

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60409; File No. 4-587)

July 30, 2009

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Notice of Filing and Order Declaring Effective a Proposed Plan for the Allocation of Regulatory Responsibilities Among the Financial Industry Regulatory Authority, Inc., New York Stock Exchange LLC, NYSE Regulation, Inc. and NYSE Amex LLC

Notice is hereby given that the Securities and Exchange Commission (“Commission” or “SEC”) has issued an Order pursuant to Section 17(d) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 17d-2 thereunder² approving and declaring effective a plan dated December 15, 2008 for the allocation of regulatory responsibilities (“17d-2 Plan” or the “Plan”) filed with the Commission on July 29, 2009 pursuant to Rule 17d-2 of the Act, by the New York Stock Exchange LLC (“NYSE”), NYSE Regulation, Inc. (“NYSE Regulation”), NYSE Amex LLC (“NYSE Amex”), and the Financial Industry Regulatory Authority, Inc. (“FINRA”) (each individually, a “Party” and collectively, the “Parties”).

I. Introduction

Section 19(g)(1) of the Act,³ among other things, requires every self-regulatory organization (“SRO”) registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO’s own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.⁴ Without this relief, the statutory obligation of each individual SRO could result in a

¹ 15 U.S.C. 78q(d).

² 17 CFR 240.17d-2.

³ 15 U.S.C. 78s(g)(1).

⁴ 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (“common members”). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act⁵ was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.⁶ With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d-1 and Rule 17d-2 under the Act.⁷ Rule 17d-1 authorizes the Commission to name a single SRO as the designated examining authority (“DEA”) to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.⁸ When an SRO has been named as a common member’s DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d-1 deals only with an SRO’s obligations to enforce member compliance with financial responsibility requirements. Rule 17d-1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

⁵ 15 U.S.C. 78q(d)(1).

⁶ See Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Session 32 (1975).

⁷ 17 CFR 240.17d-1 and 17 CFR 240.17d-2, respectively.

⁸ See Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d-2 under the Act.⁹ Rule 17d-2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d-2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d-2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. Proposed Plan

On January 17, 2008, NYSE Euronext, Inc. and The Amex Membership Corporation, a New York not-for-profit company and parent of the American Stock Exchange LLC (“Amex”) entered into an Agreement and Plan of Merger, whereby NYSE Euronext would acquire Amex and as a result, Amex would become a wholly-owned subsidiary of NYSE Group, Inc. and would be renamed “NYSE Amex.”¹⁰ In connection with the merger, the Commission approved proposed rule changes to permit the merger and related transactions, including the adoption of an operating agreement for NYSE Amex.¹¹ The Commission also approved an NYSE Amex rule

⁹ See Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

¹⁰ On March 13, 2009, the exchange then known as NYSE Alternext U.S. LLC filed for immediate effectiveness a proposal to change its name to NYSE Amex LLC. See Securities Exchange Act Release No. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009)(SR-NYSEALTR-2009-24).

¹¹ See Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR-Amex-2008-62 and SR-NYSE-2008-60).

proposal to adopt new rules governing member organizations, member firm conduct, and equity trading.¹² NYSE Amex’s new membership and member conduct rules are closely modeled on, and largely identical to, existing NYSE membership and firm conduct rules,¹³ many of which are “common rules” under the existing 17d-2 plan between NYSE and FINRA.¹⁴

The purpose of the Plan is to add NYSE Amex as a party to the existing 17d-2 plan by and among National Association of Securities Dealers, Inc. (“NASD”) (n/k/a FINRA), NYSE, and NYSE Regulation without altering the scope of that plan. Accordingly, the proposed 17d-2 Plan is intended to reduce regulatory duplication for firms that are common members of either NYSE and FINRA or NYSE Amex and FINRA. Pursuant to the proposed 17d-2 Plan, FINRA would assume certain examination, enforcement, and surveillance responsibilities for members of either NYSE and FINRA or NYSE Amex and FINRA as well as the associated persons therewith (“Common Members”) with respect to certain rules.

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is Exhibit 1 (the “List of Common Rules”) that lists every NYSE rule, and NYSE Amex Equities rule, for which FINRA would bear responsibility under the Plan for overseeing and enforcing with respect to Common Members.

Specifically, under the 17d-2 Plan, FINRA would assume examination and enforcement responsibility relating to compliance by Common Members with the rules of NYSE and NYSE Amex that are substantially similar to the applicable rules of FINRA (“Common Rules”).¹⁵ The

¹² See Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex-2008-63).

¹³ See *id.* at 58995.

¹⁴ See *id.*; See also Securities Exchange Act Release No. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order declaring effective the plan between NYSE and FINRA).

¹⁵ See paragraph 1(a) of the proposed 17d-2 Plan.

17d-2 Plan would not include the application of any Common Rule to the extent that it pertains to matters covered by a separate agreement under Rule 17d-2.¹⁶ In the event that a Common Member is the subject of an investigation, examination, or enforcement proceeding, the 17d-2 Plan acknowledges that any Party may, in its discretion, exercise concurrent jurisdiction.¹⁷

While NYSE Amex has adopted a number of NYSE member firm conduct rules, NYSE Amex equities rules do not include all NYSE rules.¹⁸ Accordingly, certain Common Rules between NYSE and FINRA that have not been adopted by NYSE Amex (e.g., NYSE Rule 414 and the NYSE Series 700 Rules) will not be Common Rules among NYSE, NYSE Amex, and FINRA. In addition, certain other NYSE Amex equities trading rules that qualify as Common Rules have been modified to reflect the difference in products trading at NYSE Amex (e.g., NYSE Amex Equities Rules 345 (Employees – Registration, Approval, Records) and 408 (Discretionary Power in Customers’ Accounts)).

Under the Plan, each of NYSE and NYSE Amex would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving the systems

¹⁶ See, e.g., the Multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among the American Stock Exchange LLC, the BATS Exchange, Inc., the Boston Stock Exchange, Inc., the CBOE Stock Exchange, LLC, the Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., the International Securities Exchange, LLC, the NASDAQ Stock Market LLC, the National Stock Exchange, Inc., the New York Stock Exchange, LLC, NYSE Arca Inc., NYSE Regulation, Inc., and the Philadelphia Stock Exchange, Inc., approved by the Commission on October 17, 2008, as may be amended from time to time, involving the allocation of regulatory responsibilities with respect to common members for compliance with the surveillance, investigation, and enforcement of common insider trading rules. See Securities Exchange Act Release No. 58806 (October 17, 2008), 73 FR 63216 (October 23, 2008); see also paragraph 20 of the proposed 17d-2 Plan.

¹⁷ See paragraph 7 of the proposed 17d-2 Plan.

