

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64131; File No. SR-NYSE-2011-12)

March 28, 2011

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Deleting NYSE Rule 346 and Adopting New Rule 3270 to Correspond with Rule Changes Filed by 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 March 14, 2011, New York Stock Exchange LLC (“NYSE” or the “SRO”) 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 substantially prepared by the SRO. 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 SRO proposes to delete NYSE Rule 346 and adopt new Rule 3270 to correspond with rule changes filed by the Financial Industry Regulatory Authority, Inc. (“FINRA”) and approved by the Securities and Exchange Commission (the “Commission”).⁴ The text of the proposed rule change is available at the NYSE, at the Commission’s Public Reference Room, and on NYSE’s website at www.nyse.com.

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 NYSE included statements concerning the

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 62762 (August 23, 2010), 75 FR 53362 (August 31, 2010) (approval order).

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 places specified in Item IV below. The SRO has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change, to delete NYSE Rule 346 (Limitations—Employment and Association with Members and Member Organizations) and adopt new Rule 3270 (Outside Business Activities of Registered Persons), is to correspond with rule changes filed by FINRA and approved by the Commission.

Background

On July 30, 2007, FINRA’s predecessors, the National Association of Securities Dealers, Inc. (“NASD”) and NYSE Regulation, Inc. (“NYSE”), consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d-2 under the Securities Exchange Act of 1934, as amended (the “Act”), NYSE, NYSE and FINRA entered into an agreement (the “Agreement”) to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations (“FINRA Incorporated NYSE Rules”). NYSE Amex LLC (“NYSE Amex”) became a party to the Agreement effective December 15, 2008.⁵

⁵ See Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR-NASD-2007-054) (order approving the incorporation of certain NYSE Rules as “Common Rules”); and 60409 (July 30,

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE and NYSE Amex of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.⁶

Proposed Conforming Amendments to NYSE Rules

FINRA adopted NASD Rule 3030 (Outside Business Activities of an Associated Person), which prohibits any registered person from being employed by or accepting any compensation from any person as a result of any outside business activity, other than passive investments, unless he has provided prompt written notice to his member firm, as consolidated FINRA Rule 3270 requires, subject to certain modifications. FINRA also deleted Incorporated NYSE Rule 346 as it is substantially similar to consolidated FINRA Rule 3270.⁷

To harmonize the NYSE Rules with the approved consolidated FINRA Rules, the SRO correspondingly proposes to delete NYSE Rule 346 and replace it with proposed NYSE Rule 3270, which is substantially similar to the new FINRA Rule.⁸ As proposed,

2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE Amex LLC as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE Amex to the substance of any of the Common Rules.

⁶ FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, see FINRA Information Notice, March 12, 2008.

⁷ See fn. 4.

⁸ NYSE Amex has submitted a companion rule filing amending its rules in accordance with FINRA's rule changes. See SR-NYSEAmex-2011-17.

NYSE Rule 3270 adopts the same language as FINRA Rule 3270, except for substituting for or adding to, as needed, the term “member organization” for the term “member,” and making corresponding technical changes.

2. Statutory Basis

The SRO believes that the proposed rule changes are consistent with the provisions of Section 6(b) of the Act,⁹ in general, and further the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that they are designed to prevent fraudulent and manipulative acts and practices, 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.

The SRO believes that the proposed rule changes support the objectives of the Act by providing greater harmonization between NYSE Rules and FINRA Rules (including Common Rules) of similar purpose, resulting in less burdensome and more efficient regulatory compliance for Dual Members. To the extent the SRO has proposed changes that differ from the FINRA version of the Rules, such changes are technical in nature and do not change the substance of the proposed NYSE Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The SRO 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, as amended.

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

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

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

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

The SRO has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, and is consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),¹⁴ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The SRO has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The SRO believes that this filing is non-controversial because it raises no novel issues and is consistent with the FINRA rule filing previously approved by the

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

Commission on which it is based.¹⁵ In particular, the purpose of the proposed rule changes is to conform the NYSE Rules to FINRA's adoption of consolidated FINRA Rule 3270 in furtherance of the consolidation of the member firm regulation functions of NYSE and FINRA. Except as specifically noted, and subject to such technical changes as are necessary to apply the Rule to the SRO, NYSE proposes to adopt the rule changes in the form that they were approved by the Commission for FINRA. Accordingly, the SRO believes that these rule changes are eligible for immediately effective treatment under the Commission's current procedures for processing rule filings.¹⁶ The SRO has requested an accelerated operative date for the proposed rule changes in order to avoid regulatory gaps between the FINRA and NYSE Rules and to further ensure that, as applicable, the NYSE Rules maintain their status as Common Rules under the Agreement.¹⁷ The Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay for this reason, and hereby grants such a waiver.¹⁸

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

¹⁵ See fn. 4.

¹⁶ See Securities Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40143 (July 11, 2008) (concerning 17 CFR 200 and 241).

¹⁷ As provided in paragraph 2(b) of the Agreement, FINRA and NYSE will amend the list of Common Rules to conform to the rule changes proposed herein. See fn. 5.

¹⁸ For purposes of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-2011-12 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSE-2011-12. 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 website (<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 website viewing and printing in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet website at

www.nyse.com. 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-2011-12 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.¹⁹

Cathy H. Ahn
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).