holding company. Neither RTDC, nor any of the Controlled Companies, has any history of disposing of securities it owns or otherwise treating those securities as investment assets, rather than as the means through which RTDC operates and controls its telecommunications business. RTDC further states that it is not holding any of its current interests in the RTDC Ventures with a view of future sale.

b. *Public Representations of Policy.* RTDC states that it has never held itself out as an investment company within the meaning of the Act, and has not made any public representations that would indicate that RTDC is in any business other than that of acquiring, owning, developing, owning and operating a telecommunications business in selected markets outside the United States. RTDC asserts that it and its parent companies have consistently stated in press releases, private placement memoranda and periodic reports filed with the Commission that it is a telecommunications company that provides wireless telecommunications services in Russia.

c. *Activities of Officers and Directors.* RTDC states that its principal officers and directors have significant experience in pioneering the development of, acquiring interests in and managing telecommunications companies both domestically and in markets outside the United States. RTDC's other officers, who are responsible for various technical, operational, finance, legal and related matters, each have in-depth experiences in their respective areas. RTDC states that its officers and directors are primarily involved in, and responsible for, planning, development, engineering, operations, marketing, finance and administrative matters for RTDC and the RTDC Ventures. None of RTDC's principal officers or directors, with the exception of the Chief Financial Officer, Controller and Treasurer of RTDC, spends any time on securities investment activities. This person, who is primarily occupied with managing and supporting the budget, accounting, financing and administrative efforts of RTDC's telecommunications business, spends less than 1% of his time on cash management and performs no other activities that involve securities investment matters.

d. *Nature of Assets.* RTDC states that, as of June 30, 2000, the Controlled Companies represented approximately 86%, and MCC approximately 6%, of its total assets, consolidated with its wholly-owned subsidiaries. Less than 1% of RTDC's total assets, consolidated with its wholly-owned subsidiaries, consisted of cash and cash management investments. Approximately 6.5% of RTDC's total assets consisted of accounts receivable, prepaid expenses, property and equipment.

e. *Sources of Income.* RTDC states that the Controlled Companies typically generate little or no income for RTDC in the form of dividends and have not achieved consistent profitability that fairly reflects their relative importance to RTDC's overall business. RTDC asserts that it is more appropriate to analyze RTDC's business by evaluating its proportionate share of the revenues of the Controlled Companies and MCC in light of RTDC's total revenues. RTDC states that, for the past year ended on December 21, 2000, its wholly-owned subsidiaries and the Controlled Companies represented approximately 73%, and MCC represented approximately 27% of RTDC's total revenues. For the six months ending June 30, 2001, its wholly-owned subsidiaries and the Controlled Companies represented approximately 79%, and MCC represented approximately 21% of RTDC's total revenues.[4]

7. RTDC thus asserts that it qualifies for an order under section 3(b)(2) of the Act.

B. Section 45(a) of the Act

1. Section 45(a) provides that information contained in any application filed with the Commission under the Act shall be made available to the public, unless the Commission finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors. RTDC requests an order under section 45(a) of the Act granting confidential treatment to information submitted in Exhibit G to the application pertaining to the value of RTDC's interests in individual RTDC Ventures.

2. RTDC submits that the data disclosed in the application is sufficient to fully apprise any interested member of the public of the basis for the relief requested under section 3(b)(2) of the Act. RTDC states that the application discloses the actual dollar values of RTDC's total assets, receivables, cash, cash equivalents, Controlled Companies and MCC (on an aggregate basis), and other assets. RTDC's interests in the Controlled Companies and MCC are also disclosed as an approximate percentage of RTDC's total assets within categories that correspond to the relevant categories set out in section 3(b)(2) of the Act. RTDC submits that given the ranges of the values within the categories presented and the nature of the analysis upon which section 3(b)(2) determinations are based, more specific values are not likely to be relevant.