¹⁸ For example, NYSE Amex has not adopted rules based on the following NYSE products: Cabinet Securities (NYSE Rule 85), Options (NYSE Series 700 Rules), Index and Currency Warrants (NYSE Rule 414), and Basket Trades (NYSE Series 800 Rules).

and facilities of the respective exchange. Each of NYSE and NYSE Amex also would retain regulatory responsibility for examinations of conduct or action of a Common Member that is not covered under the Common Rules and/or by related federal regulations or laws; processing of applications for membership in the respective exchange; qualification and registration of member firm personnel to effect transactions on the floor of the exchange; and regulatory responsibility for the application of any Common Rule as it pertains to matters other than member firm regulation.¹⁹

The text of the proposed 17d-2 Plan is as follows:

* * * * *

¹⁹ See paragraphs 2(d) and 2(e) of the proposed 17d-2 Plan.

**AGREEMENT BY AND AMONG FINANCIAL INDUSTRY REGULATORY
AUTHORITY, INC., NEW YORK STOCK EXCHANGE LLC, NYSE REGULATION,
INC., AND NYSE AMEX LLC PURSUANT TO SEC RULE 17d-2 PROMULGATED BY
THE SECURITIES AND EXCHANGE COMMISSION UNDER THE
SECURITIES EXCHANGE ACT OF 1934**

This Agreement, (“Agreement”) by and among Financial Industry Regulatory Authority, Inc., a Delaware non-stock, not-for-profit membership corporation (“FINRA”), New York Stock Exchange LLC, a New York limited liability company (“NYSE LLC”), NYSE Regulation, Inc., a New York not-for-profit corporation and an indirectly wholly-owned subsidiary of NYSE Group, Inc. (“NYSE Regulation”), and NYSE Amex LLC (“NYSE Amex”), a Delaware limited liability company and wholly-owned subsidiary of NYSE Group, Inc. (herein collectively referred to as the “Participants”), dated as of December 15, 2008, pursuant to the provisions of Rule 17d-2 promulgated by the Securities and Exchange Commission (the “Commission”) under the Securities Exchange Act of 1934, as amended (the “Act”), which authorizes agreements between self-regulatory organizations for plans to reduce or eliminate regulatory duplication.

This Agreement amends and restates the agreement entered into among National Association of Securities Dealers, Inc. (“NASD” n/k/a FINRA), NYSE LLC, and NYSE Regulation on July 30, 2007, entitled “Agreement between National Association of Securities Dealers, Inc., New York Stock Exchange LLC, and NYSE Regulation, Inc., pursuant to SEC Rule 17d-2 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934” (the “July 30, 2007 Agreement”).

WHEREAS, NYSE Euronext, a Delaware corporation and the parent entity of NYSE Group (as hereinafter defined), and The Amex Membership Corporation, a New York not-for-profit corporation and parent company of the American Stock Exchange LLC (“Amex”), entered into an Agreement and Plan of Merger, dated January 17, 2008 (“Merger Agreement”), whereby, through a series of mergers, on October 1, 2008, NYSE Euronext acquired Amex (“Merger

Transaction”) and as a result of these mergers, Amex became a wholly-owned subsidiary of NYSE Group and was renamed NYSE Amex; and

WHEREAS, the Participants are desirous of reducing duplication in the regulation of broker-dealer firms and associated persons therewith that are members of NYSE, NYSE Amex, and FINRA (“Common Members”) and allocating regulatory responsibilities with respect to such Common Members and for which they are subject to Common Rules (as hereinafter defined); and

WHEREAS, the Participants intend that FINRA will perform various functions formerly performed by NYSE Regulation; and

WHEREAS, the Participants intend this Agreement to describe the functions to be performed by FINRA pursuant to Section 17(d) of the Act and Rule 17d-2 promulgated thereunder, and intend to file such with the Commission for its approval.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained hereinafter, and other good and valuable consideration, the Participants hereby agree as follows:

1. Assumption of Regulatory Responsibilities.

(a) On the effective date, which shall be the date that the Commission has declared effective this Agreement, FINRA will assume regulatory responsibilities for all Common Members for the list of rules attached as Exhibit 1 (“Common Rules”) to this Agreement and made part hereof including examination, enforcement and surveillance responsibilities for such Common Rules to the extent that such responsibilities involve member firm regulation (the “Regulatory Responsibilities”). The Participants agree that the NYSE and NYSE Amex rules listed on Exhibit 1 are identical or substantially similar to the corresponding FINRA rule.

(b) FINRA shall not charge NYSE or NYSE Amex for performing the Regulatory Responsibilities except for the reasonable notification expenses and travel and out-of-pocket expenses, as provided in paragraphs 4(c) and 5.

2. Scope of Regulatory Responsibilities.

(a) Whenever a Participant proposes to make a change to the substance of any of the Common Rules, before filing such proposal with the SEC, it shall inform the other Participants to determine whether the other Participants will agree to promptly propose a conforming change to its version of the Common Rule. In the event the Participants do not agree to propose conforming changes, the Participants agree that they will file with the SEC for approval an amendment to this Agreement deleting such rule from the list of Common Rules, such amendment to be effective no earlier than the date of SEC approval of the change to the Common Rule proposed by the NYSE, NYSE Amex, or FINRA, as the case may be.

(b) Common Rulebook. FINRA intends to create a single set of Rules to replace the FINRA NASD Rules and the NYSE Rules incorporated by FINRA. There is a substantial likelihood that each FINRA rule that would replace an existing NYSE Rule incorporated by FINRA and applicable to Common Members would be substantially different from the then-existing NYSE Rule or NYSE Amex Rule. In such case, pursuant to paragraph 2(a) above, NYSE and NYSE Amex would need to file with the Commission a proposal to amend their respective corresponding Rules to conform to the new FINRA Rule. As provided in Section 13, the Participants may make certain amendments to the list of Common Rules in Exhibit 1 without constituting an amendment to this Agreement.

(c) Each year within 30 days of the anniversary date of Commission approval of this Agreement, or more frequently if required by changes in the rules of a Participant, NYSE and NYSE Amex

will submit to FINRA an updated list of Common Rules for review. This updated list may add to Exhibit 1 rules that qualify as Common Rules, shall delete from Exhibit 1 rules of that Participant that are no longer identical or substantially similar to the Common Rules, and shall confirm that the remaining rules of the Participant included on Exhibit 1 continue to qualify as Common Rules. Within 30 days from the date that FINRA has received revisions to Exhibit 1, FINRA shall confirm in writing to NYSE and NYSE Amex whether the rules listed in Exhibit 1 are Common Rules.

