

Amendments underscored
Deletions [bracketed]

Rule 446 – NYSE Amex Equities. [Business Continuity and Contingency Plans]

Reserved.[Exchange members and member organizations shall comply with NASD Rules 3510 and 3520, concerning business continuity and contingency plans, and any amendments thereto, as if such Rules are part of the Exchange's Rules.]

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Rule 4370 – NYSE Amex Equities. Business Continuity Plans and Emergency Contact Information

(a) Each member or member organization must create and maintain a written business continuity plan identifying procedures relating to an emergency or significant business disruption. Such procedures must be reasonably designed to enable the member or member organization to meet its existing obligations to customers. In addition, such procedures must address the member's or member organization's existing relationships with other broker-dealers and counter-parties. The business continuity plan must be made available promptly upon request to Exchange staff.

(b) Each member or member organization must update its plan in the event of any material change to the member's or member organization's operations, structure, business or location. Each member or member organization must also conduct an annual review of its business continuity plan to determine whether any modifications are necessary in light of changes to the member's or member organization's operations, structure, business, or location.

(c) The elements that comprise a business continuity plan are flexible and may be tailored to the size and needs of a member or member organization. Each plan, however, must at a minimum, address:

- (1) Data back-up and recovery (hard copy and electronic);
- (2) All mission critical systems;
- (3) Financial and operational assessments;
- (4) Alternate communications between customers and the member or member organization;
- (5) Alternate communications between the member or member organization and its employees;

- (6) Alternate physical location of employees;
- (7) Critical business constituent, bank, and counter-party impact;
- (8) Regulatory reporting;
- (9) Communications with regulators; and
- (10) How the member or member organization will assure customers' prompt access to their funds and securities in the event that the member determines that it is unable to continue its business.

Each member or member organization must address the above-listed categories to the extent applicable and necessary. If any of the above-listed categories is not applicable, the member's or member organization's business continuity plan need not address the category. The member's or member organization's business continuity plan, however, must document the rationale for not including such category in its plan. If a member or member organization relies on another entity for any one of the above-listed categories or any mission critical system, the member's or member organization's business continuity plan must address this relationship.

(d) Members and member organizations must designate a member of senior management to approve the plan and he or she shall be responsible for conducting the required annual review. The member of senior management must also be a registered principal.

(e) Each member or member organization must disclose to its customers how its business continuity plan addresses the possibility of a future significant business disruption and how the member or member organization plans to respond to events of varying scope. At a minimum, such disclosure must be made in writing to customers at account opening, posted on the member's or member organization's Web site (if the member or member organization maintains a Web site), and mailed to customers upon request.

(f) (1) Each member or member organization shall report to the Exchange, via such electronic or other means as the Exchange may specify, prescribed emergency contact information for the member or member organization. The emergency contact information for the member or member organization includes designation of two associated persons as emergency contact persons. At least one emergency contact person shall be a member of senior management and a registered principal of the member or member organization. If a member designates a second emergency contact person who is not a registered principal, such person shall be a member of senior management who has knowledge of the member's or member organization's business operations. A member or member organization with only one associated person shall designate as a second emergency contact person an individual, either registered with another firm or nonregistered, who has knowledge of the member's or

member organization's business operations (e.g., the member's or member organization's attorney, accountant, or clearing firm contact).

(2) Each member or member organization must promptly update its emergency contact information, via such electronic or other means as the Exchange may specify, in the event of any material change. With respect to the designated emergency contact persons, each member or member organization must identify, review, and, if necessary, update such designations: for FINRA members, in the manner prescribed by NASD Rule 1160, and for Exchange-only members and member organizations, in the manner prescribed by Rule 416A – NYSE Amex Equities.

(g) For purposes of this Rule, the following terms shall have the meanings specified below:

(1) "Mission critical system" means any system that is necessary, depending on the nature of a member's or member organization's business, to ensure prompt and accurate processing of securities transactions, including, but not limited to, order taking, order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, access to customer accounts and the delivery of funds and securities.

(2) "Financial and operational assessment" means a set of written procedures that allow a member or member organization to identify changes in its operational, financial, and credit risk exposures.

••• Supplementary Material: -----

.01 "Associated Person". For the purposes of this Rule, the term "associated person" shall have the same meaning as the terms "person associated with a member" or "associated person of a member" as defined in Article I (rr) of the FINRA By-Laws.

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