be sent to both the introducing firm and the clearing firm. The legend also would need to advise the customer that he or she should re-confirm any oral communications with either the clearing or introducing firm in writing to further protect the customer's rights, including rights under the SIPA. The Exchange also is proposing to adopt a new rule, NYSE Rule 409A, which would require member organizations to advise each customer in writing, upon the opening of an account and at least annually thereafter, that he or she may obtain information from SIPC.[10] Proposed Rule 409A would require the written advisories to include SIPC's Web site address and telephone number, and, if the account is subject to a clearing agreement pursuant to NYSE Rule 382, the rule would permit its requirements to be delegated to either the introducing firm or the clearing firm.

NYSE initially proposed an effective date of 180 days after SEC approval of the proposed amendments to Rule 409(e) and proposed new Rule 409A. However, to coordinate the effective date of these rule changes with the effective dates proposed for related rule changes proposed by NASD,[11] NYSE has changed the proposed effective date to May 31, 2007.[12]

III. Discussion and Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Sections 6(b)(5) of the Exchange Act.[13] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest. The Commission believes the proposed rule change is consistent with the provision of the Exchange Act noted above because it should help investors understand the scope of coverage of the SIPA, and it should help investors understand procedures for preserving their rights in the event of erroneous or unauthorized transactions in their accounts.

While the Commission believes that the proposal would improve NYSE's current customer account disclosure requirements, we believe that the disclosure would be more beneficial to investors if it required NYSE member organizations to include on account statements both introducing and clearing firm contact information sufficient to allow investors to timely report unauthorized transactions or other account discrepancies to both firms (if the firms are different). We believe such disclosure would be consistent with current Commission guidance on this issue.[14] We also believe that such disclosure would help ensure that a customer's concern is delivered to the most appropriate person at the firm. The Commission therefore encourages NYSE to issue guidance to its member organizations regarding the proposed change to Rule 409 that reminds member firms of their current obligations with respect to customer account statements.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[15] that the proposed rule change (SR–NASD–2005–09), as amended, be, and hereby is, approved,[16] effective May 31, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

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[10] NASD also is proposing to adopt new NASD Rule 2342, which would require NASD members to advise new customers in writing at the opening of an account, and advise all customers in writing at least once each year, that they may obtain information about SIPC, including the SIPC Brochure, by contacting SIPC, and to provide customers with SIPC's telephone number and Web site address at those times. *See* File No. SR–NASD–2006–124.

[11] *See* File Nos. SR–NASD 2006–128 (proposing May 31, 2007, as new effective date for rule change approved in SR–NASD–2004–171) and SR–NASD–2006–124 (with proposed effective date of May 31, 2007).

[12] Telephone conversation between William Jannace, Director, Rule and Interpretive Standards, NYSE, and Brice Prince, Special Counsel, Division of Market Regulation, Commission, on November 8, 2006.

[13] 15 U.S.C. 78f(b)(5).

[14] *See* Exchange Act Release No. 31511 (Nov. 24, 1992), 57 FR 56973 (Dec. 2, 1992) (amending the SEC's net capital rule and explaining the staff's interpretation that to avoid more stringent capital requirements under the rule, an introducing firm must ''have in place a clearing agreement with a registered broker-dealer that states, for the purposes of SIPA and the Commission's financial responsibility rules, customers are customers of the clearing, and not the introducing, firm. Furthermore, the clearing firm must issue account statements directly to customers. Each statement must contain the name and telephone number of a responsible individual at the clearing firm whom a customer can contact with inquiries regarding the customer's account.''). *See also* NYSE Interpretation Handbook at 4105 (carrying organization phone number may appear on the back of the customer account statement, but, if so, it must be in ''bold'' or ''highlighted'' text).

[15] 15 U.S.C. 78s(b)(2).

[16] In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54912; File No. SR–NYSE–2006–110]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating to the Retroactive Application of an Increase to Its Linkage Order Fee

December 11, 2006.

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 December 6, 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 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 retroactively apply, as of December 1, 2006, an increase from $0.00025 to $0.000275 per share in the fee (''Linkage Order Fee'') it charges its member organizations in connection with orders in equities executed in another market pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage (''Linkage Plan'').

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.[3]

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

[2] 17 CFR 240.19b–4.

[3] The text of the proposed rule change was filed as Exhibit No. 5 to the Exchange's December 4, 2006, filing (see SR–NYSE–2006–108), which established the revised Linkage Order Fee as immediately effective on that date.

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

In its filing with the Commission, NYSE 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

The Exchange proposes to retroactively apply, as of December 1, 2006, an increase from $0.00025 to $0.000275 per share in the Linkage Order Fee it charges its member organizations in connection with orders in equities executed in another market pursuant to the Linkage Plan. This increase in the Linkage Order Fee became effective on Monday, December 4, 2006 pursuant to a previous rule change submitted by the Exchange.[4] The Linkage Order Fee was increased to $0.000275 to set it at the same level as the regular equity transaction fee, which was increased to that level as of December 1, 2006.[5] The current filing simply applies the revised Linkage Order Fee to transactions that occurred on December 1, 2006, which is the only business day with respect to which the Linkage Order Fee and the regular equity transaction fee have not been harmonized by the previous filing. The Exchange wishes to harmonize the Linkage Order Fee payable on transactions executed through the Linkage on December 1, 2006, with the regular equity transaction fee payable on that day because the difference in the amount payable by customers would be immaterial, but the Exchange would incur significant costs in identifying those transactions which should be charged the lower fee rate.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6[7] of the Act in general, and furthers the objectives of Section 6(b)(4)[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes that it is equitable to retroactively increase the Linkage Order Fee payable on transactions executed through the Linkage on December 1, 2006, to harmonize it with the regular equity transaction fee payable on that day, because the difference in the amount payable by customers would be immaterial, but the Exchange would incur significant costs in identifying those transactions which should be charged the lower fee rate.

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

Written comments were neither solicited nor received.

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 Exchange 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.* Please include File Number SR–NYSE–2006–110 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–NYSE–2006–110. 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 the 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–2006–110 and should be submitted on or before January 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

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[4] *See* id.

[5] *See* Exchange Act Release No. 54856 (December 1, 2006); 71 FR 71215 (December 8, 2006) (SR–NYSE–2006–106).

[6] The Exchange estimates that the difference in the amount of Linkage Order Fees payable under the old rate as compared to the proposed revised rate by customers for trades executed on December 1, 2006, would be less than $2,000.00. Telephone conversation between John Carey, Assistant General Counsel, NYSE, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, December 7, 2006.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 17 CFR 200.30–3(a)(12).