(d) Notwithstanding anything contained in this Agreement to the contrary, NYSE shall retain regulatory responsibility for the following (collectively, the “NYSE Retained Responsibilities”):

- (i) Examinations of conduct or action by a Common Member that is otherwise covered by NYSE rules that are not Common Rules (the “NYSE-only Rules”) and/or by related federal laws or regulations;
- (ii) Surveillance of, and investigation and enforcement with respect to, conduct or action undertaken in connection with trading on or through the systems and facilities of the NYSE, or conduct or actions by a Common Member that are otherwise covered by NYSE-only Rules, additionally, in all such cases, surveillance, investigation and enforcement with respect to how such conduct may constitute a violation of applicable federal laws or regulations;
- (iii) Processing of applications for trading licenses or other indicia of membership in the NYSE, including without limitation applying NYSE’s rules relating to the rights and obligations of Common Members that hold a trading license to effect transactions on the floor of the NYSE or through any systems or facilities of the NYSE;

- (iv) Qualification and registration of member firm personnel to effect transactions or work as Floor employees on the Floor of the NYSE, pursuant to the NYSE's applicable rules regarding qualifications and registration; and
 - (v) The application of any Common Rule as it pertains to matters other than member firm regulation, including matters relating to NYSE's exclusive responsibility for (ii)-(iv) above (the "Non-Exclusive Common Rules"). The Participants have identified the Non-Exclusive Common Rules, which are specifically designated on Exhibit 1, as those rules for which both NYSE and FINRA will bear responsibility when performing their respective regulatory responsibilities.
- (e) Notwithstanding anything contained in this Agreement to the contrary, NYSE Amex shall retain regulatory responsibility for the following (collectively, the "NYSE Amex Retained Responsibilities"):
- (i) Examinations of conduct or action by a Common Member that is otherwise covered by NYSE Amex rules that are not Common Rules (the "NYSE Amex-only Rules") and/or by related federal laws or regulations;
 - (ii) Surveillance of, and investigation and enforcement with respect to, conduct or action undertaken in connection with trading on or through the systems and facilities of the NYSE Amex, or conduct or actions by a Common Member that are otherwise covered by NYSE Amex-only Rules, additionally, in all such cases, surveillance, investigation and enforcement with respect to how such conduct may constitute a violation of applicable federal laws or regulations;
 - (iii) Processing of applications for trading licenses or other indicia of membership in the NYSE Amex, including without limitation applying NYSE Amex rules

relating to the rights and obligations of Common Members that hold a trading license to effect transactions on the floor of the NYSE Amex or through any systems or facilities of the NYSE Amex;

- (iv) Qualification and registration of member firm personnel to effect transactions or work as Floor employees on the Floor of the NYSE Amex, pursuant to the NYSE Amex's applicable rules regarding qualifications and registration; and
- (v) The application of any Common Rule as it pertains to matters other than member firm regulation, including matters relating to NYSE Amex's exclusive responsibility for (ii)-(iv) above (the "Non-Exclusive Common Rules"). The Participants have identified the Non-Exclusive Common Rules, which are specifically designated on Exhibit 1, as those rules for which both NYSE Amex and FINRA will bear responsibility when performing their respective regulatory responsibilities.

3. Violations. (a) Should FINRA become aware of potential violations of another Participant's rules that are not within the scope of the Regulatory Responsibilities, FINRA will promptly notify the other Participant of those potential violations, and such matters will be handled by the Participant responsible for those regulatory responsibilities.

(b) Should a Participant other than FINRA become aware of potential violations of Common Rules, the Participant will promptly notify FINRA of those potential violations, and such matters will be handled by FINRA as provided in this Agreement.

4. Applications for, Qualification for, and Termination of, Membership. (a)(i) Common Members subject to this Agreement will be required to submit to FINRA, and FINRA will be responsible for processing, and acting upon, all applications (each an "Application")

submitted on behalf of the Common Member and any individual associated with such Common Member required to be approved by the rules of NYSE, NYSE Amex, and FINRA (collectively, an “Applicant”).

(ii) Promptly upon receipt of any complete Application, but in any event no later than seven (7) business days thereafter, FINRA shall advise NYSE and NYSE Amex of the qualifications and registration status of the Applicant required to be approved pursuant to the rules of NYSE, NYSE Amex, and FINRA. The NYSE and NYSE Amex each reserve the right to require additional qualifications or registrations prior to approving an Applicant as a member of the NYSE and NYSE Amex, pursuant to the process described in NYSE and NYSE Amex rules.

(b) FINRA shall promptly advise NYSE and NYSE Amex of information regarding changes in status of any person required to be approved pursuant to the rules of NYSE, NYSE Amex, and FINRA that relates to a statutory disqualification, involuntary termination from employment or any other submission made to FINRA pursuant to Incorporated NYSE Rule 351(a)-(c). The NYSE and NYSE Amex each reserve the right to disqualify a member pursuant to the process described in their respective rules.

(c) Common Members will be required to send to FINRA all letters, termination notices or other material respecting persons required to be approved pursuant to the rules of NYSE, NYSE Amex, and FINRA. When as a result of processing said submissions FINRA becomes aware of a statutory disqualification as defined in the Act with respect to a Common Member or person associated with a Common Member, FINRA will determine pursuant to Section 15A(g) or 6(c) of the Act the acceptability or continued acceptability of the person to whom such disqualification applies but will not make a determination regarding NYSE or NYSE Amex membership or participation, or association of a person with an NYSE or NYSE Amex member.

FINRA shall advise the other Participants in writing of its actions in this regard. The other Participants shall, within 30 days of receiving such information from FINRA, determine whether to permit a Common Member that has been determined to be statutorily disqualified by FINRA from becoming or remaining an NYSE or NYSE Amex member or a participant, or a person associated with a member. The other Participant will advise FINRA of its decision. The other Participant will reimburse FINRA for reasonable expenses incurred in notifying a Participant of FINRA's decision regarding a statutory disqualification under Section 15A(g) or Section 6(c) of the Act.

FINRA will also be responsible for processing and, if required, acting upon all requests for the opening, address changes, and terminations of branch offices by Common Members and any other applications required of Common Members under the Common Rules.

5. Information Sharing. The Participants agree to share information as follows:

(a) General.

A Participant shall promptly furnish to the other Participants any information that it determines indicates possible financial or operational problems that may affect the continued ability of any Common Member to conduct business.

(b) Reports and Other Documents.

A Participant shall upon request promptly make available to the other Participants at no cost any existing financial, operational, or related report filed with that Participant by a Common Member, as well as any existing files, information on customer complaints, termination notices, copies of an examination report, examination workpapers, investigative material, enforcement referrals or other documents involving compliance with the federal securities laws and regulations and the rules of the Participants by the Common Member, or other documents in the

possession of the Participant relating to the Common Member as necessary to assist the other Participants in fulfilling their Retained Responsibilities.

(c) Third-party Complaints.

