

that include the new derivative securities product and the SRO has a surveillance program for the product class.<sup>20</sup> The Commission believes that the NYSE' proposal contains adequate rules and procedures to govern the trading of ICUs under Rule 19b-4(e).

All series of ICUs listed under the generic standards will be subject to the full panoply of NYSE rules and procedures that now govern the trading of existing ICUs on the Exchange. In addition, the Exchange has established that upon initial listing, component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio must have a minimum market value of at least \$75 million. Further the component stocks in the index must have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio. The most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio. The index or portfolio must include a minimum of 13 stocks, and all securities in an underlying index or portfolio must be listed on a national securities exchange or the Nasdaq Stock Market.

Moreover, any series seeking to list under the generic standards must meet these eligibility criteria as of the date of the initial deposit of securities and cash into the trust or fund. The Commission believes that these criteria should serve to ensure that the underlying securities of these indexes and portfolios are well capitalized and actively traded, which will help to ensure that U.S. securities markets are not adversely affected by the listing and trading of new series of ICUs under Rule 19b-4(e). These listing criteria also will make certain that new ICUs do not contain features that are likely to impact adversely the U.S. securities markets.

In addition, the Exchange has developed specific listing criteria for ICUs qualifying for Rule 19b-4(e) treatment that will help to ensure that a minimum level of liquidity will exist to allow for the maintenance of fair and orderly markets. Specifically, the proposed generic listing standards require that a minimum of 100,000 shares of ICUs are outstanding as of the start of trading. The Commission believes that this minimum number of securities is sufficient to establish a

liquid Exchange market at the commencement of trading.

In addition, as previously noted, all series of ICUs listed or traded under the generic standards will be subject to the Exchange's existing continuing listing criteria under Section 703.16 of the LCM. This requirement allows the Exchange to consider the suspension of trading and the delisting of a series if an event occurs that makes further dealings in such securities inadvisable. The Commission believes that this will give the Exchange flexibility to delist ICUs if circumstances warrant such action.

Furthermore, the Commission finds that the Exchange's proposal to trade ICUs in minimum fractional increments of  $\frac{1}{16}$ ,  $\frac{1}{32}$ , or  $\frac{1}{64}$  of \$1.00 is consistent with the Act. The Commission believes that such trading should enhance market liquidity, and should promote more accurate pricing, tighter quotations, and reduced price fluctuations, all of which benefit the investor. The Commission also believes that such trading should allow customers to receive the best possible execution of their transactions in ICUs, thereby protecting customers and the public interest consistent with section 6(b)(5) of the Act.<sup>21</sup>

The Exchange represents that the current underlying index value as well as an estimate of the value per share of the ICU will be disseminated over the consolidated tape every 15 seconds. The Commission believes that the information the Exchange proposes to have disseminated will provide investors with timely and useful information concerning the value of each series.

The Exchange has developed surveillance procedures for the ICUs listed under the generic standards that incorporate and rely upon existing surveillance procedures governing ICUs and equities. The Commission believes that these surveillance procedures are adequate to address concerns associated with listing and trading ICUs under the generic standards. The Exchange further represents that it will file Form 19b-4(e) with the Commission within five business days of commencement of trading a series under the generic standards, and will comply with all Rule 19b-4(e) record keeping requirements. Accordingly, the Commission believes that the rules governing the trading of such securities provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest,

consistent with section 6(b)(5) of the Act.<sup>22</sup>

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** pursuant to section 19(b)(2) of the Act. The Commission notes that the proposed rule change is based on the listing standards of several other exchanges, which the Commission previously approved after soliciting public comment on the proposals pursuant to section 19(b) of the Act.<sup>23</sup> The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the other filings. Accordingly, the Commission believes it is appropriate to permit investors to benefit from the flexibility afforded by these new instruments by trading them as soon as possible. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,<sup>24</sup> to approve the proposal, as amended, on an accelerated basis.

## V. Conclusion

*It is Therefore Ordered*, pursuant to section 19(b)(2) of the Act,<sup>25</sup> that the proposed rule change (SR-NYSE-00-46), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>26</sup>

**Margaret H. McFarland**

*Deputy Secretary*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43664; File No. SR-NYSE-00-50]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., To Revise Its Fee Schedule for Equity Transaction Fees

December 4, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

<sup>22</sup> 15 U.S.C. 78f(b)(5).

<sup>23</sup> See e.g., Securities Exchange Act Release No. 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000) (approval of American Stock Exchange generic listing standards).

<sup>24</sup> 15 U.S.C. 78s(b)(5).

<sup>25</sup> 15 U.S.C. 78s(b)(2).

<sup>26</sup> 17 CFR 200.30-3(a)(12).

<sup>20</sup> See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

("Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice hereby is given that on November 29, 2000, the New York Stock Exchange, Inc. ("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 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 NYSE proposes to revise its fee schedule for Equity Transaction Fees to be effective January 1, 2001. This fee revision would raise the monthly transaction fee cap to \$500,000 per member firm and increases the rate for the first 5,000 shares of a trade to \$.0023 from \$.0019 per share. The proposed rule change is available at the principal office of the NYSE 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 regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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**

In 1996, the NYSE established a cap on transaction charges of \$400,000 per month per firm.<sup>3</sup> According to the Exchange, it initially planned to increase the cap each year in proportion to the increase in trading volume. Had it invoked the indexing provision each year, the cap for 2001 would be approximately \$1,100,000. The increase in volume during 2000 compared with 1999 is about 24 percent.

Commencing January 1, 2001, the Exchange proposes to establish the cap at \$500,000 per firm per month, representing an increase in proportion to the above described increase in trading volume. The Exchange also proposes, effective January 1, 2001, to increase the rate charged for transactions in the 5,000 share and under category from \$.0019 per share to \$.0023 per share. The \$.0019 rate was also established in 1996 and has not been changed since then. This increase is roughly in the same proportion as the increase in the cap and ensures that the firms that do and do not reach the cap will be treated equitably.

##### **2. Statutory Basis**

The NYSE believes that the basis under the Act for the proposed rule change is the requirement under section 6(b)(4)<sup>4</sup> that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

The NYSE believes that the proposed rule change would not 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 NYSE has neither solicited nor received written comments on the proposed rule change. The NYSE has not received any unsolicited written comments from members or other interested parties.

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective on filing pursuant to section 19(B)(3)(A)(ii) of the Act<sup>5</sup> and subparagraph (f)(2) of Rule 19b-4<sup>6</sup> thereunder. At any time within 60 days of the filing of such 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 purpose 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-00-50 and should be submitted by January 3, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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**BILLING CODE 8010-01-M**

## **SOCIAL SECURITY ADMINISTRATION**

### **Privacy Act of 1974; Report of New System of Records and Routine Uses**

**AGENCY:** Social Security Administration.

**ACTION:** New system of records and routine uses.

**SUMMARY:** In accordance with the Privacy Act, 5 U.S.C. 552a(e)(4) and (e)(11), we are issuing public notice of our intent to establish a new system of records. The proposed system of records is entitled Records of Individuals Authorized Entry into Secured Areas by Digital Lock Systems, Electronic Key Card Systems or Other Electronic Access Devices, SSA/RO 60-0270. The proposed system will maintain records on individuals authorized to enter secured areas in SSA regional offices, field offices, teleservice centers, program service centers, hearing offices and satellite facilities. We invite public

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

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

<sup>3</sup> See Securities Exchange Act Release No. 36465 (November 8, 1995), 60 FR 57473 (November 15, 1995) (File No. SR-NYSE-95-38).

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).