Display Reserve Orders.

The proposed fee and rebate structure with respect to the Zero Display Reserve Order type is not discriminatory in that all ETP Holders are eligible to submit both displayed orders and/or non-displayed orders (i.e., Zero Display Reserve Orders) at their own discretion.

The instant filing also proposes to add the words “fee,” “rebate” and “credit” in several places, as applicable, in the Fee Schedule for purposes of clarification. There are no other currently proposed changes to Fee Schedule.

Rationale

The amended Fee Schedule is intended to encourage ETP Holders to display orders on NSX. Because Zero Display Reserve Orders are not displayed orders, the Exchange is proposing that orders of this type do not receive any liquidity provider rebate or market data credit.

The Exchange has determined that this change is necessary for competitive reasons. Under the proposed Fee Schedule, the fees paid by a particular ETP Holder will continue to depend on a number of variables, including the mode of order interaction (AutoEx or Order

¹⁰ As specified in NSX Rule 11.13(b)(1).

¹¹ As specified in NSX Rule 11.13(b)(2).

Delivery), the types of securities traded through NSX BLADESM (Tapes A, B or C), the average daily monthly liquidity providing volume, and the price of the securities (with a distinction for those above and below \$1.00). The use of Zero Display Reserve Orders and the fees and rebates they incur and accrue constitutes an additional variable which ETP Holders may take into account in allocating order flow. NSX notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be more attractive. Accordingly, the proposed modifications attempt to keep the fees reflected in the Fee Schedule competitive with fees charged by other venues and to continue to be reasonable and equitably allocated to those ETP Holders that opt to direct orders to NSX. Based upon the information above, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest.

Effective Date and Notice

The Exchange intends to implement the proposed Fee Schedule in accordance with the proposed rule change on April 15, 2008. Pursuant to NSX Rule 16.1(c), the Exchange will “provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange” through the issuance of a Regulatory Circular of the changes to the Fee Schedule and will provide a copy of the rule filing on the Exchange’s website (www.nsx.com).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,¹² in general, and with Section 6(b)(4) of the Act,¹³ 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. Moreover, the proposed fee and

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4).

rebate structure with respect to the Zero Display Reserve Order type is not discriminatory in that all ETP Holders are eligible to submit displayed orders or utilize the new Zero Display Reserve Order type and may do so at their discretion.

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

The Exchange 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

The foregoing proposed rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁴ and Rule 19b-4(f)(2)¹⁵ thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member.

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.¹⁶

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:

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ See 15 U.S.C. 78s(b)(3)(C).

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-2008-09 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-NSX-2008-09. 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 10:00 a.m. and 3:00 p.m. 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-2008-09 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).