If a Participant receives a copy of a complaint from any third-party, including but not limited to a report from a Common Member pursuant to FINRA Incorporated NYSE Rule 351 or NYSE Amex Equities Rule 351, relating to possible violations by a Common Member or persons associated with a Common Member that is not within the scope of that Participant's regulatory responsibilities and is within the scope of another Participant's regulatory responsibilities, that Participant shall promptly forward to the other Participant copies of such complaints. The Participant with the regulatory responsibilities vis-à-vis such complaint shall have responsibility to review and take any appropriate action with respect to such complaint.

(d) Information on Formal and Informal Discipline.

A Participant shall promptly make available to the other Participants information on (1) formal disciplinary actions taken by that Participant involving a Common Member or persons associated with a Common Member; and (2) informal disciplinary actions taken by that Participant involving a Common Member. For purposes of this paragraph (d), informal disciplinary actions shall mean Cautionary Actions and MRVP (if FINRA) and Letters of Education, Letters of Admonition, and Summary Fines (if NYSE or NYSE Amex).

(e) Participants to Make Personnel Available as Witnesses.

A Participant shall make its personnel available to the other Participants to serve as testimonial or non-testimonial witnesses as necessary to assist the respective Participant in fulfilling the self-regulatory responsibilities retained by it under this Agreement. The Participant requiring the services of such witnesses shall pay all reasonable travel and other out-of-pocket expenses

incurred by the other Participant's employees to the extent that the requesting Participant requires such employees to serve as a witness, and provide information or other assistance pursuant to this Agreement.

(f) Confidentiality. The Participants agree that documents or information shared shall be held in confidence, and be used only for the purposes of carrying out their respective regulatory obligations. No Participant shall assert regulatory or other privileges as against the others with respect to documents or information that is required to be shared pursuant to this Agreement.

(g) No Waiver of Privilege. The sharing of documents or information among the Participants pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

(h) Periodic Meetings. The Participants agree that they shall conduct regular joint meetings among them for the purposes of reporting on the conduct of the Regulatory Responsibilities and current investigations involving significant rule violations by a Common Member, and identifying issues or concerns with respect to the regulation of Common Members.

6. Arbitration of Disputes Under this Agreement.

(a) Regulatory Services Manager. The Participants hereby each appoint the employee identified on Exhibit 2 hereto as its respective Regulatory Services Manager (the "Regulatory Services Manager") to, among other things, resolve disputes pursuant to Section 6(b) of this Agreement and oversee day-to-day management of the services and activities contemplated by this Agreement. On reasonable prior written notice to the other, the Participants shall each have the right to replace its respective Regulatory Services Manager with an employee or officer with comparable knowledge, expertise and decision-making authority.

(b) Dispute Resolution. Except as otherwise expressly set forth in this Agreement, any dispute arising out of or relating to this Agreement shall be submitted for resolution to the Regulatory Services Managers. In the event the Regulatory Services Managers fail to resolve a dispute pursuant to this Section 6(b) within a reasonable time of receiving notice of such dispute from a Participant, then the Participants shall refer the dispute to the employee identified on Exhibit 2 as its respective Senior Officer (the “Senior Officer”) and such Senior Officers shall attempt in good faith to conclusively resolve any such dispute. On reasonable prior written notice to the other, the Participants shall each have the right to replace its respective Senior Officer with an officer with comparable rank, knowledge, expertise and decision-making authority. If the Senior Officers are unable to resolve the dispute amicably within 30 days, the dispute will be resolved by binding arbitration between or among the Participants as provided herein. Arbitration shall be conducted by a single arbitrator agreed upon by the Participants in accordance with the arbitration rules of the American Arbitration Association (the “AAA”); provided, that, if the Participants cannot agree on the identity of the arbitrator, then the arbitrator shall be chosen by the AAA in accordance with its rules. All arbitration hearings shall be conducted in New York, New York. Each Participant shall pay its own costs for the arbitration, with the cost of the arbitrator to be equally divided between or among the Participants; provided, that the arbitrator may, in his or her discretion, award reasonable attorneys' fees and expenses to the prevailing Participant. The arbitrator will have no authority to award punitive damages or any other damages not measured by the prevailing Participant's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Agreement. A judgment upon an award may be entered in any court having jurisdiction. No Participant or the arbitrator may disclose the existence, content, or results of any arbitration

hereunder without the prior written consent of the other Participants, other than to the Commission. Except as otherwise expressly set forth in this Agreement, the procedures set forth in this Section 6(b) must be satisfied as a condition precedent to a Participant commencing any arbitration in connection with any dispute arising hereunder. A Participant's failure to comply with the preceding sentence shall constitute cause for the dismissal without prejudice of any such arbitration.

(c) **Continuity of Services.** Each Participant acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business and operations of the other Participants. In the event of a dispute between or among the Participant, the Participants will continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with its provisions. Nothing in this Section 6(c) will interfere with a Participant's right to terminate this Agreement as set forth in this Agreement.

7. **No Restrictions on Regulatory Action.** Nothing contained in this Agreement shall restrict or in any way encumber the right of a Participant to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Common Members, as a Participant, in its sole discretion, shall deem appropriate or necessary.

8. **Limitation of Liability.** None of the Participants nor any of their respective directors, governors, officers, employees, affiliates or agents shall be liable to any other Participants or such Participant's directors, governors, officers, employees, affiliates or agents for any liability, loss or damage resulting from any delays, inaccuracies, errors or omissions with respect to its performing or failing to perform its obligations under this Agreement, except as otherwise provided for under the Act or for any liability, loss or damage resulting from the gross

negligence, willful misconduct, reckless disregard or breach of confidentiality by a Participant or its directors, governors, officers, employees, affiliates or agents. The Participants understand and agree with each other that the Regulatory Responsibilities are being performed on a good faith and best effort basis and no warranties, express or implied, are made by any Participant to any other Participant with respect to any of the obligations to be performed by the Participants hereunder.

9. Commission Approval. (a) The Participants agree to file promptly this Agreement with the Commission for its review and approval. This Agreement shall be effective upon approval of the Commission.

(b) If approved by the Commission, FINRA will notify Common Members of the general terms of the Agreement and its impact on such members. The notice will be sent on behalf of all Participants and, prior to being sent, NYSE and NYSE Amex will review and approve the notice.

10. Applicability of Certain Laws. Notwithstanding any provision hereof, this Agreement shall be subject to any applicable federal or state statute, or any rule or order of the Commission reassigning regulatory responsibilities between self-regulatory organizations. To the extent such statute, rule, or order is inconsistent with one or more provisions of this Agreement, such statute, rule, or order shall supersede the provision(s) hereof to the extent necessary to be properly effectuated and the provision(s) hereof in that respect shall be null and void.

11. Definitions. Unless otherwise defined in this Agreement, or unless the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Act and the rules and regulations promulgated by the Commission thereunder.

12. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

13. Amendment. This Agreement may be amended in writing duly approved by each Participant. All such amendments, other than modifications to the list of Common Rules in Exhibit 1 pursuant to (i) a Commission order or other effective proposed rule change to FINRA approving the deletion of an NYSE Rule incorporated by FINRA or the creation of a FINRA rule to replace an NYSE Rule incorporated by FINRA, and (ii) a Commission order or other effective proposed rule change to NYSE or NYSE Amex approving the deletion of an NYSE or NYSE Amex Equities Rule or an amendment to an NYSE or NYSE Amex rule that makes such NYSE or NYSE Amex rule substantially identical to a FINRA rule, must be filed with and approved by the Commission before they become effective.

14. Termination. This Agreement may be terminated by a Participant at any time upon the approval of the Commission after 180 days written notice to the other Participants.

15. General. The Participants agree to perform all acts and execute all supplementary instruments or documents that may be reasonably necessary or desirable to carry out the provisions of this Agreement.

16. Liaison and Notices. All questions regarding the implementation of this Agreement shall be directed to the persons identified in subsections (a), (b) and (c), as applicable, below. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon (i) actual

receipt by the notified Participant or (ii) constructive receipt (as of the date marked on the return receipt) if sent by certified or registered mail, return receipt requested, to the following addresses:

(a) if to NYSE Regulation:

NYSE Regulation, Inc.

11 Wall Street

New York, New York 10005

Telephone: (212) 656-3000

Facsimile: (212) 656-8101

Attention: General Counsel

Regulatory Services Manager

(b) if to New York Stock Exchange LLC:

New York Stock Exchange LLC

11 Wall Street

New York, NY 10005

Telephone: (212) 656-3000

Facsimile: (212) 656-8101

Attention: General Counsel

(c) if to FINRA:

Financial Industry Regulatory Authority, Inc.

1735 K Street, NW

Washington, DC 20006-1500

Telephone: (202) 728-8071

Facsimile: (202) 728-8075

Attention: General Counsel

Regulatory Services Manager

(d) If to NYSE Amex LLC

NYSE Amex LLC

11 Wall Street

New York, NY 10005

Telephone: (212) 656-3000

Facsimile: (212) 656-8101

Attention: General Counsel

Regulatory Services Manager

17. Relief from Regulatory Responsibility. Pursuant to Section 17(d)(1)(A) of the Act, and Rule 17d-2 thereunder, the Participants jointly request the SEC, upon its approval of this Agreement, to relieve the NYSE and NYSE Amex of any and all responsibilities with

respect to the matters allocated to FINRA pursuant to this Agreement for purposes of Sections 17(d) and 19(g) of the Act.

18. Governing Law. This Agreement shall be deemed to have been made in the State of New York, and shall be construed and enforced in accordance with the law of the State of New York, without reference to principles of conflicts of laws thereof. Each of the Participants hereby consents to submit to the jurisdiction of the courts by or for the State of New York or the United States District Court for the Southern District of New York in connection with any action or proceeding relating to this Agreement.

19. Survival of Provisions. Provisions intended by their terms or context to survive and continue notwithstanding delivery of the regulatory services by FINRA, the payment of the price by the NYSE or NYSE Amex, and any termination of this Agreement shall survive and continue.

20. Prior Agreements. This Agreement is wholly separate from: (a) the multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the International Securities Exchange LLC, the National Association of Securities Dealers, Inc., the New York Stock Exchange, LLC, the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc. involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct by broker-dealers of accounts for listed options or index warrants entered into on June 5, 2008, and as may be amended from time to time; (b) the multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among the American Stock Exchange LLC, the BATS Exchange, Inc. the Boston Stock Exchange, Inc., the CBOE Stock Exchange, LLC, the Chicago Stock Exchange, Inc.,

Financial Industry Regulatory Authority, Inc., the International Securities Exchange, LLC, the NASDAQ Stock Market LLC, the National Stock Exchange, Inc., the New York Stock Exchange, LLC, NYSE Arca Inc., NYSE Regulation, Inc., and the Philadelphia Stock Exchange, Inc., approved by the Commission on October 17, 2008, as may be amended from time to time, involving the allocation of regulatory responsibilities with respect to common members for compliance with the surveillance, investigation, and enforcement of common insider trading rules; and (c) the multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Incorporated, the International Securities Exchange LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., The NASDAQ Stock Market LLC, and the Philadelphia Stock Exchange, Inc. involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to certain options-related market surveillance matters entered into on March 31, 2008, as amended October 1, 2008, and as may be amended from time to time.

21. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Participants hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first written above.

FINANCIAL INDUSTRY REGULATORY AUTHORITY

By: _____

Name:

Title:

NEW YORK STOCK EXCHANGE LLC

By: _____

Name:

Title:

NYSE REGULATION, INC.

By: _____

Name:

Title:

NYSE AMEX LLC

By: _____

Name:

Title:

EXHIBIT 1**LIST OF COMMON RULES**

As referenced in paragraph 2(d)(v) of the Agreement, rules designated with a “*” are Non-Exclusive Common Rules, and NYSE and NYSE Amex shall retain regulatory responsibility for these rules insofar as necessary to discharge their respective Retained Responsibilities.

NYSE Rule	NYSE Amex Equities Rule	FINRA Rule
*Rule 1 “The Exchange”	*Rule 1 “The Exchange”	NYSE Rule 1 “The Exchange”
*Rule 2 “Member,” “Membership,” “Member Firm,” etc.	*Rule 2 “Member,” “Membership,” “Member Firm,” etc.	NYSE Rule 2 “Member,” “Membership,” “Member Firm,” etc.
*Rule 2A “Jurisdiction”	*Rule 2A “Jurisdiction”	NYSE Rule 2A “Jurisdiction”
*Rule 2B No Affiliation between Exchange and any Member Organization	*Rule 2B No Affiliation between Exchange and any Member Organization	NYSE Rule 2B No Affiliation between Exchange and any Member Organization
*Rule 3 “Security”	*Rule 3 “Security”	NYSE Rule 3 “Security”
*Rule 4 “Stock”	*Rule 4 “Stock”	NYSE Rule 4 “Stock”
*Rule 5 “Bond”	*Rule 5 “Bond”	NYSE Rule 5 “Bond”
*Rule 6 “Floor”	*Rule 6 “Floor”	NYSE Rule 6 “Floor”
*Rule 8 “Delivery”	*Rule 8 “Delivery”	NYSE Rule 8 “Delivery”
*Rule 9 “Branch Office Manager”	*Rule 9 “Branch Office Manager”	NYSE Rule 9 “Branch Office Manager”
*Rule 10 “Registered Representative”	*Rule 10 “Registered Representative”	NYSE Rule 10 “Registered Representative”
*Rule 11 Effect of Definitions	*Rule 11 Effect of Definitions	NYSE Rule 11 Effect of Definitions
*Rule 12 “Business Day”	*Rule 12 “Business Day”	NYSE Rule 12 “Business Day”
*Rule 134 Differences and Omissions – Cleared Transactions	*Rule 134 Differences and Omissions –	NYSE Rule 134 Differences and Omissions – Cleared Transactions
Rule 176 Delivery Time	Rule 176 Delivery Time	NYSE Rule 176 Delivery Time

