

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59143; File No. SR-NYSE-2008-135)

December 22, 2008

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC to Extend to March 27, 2009, the Operative Date of New York Stock Exchange Rule 2 requirement that NYSE-Only Member Organizations Apply For and be Approved As a Member of the Financial Industry Regulatory Authority, Inc.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 22, 2008, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 extend to March 27, 2009, the operative date of New York Stock Exchange (“NYSE” or the “Exchange”) Rule 2 requirement that NYSE-only member organizations apply for and be approved as a member of the Financial Industry Regulatory Authority, Inc. (“FINRA”).

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 self-regulatory organization 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 those statements may be examined at the

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 is proposing to extend to March 27, 2009, the grace period for NYSE-only member organizations to apply for and be approved as a FINRA member, as required by NYSE Rule 2.

In connection with the consolidation of NASD and NYSE Regulation member firm regulation operations into FINRA, which closed on July 30, 2007, the Exchange amended NYSE Rule 2 to require NYSE member organizations to also be FINRA members.⁴ In connection with those rule changes, the Commission approved a 60-day grace period within which NYSE-only member organizations must apply for and be approved for FINRA membership. In that rule filing, NYSE-only member organizations were defined as those member organizations that were not NASD members as of the date of the closing of the FINRA transaction. This grace period began on October 12, 2007, the date of Commission approval of the Exchange’s rule filing. In furtherance of the consolidation, FINRA adopted NASD IM-1013-1 to enable eligible NYSE member organizations to become FINRA members through an expedited process (the “FINRA Waive-in application process”).⁵

At the close of the 60-day grace period, all but two of the former NYSE-only member organizations had applied for and been approved as FINRA members. On December 12, 2007,

⁴ See Securities Exchange Act Release No. 34-56654 (Oct. 12, 2007), 72 FR 59129 (Oct. 18, 2007) (SR-NYSE-2007-67).

⁵ See Securities Exchange Act Release No. 34-56653 (Oct. 12, 2007), 72 FR 59127 (Oct. 18, 2007) (SR-NASD-2007-56).

the Exchange filed for an extension of the grace period to June 30, 2008 for those two firms.⁶ On June 30, 2008, the Exchange filed for another extension of the grace period to December 31, 2008.⁷ In that filing, the Exchange noted that those two firms had unique member qualification issues and were ineligible to participate in the FINRA Waive-in application process. As of December 19, 2008, one of those two firms has been approved as a FINRA member. With respect to the other firm, because the Exchange is working on a rule filing to amend Rule 2 to permit a broker dealer to be an NYSE member organization without a FINRA membership, the Exchange believes that the grace period should be further extended so that the remaining firm does not have to re-apply for Exchange membership if the proposed change to Rule 2 is approved. Accordingly, the NYSE proposes to extend the grace period to March 27, 2009 for the firm that was an NYSE member organization as of July 30, 2007, but not a FINRA member.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁸ that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

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.

⁶ See Securities Exchange Act Release No. 34-56953 (Dec. 12, 2007), 72 FR 71990 (Dec. 19, 2007) (SR-NYSE-2007-115).

⁷ See Securities Exchange Act Release No. 34-58096 (July 3, 2008), 73 FR 39764 (July 10, 2008) (SR-NYSE-2008-54).

⁸ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is being filed for immediate effectiveness pursuant to Section 19(b)(3)(A)⁹ of the Act and Rule 19b-4(f)(3)¹⁰ promulgated thereunder. The proposed rule change goes solely to the administration of the self-regulatory organization in that it is not a substantive change to NYSE Rule 2 and simply extends a pre-existing grace period.

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-2008-135 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NYSE-2008-135. 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

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(3).

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, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. 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-2008-135 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon
Acting Secretary

¹¹ 17 CFR 200.30-3(a)(12).