135b under the Securities Act of 1933. The amendment will clarify that an Options Disclosure Document prepared pursuant to rule 0b–1 under the Securities Exchange Act of 1934 is not a prospectus and therefore is not subject to liability under section 12(a)(2) of the Exchange Act.

For further information, please contact Ray Be, Office of Rulemaking, Division of Corporation Finance, at (202) 942–2910.

5. The Commission will consider whether to propose an amendment to rule 146 under the Securities Act of 1933. The proposed amendment provides a definition of the term "qualified purchaser" for purposes of section 18(b)(3) of the Securities Act and thus posits an additional "covered security" preempting state securities registration and review.

For further information, please contact Marva Simpson, Office of Small Business Policy, Division of Corporation Finance, at (202) 942–2950.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: December 11, 2001.

Jonathan G. Katz,
Secretary.
[FR Doc. 01–30979 Filed 12–12–01; 11:43 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Federal Register Citation of Previous Announcement: 66 FR 63422, December 6, 2001.

Status: Closed meeting.

Place: 450 Fifth Street, NW., Washington, DC

Date and Time of Previously Announced Meeting: Thursday, December 13, 2001 at 10:00 a.m.

Change in the Meeting: Time Change.

The closed meeting scheduled for Thursday, December 13, 2001 at 10 a.m. has been changed to Friday, December 14, 2001 at 10 a.m.

Dated: December 12, 2001.

Jonathan G. Katz,
Secretary.
[FR Doc. 01–31031 Filed 12–12–01; 4:02 pm]
BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44138; File No. SR–NYSE–2001–42]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the New York Stock Exchange, Inc., Establishing the Fees for NYSE OpenBook™

December 7, 2001.

On October 15, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change establishing the fees for its NYSE OpenBook service. The proposed rule change was published for comment in the **Federal Register** on October 29, 2001.[3] The Commission received one comment letter on the proposed rule change.[4] This order approves the proposed rule change.

I. Description of the Proposed Rule Change

A. Proposed Fees for NYSE OpenBook Service

The Exchange proposes to establish certain fees for its NYSE OpenBook service. NYSE OpenBook is a compilation of limit order data that the Exchange will provide to market data vendors, broker-dealers, private network providers, and other entities through a data feed. According to the Exchange, for every limit price, NYSE OpenBook will include the aggregate order volume. The Exchange will make the NYSE OpenBook data feed available through the Exchange's Common Access Point ("CAP") network. Initially, the Exchange will update NYSE OpenBook every ten seconds.

The Exchange has proposed two fees. First, the Exchange proposes to collect a fee equal to $5,000 per month from each entity that elects to receive the NYSE OpenBook data feed. Second, the Exchange proposes to collect an end-user fee of $50.00[5] per month for each

terminal through which the end user is able to display the NYSE OpenBook.

B. NYSE OpenBook Service Agreements

The Exchange will require each NYSE OpenBook data feed recipient to enter into the existing form of "vendor" agreement. That agreement will authorize the data feed recipient to provide NYSE OpenBook display services to its customers or to distribute the data internally. In addition, the Exchange represents that it will require each end-user that receives NYSE OpenBook displays from a vendor or broker-dealer to execute the existing "subscriber" agreement.

The Exchange intends to supplement the vendor agreements with additional terms that are unique to NYSE OpenBook. First, the vendor agreements prohibit a data feed recipient that redisseminates the NYSE OpenBook outside of its organization from enhancing, integrating, or consolidating the redisseminated NYSE OpenBook data with limit order data of other markets or trading systems (*i.e.,* the data feed recipient may only redisseminate the display of the NYSE's OpenBook in a separate "window" [6] marked "NYSE OpenBook™"). A vendor, however, may place other markets' limit order displays on the same page as the NYSE OpenBook window. This restriction only applies to vendors that redisseminate the NYSE OpenBook outside of their organization. It does not apply to those entities that receive the data feed for their own internal use. In other words, data feed recipients will be permitted to enhance, integrate, or consolidate the NYSE OpenBook data with other markets' or trading systems' limit order data for their own internal use.

Second, the vendor agreement precludes a data feed recipient from retransmitting the NYSE OpenBook data feed. Thus, any entity that wishes to receive the data feed so that it may enhance, integrate, or consolidate the data with other markets' data for its own internal use must obtain the data feed from the NYSE. The Exchange, however,

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 44962 (October 19, 2001), 66 FR 54562.

[4] *See* Letter from W. Hardy Callcott, Senior Vice President and General Counsel, Charles Schwab & Co., Inc. to Jonathan G. Katz, Secretary, Commission, dated November 20, 2001 ("Schwab Letter").

[5] The Exchange noted that although no other exchange currently offers a limit order data compilation, a few markets offer services that provide a point of reference. According to the

Exchange, the Nasdaq Stock Market charges $50 per terminal for its Nasdaq Level II service, which provides the best bid and offer from all market makers and ECNs (although it does not otherwise provide depth-of-book or depth-of-market information). The Exchange also believes that the London Stock Exchange charges $144–$219 per terminal for the price and size of limit orders in stocks that are included in the FTSE 250 index. Further, the Exchange believes that the Toronto Stock Exchange charges $30 per terminal for its order books.

[6] The "window" requirement does not literally require a separate window, only separate displays. In other words, a vendor could format multiple displays in a single window.