Rule 177 Delivery Time – “Cash” Contracts	Rule 177 Delivery Time – “Cash” Contracts	NYSE Rule 177 Delivery Time – “Cash” Contracts
Rule 180 Failure to Deliver	Rule 180 Failure to Deliver	NYSE Rule 180 Failure to Deliver
Rule 282 Buy-in Procedures	Rule 282 Buy-in Procedures	NYSE Rule 282 Buy-in Procedures
Rule 291 Failure to Fulfill Closing Contract	Rule 291 Failure to Fulfill Closing Contract	NYSE Rule 291 Failure to Fulfill Closing Contract
Rule 292 Restrictions on Members’ Participation in Transaction to Close Defaulted Contracts	Rule 292 Restrictions on Members’ Participation in Transaction to Close Defaulted Contracts	NYSE Rule 292 Restrictions on Members’ Participation in Transaction to Close Defaulted Contracts
Rule 293 Closing Contracts in Suspended Securities	Rule 293 Closing Contracts in Suspended Securities	NYSE Rule 293 Closing Contracts in Suspended Securities
Rule 294 Default in Loan of Money	Rule 294 Default in Loan of Money	NYSE Rule 294 Default in Loan of Money
Rule 296 Liquidation of Securities Loans and Borrowings	Rule 296 Liquidation of Securities Loans and Borrowings	NYSE Rule 296 Liquidation of Securities Loans and Borrowings
Rule 311 Formation and Approval of Member Organizations	Rule 311 Formation and Approval of Member Organizations	NYSE Rule 311 Formation and Approval of Member Organizations
Rule 312 Changes Within Member Organizations	Rule 312 Changes Within Member Organizations	NYSE Rule 312 Changes Within Member Organizations
Rule 313 Submission of Partnership Articles – Submission of Corporate Documents	Rule 313 Submission of Partnership Articles – Submission of Corporate Documents	NYSE Rule 313 Submission of Partnership Articles – Submission of Corporate Documents
Rule 319 Fidelity Bonds	Rule 319 Fidelity Bonds	NYSE Rule 319 Fidelity Bonds

Rule 321 Formation of Acquisition of Subsidiaries	Rule 321 Formation of Acquisition of Subsidiaries	NYSE Rule 321 Formation of Acquisition of Subsidiaries
Rule 322 Guarantees by, or Flow Through Benefits for Members or Member Organizations	Rule 322 Guarantees by, or Flow Through Benefits for Members or Member Organizations	NYSE Rule 322 Guarantees by, or Flow Through Benefits for Members or Member Organizations
*Rule 325 Capital Requirements Members Organizations	*Rule 325 Capital Requirements Members Organizations	NYSE Rule 325 Capital Requirements Members Organizations
Rule 326(a) Growth Capital Requirement	Rule 326(a) Growth Capital Requirement	NYSE Rule 326(a) Growth Capital Requirement
Rule 326(b) Business Reduction Capital Requirement	Rule 326(b) Business Reduction Capital Requirement	NYSE Rule 326(b) Business Reduction Capital Requirement
Rule 326(c) Business Reduction Capital Requirement	Rule 326(c) Business Reduction Capital Requirement	NYSE Rule 326(c) Business Reduction Capital Requirement
Rule 326(d) Reduction of Elimination of Loans and Advances	Rule 326(d) Reduction of Elimination of Loans and Advances	NYSE Rule 326(d) Reduction of Elimination of Loans and Advances
Rule 328 Sale-And-Leasebacks, Factoring, Financing and Similar Arrangements	Rule 328 Sale-And-Leasebacks, Factoring, Financing and Similar Arrangements	NYSE Rule 328 Sale-And-Leasebacks, Factoring, Financing and Similar Arrangements
*Rule 342 Offices-Approval, Supervision and Control	*Rule 342 Offices-Approval, Supervision and Control	NYSE Rule 342 Offices-Approval, Supervision and Control
Rule 343 Offices-Sole Tenancy, Hours, Display of Membership Certificates	Rule 343 Offices-Sole Tenancy, Hours, Display of Membership Certificates	NYSE Rule 343 Offices-Sole Tenancy, Hours, Display of Membership Certificates
Rule 344 Research Analysts and Supervisory Analysts	Rule 344 Research Analysts and Supervisory Analysts	NYSE Rule 344 Research Analysts and Supervisory Analysts

Rule 345 Employees-Registration, Approval, Records	Rule 345 Employees-Registration, Approval, Records	NYSE Rule 345 Employees-Registration, Approval, Records
Rule 345A Continuing Education for Registered Persons	Rule 345A Continuing Education for Registered Persons	NYSE Rule 345A Continuing Education for Registered Persons
Rule 346 Limitations - Employment and Association with Members and Member Organizations	Rule 346 Limitations - Employment and Association with Members and Member Organizations	NYSE Rule 346 Limitations - Employment and Association with Members and Member Organizations
Rule 351 Reporting Requirements	Rule 351 Reporting Requirements	NYSE Rule 351 Reporting Requirements
Rule 352 Guarantees, Sharing in Accounts, and Loan Arrangements	Rule 352 Guarantees, Sharing in Accounts, and Loan Arrangements	NYSE Rule 352 Guarantees, Sharing in Accounts, and Loan Arrangements
Rule 353 Rebates and Compensation	Rule 353 Rebates and Compensation	NYSE Rule 353 Rebates and Compensation
Rule 354 Reports to Control Persons	Rule 354 Reports to Control Persons	NYSE Rule 354 Reports to Control Persons
*Rule 375 Missing the Market	*Rule 375 Missing the Market	NYSE Rule 375 Missing the Market
Rule 382 Carrying Agreements	Rule 382 Carrying Agreements	NYSE Rule 382 Carrying Agreements
Rule 387 COD Orders	Rule 387 COD Orders	NYSE Rule 387 COD Orders
Rule 401A Customer Complaints	Rule 401A Customer Complaints	NYSE Rule 401A Customer Complaints
Rule 402 Customer Protection-Reserves and Custody of Securities	Rule 402 Customer Protection-Reserves and Custody of Securities	NYSE Rule 402 Customer Protection-Reserves and Custody of Securities
Rule 404 Individual Members Not To Carry Accounts	Rule 404 Individual Members Not To Carry Accounts	NASD Rule 1014
Rule 405 Diligence as to Accounts	Rule 405 Diligence as to Accounts	NYSE Rule 405 Diligence as to Accounts
Rule 406 Designation Of Accounts	Rule 406 Designation Of Accounts	NYSE Rule 406 Designation Of Accounts

