

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54977; File No. SR-NYSE-2006-116)

December 20, 2006

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating to Amendment of Annual Report Timely Filing Requirements

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 14, 2006, the New York Stock Exchange LLC (“NYSE” 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 the Exchange. 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 proposes to amend Section 802.01E of its Listed Company Manual (“Manual”) to end as of December 31, 2007 the Exchange’s discretion to continue the listing of certain companies that are twelve months late in filing their annual reports with the Commission. The text of the proposed rule change is available on the Exchange’s Web site, <http://www.nyse.com>, at the Exchange’s Office of the Secretary, 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 NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

---

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 802.01E of the Manual to end as of December 31, 2007 the Exchange's discretion to continue the listing of certain companies that are twelve months late in filing their annual reports with the Commission.

Section 802.01E of the Manual provides that if a company fails to timely file a periodic annual report with the Commission, the Exchange will monitor the company and the status of the filing. If the company fails to file the annual report within six months from the filing due date, the Exchange may, in its sole discretion, allow the company's securities to be traded for up to an additional six-month trading period depending on the company's specific circumstances; but in any event if the company does not file its periodic annual report by the end of the one year period ("Initial Twelve-Month Period"), the Exchange will begin suspension and delisting procedures in accordance with the procedures in Section 804.00 of the Manual.

Section 802.01E states that, in certain unique circumstances, a listed company that is delayed in filing its annual report beyond the Initial Twelve-Month Period may have a position in the market (relating to both the nature of its business and its very large publicly-held market capitalization) such that its delisting from the Exchange would be significantly contrary to the national interest and the interests of public investors. In such a case, where the Exchange

believes that the company remains suitable for listing given, among other factors,<sup>3</sup> its relative financial health and compliance with the NYSE's quantitative and qualitative listing standards, and where there is a reasonable expectation that the company will be able to resume timely filings in the future, the Exchange may forebear, at its sole discretion, from commencing suspension and delisting, notwithstanding the company's failure to file within the time periods specified in Section 802.01E of the Manual.

After discussions with the Commission staff, the Exchange has determined that it is unnecessary for the Exchange to retain the discretion to allow companies to continue listing beyond the Initial Twelve-Month Period after December 31, 2007. Therefore, under this proposed amendment, the Exchange's discretion to allow a company to continue listing beyond the Initial Twelve-Month Period set forth in Section 802.01E of the Manual shall expire on December 31, 2007. If, prior to December 31, 2007, the Exchange had determined to continue listing a company beyond the Initial Twelve-Month Period under the circumstances specified in Section 802.01E of the Manual as described above, and the company fails to file its periodic annual report by December 31, 2007, suspension and delisting procedures will commence in accordance with the procedures set out in Section 804.00 of the Manual.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)(5)<sup>4</sup> of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the

---

<sup>3</sup> See Section 802.01E of the Manual for a complete list of the factors which the Exchange must consider when determining whether to continue listing a company beyond the Initial Twelve-Month Period.

<sup>4</sup> 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

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 did not solicit or receive any written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve the proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2006-116 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2006-116. 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 the Exchange. 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-NYSE-2006-116 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.<sup>5</sup>

Florence E. Harmon  
Deputy Secretary

---

<sup>5</sup> 17 CFR 200.30-3(a)(12).