

Exchange's FESC initiative. Under NYSE Rule 123(e), before an order is represented or executed on the Floor of the Exchange, a member must assign a unique identifier to it. This identifier will stay with the order throughout its processing life, through cancellation or execution.

Paragraph (c) of proposed NYSE Rule 132B requires that certain information be recorded when an order is transmitted to another department within the member, to another member, or to a non-member. When transmitted to another department, the following must be recorded: the order identifier, identification of the member, the date of receipt or origination of the order, the identification of the department to which the order was transmitted and the date and time the order was received by the department.

Paragraph (c)(2) contains requirements for both receiving and transmitting members when an order is transmitted from one member to another. The transmitting member must record whether the order was transmitted manually or electronically, the order identifier, market participant symbol for both receiver and transmitter, date of origination or receipt by the transmitting member, the date and time the order was transmitted, the number of shares so transmitted and, if the order is included in a bunched order, the bunched order route indicator assigned by the member. A bunched order is any aggregation of two or more orders. The receiving member must record whether the transmitted order was received manually or electronically, the order identifier, and the identifier of the member transmitting the order.

Exceptions to the requirement for recording information for both the transmitting and receiving member are contained in proposed NYSE Rules 132B(c)(2)(C) and 132(c)(2)(D). These exceptions are for orders transmitted to the Floor via SuperDOT, the Exchange's automated order routing system, and orders transmitted to another member on the Floor of the Exchange, where the order was entered into an Exchange data base pursuant to NYSE Rule 123(e), the Exchange's front-end systemic order capture requirements. In light of the objective of being able to identify an order from start to finish, both the receiving and transmitting members must record the order identifier and the identity of the member transmitting and receiving the order.

For orders transmitted to a non-member, the member must record that fact as well as the order identifier, member's identity, date of receipt or

origination of the order, date and time of the order, number of shares, and, if applicable, any bunched order route indicator.

If an order is modified, proposed NYSE Rule 132B(d) requires that the order identifier (and any new order identifier, if applicable), date and time of modification and date the original order was received or originated be recorded. If an order is cancelled, (d)(2) requires the date and time of cancellation, whether the customer or the member cancelled the order, and the number of shares cancelled if there is a partial execution. This is in addition to the basic requirements to record the order identifier, identity of the member and the date and time when the order was first received or originated.

The same exceptions with respect to SuperDOT orders and orders on the Floor entered into a database under NYSE Rule 123(e) will apply to modifications and cancellations. Modification and cancellation will be elements captured in these systems and will not need to be captured by the member on the Floor.

Paragraph (f) of proposed NYSE Rule 132B provides an exception to the Rule for proprietary transactions of specialists, Registered Competitive Market Makers, and Competitive Traders. The transactions these members effected for their own accounts are not orders as contemplated by the Rule. Information with respect to these transactions is recorded and maintained by these members pursuant to the recordkeeping requirements of Exchange¹⁵ and Commission Rules.¹⁶

iv. NYSE Rule 132C

Proposed NYSE Rule 132C requires members, upon request, to transmit order tracking data to the Exchange. This parallels the approach used under NYSE Rule 410A (Automated Submission of Trading Data) for submission of transaction information. The Exchange will make requests for order tracking information on an as-needed basis in order to carry out its surveillance and regulatory functions.¹⁷ The NYSE has represented that this data will be used for regulatory purposes only and will not be used by the Exchange to gain an unfair competitive

advantage over other market participants.

Members will be required to submit the data in an automated format. It is the Exchange's experience that submission of data by request has proven to be effective and efficient from both the Exchange's and its members' viewpoint.

Integration with Existing Exchange Requirements

With the implementation of NYSE Rule 132B, Exchange rules will provide a complete audit trail of orders from receipt through execution. As mentioned above, NYSE Rule 123(e) provides for the systemic capture of orders before they are represented or executed on the Floor. This includes the assignment of the unique identifier to each order. In addition, the Exchange will require that all orders be systemically delivered to its Floor, thus providing an electronic capture of order data from receipt or origination of an order. The audit trail requirements of proposed NYSE Rule 132B require information on the execution and clearance of transactions, the so-called "back end" of orders. With the addition of NYSE Rule 123(f), which requires recordation of the unique order identifier as part of the execution report, the Exchange represents that an order could be tracked throughout the life of the order. The unique order identifier would link the execution report to the original order.

Violation of Order Tracking Requirements

If, upon investigation, the Exchange determines that a violation of the Rule proposed to be amended or adopted herein has occurred, the Exchange will take appropriate action under the procedures of its disciplinary rules, including NYSE Rule 476. If a particular violation is deemed minor in nature, this could include issuance of a cautionary letter.¹⁸

Effective Date

The provisions of the rules and amendments proposed herein will become effective 15 months after the date of this order, except that the requirement in NYSE Rule 123 that copies of execution reports be entered into an Exchange database will become effective six months after the date of this order.¹⁹

¹⁵ See NYSE Rules 123 and 410.

¹⁶ See CFR 240.17a-3.

¹⁷ The Exchange does not believe that it is cost-effective to store all order tracking data collected from members on a daily basis, and that members should be required to submit data to the NYSE on an "as requested" basis rather than daily as a matter of routine.

¹⁸ In the future, the Exchange may consider seeking Commission approval to add these rules to the list of rules contained in NYSE Rule 476A, which provides for the imposition of fines for minor violations of rules.

¹⁹ See note 7, *supra*, Amendment No. 4.