*Rule 407 Transactions- Employees of Members, Member Organizations and the Exchange	*Rule 407 Transactions- Employees of Members, Member Organizations and the Exchange	NYSE Rule 407 Transactions- Employees of Members, Member Organizations and the Exchange ²⁰
*Rule 407A Disclosure of All Member Accounts	*Rule 407A Disclosure of All Member Accounts	NYSE Rule 407A Disclosure of All Member Accounts
Rule 408 Discretionary Power in Customers' Accounts	Rule 408 Discretionary Power in Customers' Accounts	NYSE Rule 408 Discretionary Power in Customers' Accounts
Rule 409 Statements of Accounts to Customers	Rule 409 Statements of Accounts to Customers	NYSE Rule 409 Statements of Accounts to Customers
Rule 409A SIPC Disclosures	Rule 409A SIPC Disclosures	NYSE Rule 409A SIPC Disclosures
*Rule 410 Records of Orders	*Rule 410 Records of Orders	NYSE Rule 410 Records of Orders
*Rule 411 Erroneous Reports	*Rule 411 Erroneous Reports	NYSE Rule 411 Erroneous Reports
Rule 412 Customer Account Transfer Contracts	Rule 412 Customer Account Transfer Contracts	NASD Rule 11870
Rule 413 Uniform Forms	Rule 413 Uniform Forms	NYSE Rule 413 Uniform Forms
*Rule 416 Questionnaires and Reports	*Rule 416 Questionnaires and Reports	NYSE Rule 416 Questionnaires and Reports
*Rule 416A Member and Member Organization Profile Information Updates and Quarterly Certifications Via The Electronic Filing Platform	*Rule 416A Member and Member Organization Profile Information Updates and Quarterly Certifications Via The Electronic Filing Platform	NYSE Rule 416A Member and Member Organization Profile Information Updates and Quarterly Certifications Via The Electronic Filing Platform
Rule 418 Audit	Rule 418 Audit	NYSE Rule 418 Audit

²⁰

Those portions of the NYSE and NYSE Amex Equities Rules 407(a) and 407.10 that concern Exchange employees, which differ from the FINRA Incorporated NYSE Rule 407, are not Common Rules and FINRA will not be allocated regulatory responsibility for compliance with those portions of the rules.

Rule 420 Reports of Borrowings and Subordinate Loans For Capital Purposes	Rule 420 Reports of Borrowings and Subordinate Loans For Capital Purposes	NYSE Rule 420 Reports of Borrowings and Subordinate Loans For Capital Purposes
Rule 421 Periodic Reports	Rule 421 Periodic Reports	NYSE Rule 421 Periodic Reports
Rule 430 Partial Delivery of Securities to Customers on C.O.D. Purchases	Rule 430 Partial Delivery of Securities to Customers on C.O.D. Purchases	NYSE Rule 430 Partial Delivery of Securities to Customers on C.O.D. Purchases
Rule 431 Margin Requirements	Rule 431 Margin Requirements	NYSE Rule 431 Margin Requirements
Rule 432 Daily Record of Required Margin	Rule 432 Daily Record of Required Margin	NYSE Rule 432 Daily Record of Required Margin
Rule 434 Required Submission of Requests for Extensions of Time for Customers	Rule 434 Required Submission of Requests for Extensions of Time for Customers	NYSE Rule 434 Required Submission of Requests for Extensions of Time for Customers
*Rule 435 Miscellaneous Prohibitions (Excessive Trading by Members)	*Rule 435 Miscellaneous Prohibitions (Excessive Trading by Members)	NYSE Rule 435 Miscellaneous Prohibitions (Excessive Trading by Members)
*Rule 440 Books and Records	*Rule 440 Books and Records	NYSE Rule 440 Books and Records
Rule 440A Telephone Solicitation	Rule 440A Telephone Solicitation	NYSE Rule 440A Telephone Solicitation
Rule 440I Records of Compensation Arrangements – Floor Brokerage	Rule 440I Records of Compensation Arrangements – Floor Brokerage	NYSE Rule 440I Records of Compensation Arrangements – Floor Brokerage
Rule 445 Anti-Money Laundering Compliance Program	Rule 445 Anti-Money Laundering Compliance Program	NYSE Rule 445 Anti-Money Laundering Compliance Program
Rule 446 Business Continuity and Contingency Plans	Rule 446 Business Continuity and Contingency Plans	NASD Rule 3510 Business Continuity Plans and NASD Rule 3520 Emergency Contact Information
Rule 472 Communications with the Public	Rule 472 Communications with the Public	NYSE Rule 472 Communications with the Public

*Rule 3130 (Annual Certification of Compliance and Supervisory Processes)	*Rule 3130 (Annual Certification of Compliance and Supervisory Processes)	*Rule 3130 (Annual Certification of Compliance and Supervisory Processes) ²¹
Rule 3220 (Influencing or Rewarding Employees of Others)	Rule 3220 (Influencing or Rewarding Employees of Others)	Rule 3220 (Influencing or Rewarding Employees of Others)
Rule 4560 (Short-Interest Reporting)	Rule 4560 (Short-Interest Reporting)	Rule 4560 (Short-Interest Reporting)
*Rule 5190 (Notification Requirements for Offering Participants)	*Rule 5190 (Notification Requirements for Offering Participants)	*Rule 5190 (Notification Requirements for Offering Participants) ²²
*Rule 6140 (Other Trading Practices)	*Rule 6140 (Other Trading Practices)	*Rule 6140 (Other Trading Practices)

²¹ Those portions of NYSE and NYSE Amex Equities Rule 3130(c)(1), 3130.03, and 3130.10 that relate to compliance with Exchange Rules are not Common Rules and FINRA will not be allocated regulatory responsibility for compliance with those portions of the rules.

²² Those portions of NYSE and NYSE Amex Equities Rules 5190(c)(1) requiring notice to the Exchange and 5190(e) that relate to placing or transmitting a stabilizing bid or filing are not Common Rules and FINRA will not be allocated regulatory responsibility for compliance with those portions of the rules.

