

**MEMO# 22186**

February 5, 2008

# **NYSE Proposes to Rescind Rule Limiting Member Trading Because of Block Positioning**

[22186]

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TO: EQUITY MARKETS ADVISORY COMMITTEE No. 5-08  
SEC RULES MEMBERS No. 11-08 RE: NYSE PROPOSES TO RESCIND RULE LIMITING  
MEMBER TRADING BECAUSE OF BLOCK POSITIONING

The Securities and Exchange Commission has published for comment a proposed rule change filed by the NYSE to rescind Rule 97, which limits a member's trading when it holds a long position in a security as a result of a block transaction with a customer. [\[1\]](#)

Specifically, NYSE Rule 97 prevents a member organization that holds a long position in a security that resulted from a block transaction with a customer from effecting, within twenty minutes of the close of trading on the NYSE, a purchase on a "plus" tick in that security at a price higher than the lowest price at which any block was acquired in a previous transaction on that day, if the person responsible for the entry of such order to purchase the security had knowledge of the block position. NYSE Rule 97 was adopted to address concerns that a member organization might engage in manipulative practices to enable the position acquired in the course of block positioning to be liquidated at a profit, or to maintain the market at the price at which the position was acquired. Since its adoption, NYSE Rule 97 has been amended and narrowed several times to reflect changes in trading on the Exchange. Most recently, the NYSE amended Rule 97 in July 2007 to create an exemption from the rule to resolve a conflict between compliance with Rule 97 and Regulation NMS. [\[2\]](#)

The Release states that the proposed rule change would rescind NYSE Rule 97 because in today's trading environment it no longer addresses the concerns that prompted its implementation. Moreover, the Release states that NYSE Rule 97 "hinders the ability of member organizations to legitimately conduct their business and facilitate their customers' orders." The Release also states that the NYSE would continue to surveil NYSE-listed securities for possible manipulative activity that could be in violation of federal securities laws or Exchange Rules.

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#### **endnotes**

[1] See SEC Release No. 57236 (January 30, 2008) ("Release"). The Release may be found at <http://www.sec.gov/rules/sro/nyse/2008/34-57236.pdf>. Comments will be due to the SEC twenty-one days after the Release is published in the Federal Register.

[2] See SEC Release No. 56024 (July 6, 2007), 72 FR 38643 (July 13, 2007).

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