3. RTDC also believes that public disclosure of the value of its interests in the Controlled Companies and MCC could result in harm to RTDC and its direct and indirect shareholders because it could undermine RTDC's negotiating position in the event RTDC were to find it necessary or desirable to negotiate a sale of all or part of its interests in a RTDC Venture. RTDC is also seeking to negotiate purchases of additional shares in RTDC Ventures in which it does not already own a majority interest. For these reasons, RTDC believes that public disclosure of the information in Exhibit G is neither necessary nor appropriate in the public interest or for the protection of investors.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[4] For purposes of this analysis, revenues of the wholly-owned subsidiaries, the Controlled Companies and MCC were attributed to RTDC in proportion to RTDC's interests in these entities. RTDC consolidates its wholly-owned subsidiaries and AKOS, a Controlled Company in which RTDC holds a 92% interest, when preparing financial statements in accordance with Generally Accepted Accounting Principles (''GAAP''). RTDC uses the equity method of accounting for MCC and the Controlled Companies, except for AKOS. Under GAAP, the equity method of accounting means that each entity's income or losses, but not revenues, are attributed to RTDC based on RTDC's ownership interest in that entity.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45003; File No. SR–NYSE–31]

Self Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Amendment Exchange Rule 387 To Apply to Member or Member Organizations

October 30, 2001.

On August 21, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''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 to amend NYSE Rule 387 (''COD Orders'')

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

[2] 17 CFR 240.19b–4.

in order to clarify the Rule's application to all ''member[s]'' and ''member organization[s].''

The proposed rule change was published for comment in the **Federal Register** on September 25, 2001.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act[6] because, in clarifying the application of Exchange Rule 387 to both ''member[s]'' and ''member organization[s],'' it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling and facilitating transactions in securities.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–NYSE–2001–31) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27762 Filed 11–5–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45004; File No. SR–NYSE–2001–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Amending NYSE Rule 72

October 31, 2001.

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 July 3, 2001, 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 Exchange proposes to amend NYSE Rule 72(b) to (i) permit clean crosses of 100,000 shares or more when a member organization is facilitating a customer order; and (ii) provide that a specialist may not effect a proprietary transaction to break up a cross being effected under the Rule. The text of the proposed rule change is below. Proposed new language is in italics.

Priority and Precedence of Bids and Offers

Rule 72I. Bids.—Where bids are made at the same price, the priority and precedence shall be determined as follows:

Priority of First Bid

(a) Except as provided in paragraph (b) below, when a bid is clearly established as the first made at a particular price, the maker shall be entitled to priority and shall have precedence on the next sale at that price, up to the number of shares of stock or principal amount of bonds specified in the bid, irrespective of the number of shares of stock or principal amount of bonds specified in such bid.

Priority of Agency Cross Transactions

(b) When a member has an order to buy and an order to sell an equivalent amount of the same security, and both orders are of 25,000 shares or more and are for the accounts of persons who are not members or member organizations, *or both orders are of 100,000 shares or more, and one side of the proposed transaction is, in whole or any part thereof, for the account of a member or member organization that is facilitating a customer,* the member may ''cross'' those orders at a price at or within the prevailing quotation. The member's bid or offer shall be entitled to priority at such cross price, irrespective of pre-existing bids or offers at that price. The member shall follow the crossing procedures of Rule 76, and another member may trade with either the bid or offer side of the cross transaction only to provide a price which is better than the cross price as to all or part of such bid or offer. A member who is providing a better price to one side of the cross transaction must trade with all other market interest having priority at that price before trading with any part of the cross transaction. No member may break up the proposed cross transaction, in whole or in part, at the cross price. *No specialist may effect a proprietary transaction to provide price improvement to one side or the other of a cross transaction effected pursuant to this paragraph.* A transaction effected at the cross price is reliance on this paragraph shall be printed as ''stopped stock''.

When a member effects a transaction under the provisions of this paragraph, the member shall, as soon as practicable after the trade is completed, complete such documentation of the trade as the Exchange may from time to time require.

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 Exchange 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

A member who has an order to buy and an order to sell an equivalent amount of the same security generally executes the orders against each other in what is commonly referred to as a ''cross'' transaction. In executing the cross, the member must make a public bid and offer on behalf of both sides of the cross in accordance with the provisions of Exchange Rule 76. A member who tries to execute a cross transaction in this manner may run the risk that other members may ''break up'' the proposed cross by trading with either the bid or offer side of the transaction as permitted under auction market procedures as codified in Exchange Rule 72.

In 1992, the Commission approved an amendment to Exchange Rule 72 to permit a member to execute certain types of cross transactions that are not

[3] *See* Securities Exchange Act Release No. 44811 (September 18, 2001), 66 FR 49054 (September 25, 2001).

[4] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.