EXHIBIT 2

For purposes of this Agreement, the Regulatory Services Managers required under paragraph 6 shall be:

For NYSE Regulation (on behalf of both NYSE and NYSE Amex):

Clare F. Saperstein
Managing Director
NYSE Regulation, Inc.
20 Broad Street, 24th Floor
New York, NY 10005
(212) 656-2355 (phone)
(212) 656-2333 (fax)

For FINRA:

James F. Price, Jr.
Senior Vice President, Business and Exchange Solutions
FINRA
9509 Key West Avenue
Rockville, MD 20850-33329
(240) 386-4608 (phone)
(240) 386-5139 (fax)

For purposes of this Agreement, the Senior Officers required under paragraph 6 shall be:

For NYSE Regulation (on behalf of both NYSE and NYSE Amex):

James F. Duffy
Interim Chief Executive Officer
NYSE Regulation, Inc.
11 Wall Street
New York, NY 10005
(212) 656-2789 (phone)
(212) 656-5809 (fax)

For FINRA:

Stephen I. Luparello
Senior Executive Vice President

FINRA
1735 K Street, NW
Washington, DC 20006
(202) 728-6947 (phone)
(202) 728-8075 (fax)

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number 4-587 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number 4-587. 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/other.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan 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, on official business days between the hours of 10:00 am and 3:00 pm. Copies of the plan also will be available for inspection and copying at the principal offices of FINRA, NYSE, and NYSE Amex. 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 4-587 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Discussion

Pursuant to paragraph (c) of Rule 17d-2,²³ the Commission may, after appropriate notice and comment, declare a plan effective if the Commission finds that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the development of the national market system and a national system for the clearance and settlement of securities transactions and in conformity with the factors set forth in Section 17(d) of the Act.

In this instance, the Commission believes that appropriate notice and comment can take place after the proposed Plan is effective. The purpose of this Plan is to add NYSE Amex as a party to the existing 17d-2 plan between NYSE, NYSE Regulation, and FINRA. As NYSE Amex has adopted many of the NYSE rules covered by the existing plan,²⁴ the proposed Plan does not change the scope of that existing plan. Consequently, the Commission does not believe that the Plan raises any new regulatory issues that the Commission has not previously considered in the context of the existing plan between NYSE, NYSE Regulation, and FINRA. By declaring the Plan effective today, the Commission can reduce regulatory duplication for common members of FINRA and NYSE Amex, the latter of which has adopted many of the NYSE rules crossed by the Plan, as it has done for common members of FINRA and NYSE, and the new Plan can be implemented without delay.

²³ 17 CFR 240.17d-2.

²⁴ See Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex-2008-63).

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act²⁵ and Rule 17d-2(c) thereunder²⁶ in that the Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the Plan will reduce unnecessary regulatory duplication by fostering cooperation and coordination between NYSE, NYSE Amex, and FINRA, and will thereby remove impediments to the development of the national market system. In particular, the Plan will allocate to FINRA certain responsibilities for Common Members that would otherwise be performed by both NYSE and FINRA or NYSE Amex and FINRA. Accordingly, the Plan promotes efficiency by reducing costs to Common Members. Furthermore, because FINRA, NYSE, and NYSE Amex will coordinate their regulatory functions in accordance with the Plan, the Plan should promote investor protection and the public interest.

In particular, the Commission notes that, under the proposed Plan, FINRA, NYSE, and NYSE Amex have allocated regulatory responsibility for Common Rules to the extent that such responsibilities involve member firm regulation. The Plan also sets forth those areas for which NYSE and NYSE Amex will retain regulatory responsibility, including: examinations of conduct or actions by a Common Member covered by NYSE-only or NYSE Amex-only rules and/or by related federal laws or regulations; surveillance, investigation, and enforcement with respect to conduct or action relating to trading on or through the systems and facilities of NYSE or NYSE Amex and conduct otherwise covered by NYSE-only or NYSE Amex-only rules, as well as whether such conduct may constitute a violation of federal laws or regulations; processing of

²⁵ 15 U.S.C. 78q(d).

²⁶ 17 CFR 240.17d-2(c).

applications for trading licenses or other membership in NYSE or NYSE Amex; and qualification and registration of member firm personnel to effect transactions or work on the floor of NYSE or NYSE Amex pursuant to such SRO's rules.²⁷

In addition, the proposed Plan provides that NYSE and NYSE Amex will retain regulatory responsibility for the application of any Common Rule as it pertains to matters other than member firm regulation, including matters relating to such SRO's retained responsibilities as set forth in the Plan (the "Non-Exclusive Common Rules"). The Non-Exclusive Common Rules are specifically annotated in the List of Common Rules and include those rules for which FINRA, NYSE, and NYSE Amex will each bear their respective regulatory responsibilities, consistent with the scope of the 17d-2 Plan. Such rules are "non-exclusive" in the sense that they may relate to member firm regulation (for which FINRA would assume regulatory responsibility) as well as matters other than member firm regulation (for which NYSE or NYSE Amex would retain regulatory responsibility). Accordingly, NYSE and NYSE Amex will each bear responsibility for the application of their Non-Exclusive Common Rules concerning their particular regulatory responsibilities.

According to the Plan, whenever any Party seeks to make a change to any of its rules that are Common Rules, before filing a proposed rule change with the Commission, it will inform the other Parties of the intended change to determine whether the other Parties will propose a conforming change to its version of the Common Rule. If the Parties do not agree to propose conforming changes, the Parties agree to file with the Commission an amendment to the 17d-2 Plan to delete such rule from the list of Common Rules.²⁸ Finally, the proposed Plan requires the Parties annually (or more frequently if required by changes in the rules of a Party) to confirm in

²⁷ See paragraphs 2(d)(i)-(iv) and (e)(i)-(iv) of the proposed 17d-2 Plan.

²⁸ See paragraph 2(a) of the proposed 17d-2 Plan.

writing the accuracy of the list of Common Rules.²⁹ This provision ensures that the Parties keep the Common Rules up-to-date vis-à-vis the other Parties and should facilitate the ability of the Parties to accurately administer their responsibilities under the proposed Plan consistent with the scope of the Plan declared effective by the Commission herein.

The proposed Plan also requires the Parties to share information on a number of matters, including, for example, financial and operational matters of Common Members, third-party complaints, and disciplinary actions.³⁰ The Commission believes that the information-sharing provisions contained in the proposed Plan fosters cooperation and coordination among the Parties, thereby promoting investor protection and removing impediments to the development of a national market system.

Finally, the Plan permits any Party to terminate the Plan at any time, subject to 180 days written notice to the other Parties and subject to Commission approval.³¹

V. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4-587. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

IT IS THEREFORE ORDERED, pursuant to Section 17(d) of the Act,³² that the Plan, made by and among NYSE, NYSE Regulation, NYSE Amex, and FINRA, that is contained in File No. 4-587 and filed pursuant to Rule 17d-2, is hereby approved and declared effective.

²⁹ See paragraph 2(c) of the proposed 17d-2 Plan.

³⁰ See paragraph 5 of the proposed 17d-2 Plan.

³¹ See paragraph 14 of the proposed 17d-2 Plan. The Commission notes that, as reflected in paragraph 14, Commission approval is required for any Party to terminate its participation in the Plan.

³² 15 U.S.C. 78q(d).

IT IS THEREFORE ORDERED that NYSE and NYSE Amex are relieved of those responsibilities allocated to FINRA under the Plan in File No. 4-587.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Florence E. Harmon
Deputy Secretary

³³ 17 CFR 200.30-3(a)(34).