

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34 -51622; File No. SR-NYSE-2005-29)

April 27, 2005

Self-Regulatory Organizations; New York Stock Exchange, Inc; Notice of Filing of a Proposed Rule Change to Remove Incorrect Reference in Its Rule Relating to Failure to Honor an Arbitration Award

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 25, 2005, the New York Stock Exchange, Inc. (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 637 to delete NYSE Rule 637's reference to NYSE Rule 476A. The text of the proposed rule change is available on the NYSE's Web site (<http://www.nyse.com>), at the principal office of the NYSE, and at the Commission's Public Reference Room. The text of the proposed rule change also appears below. Deletions are bracketed.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Rule 637.**Failure To Honor Award**

Any member, allied member, registered representative or member organization who fails to honor an award of arbitrators appointed in accordance with these rules or who fails to honor an award of arbitrators rendered under the auspices of any other self-regulatory organization or pursuant to the rules applicable to securities disputes before the American Arbitration Association, shall be subject to disciplinary proceedings in accordance with Rule 476 [, Rule 476A] or Article IX of the New York Stock Exchange Constitution and Rules.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Pursuant to current NYSE Rule 637, Exchange members, allied members, registered representatives, and member organizations that fail to honor arbitration awards of the NYSE, other self-regulatory organizations, or the American Arbitration

Association are “subject to disciplinary proceedings in accordance with NYSE Rule 476, NYSE Rule 476A³ or Article IX” of the NYSE Constitution and Rules.

Although current NYSE Rule 637 specifies NYSE Rule 476A as a possible vehicle for disciplinary action to remedy violations of NYSE Rule 637, NYSE Rule 637 was never added to NYSE Rule 476A’s “List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to NYSE Rule 476A.” This discrepancy could be eliminated by adding NYSE Rule 637 to the list of rules in NYSE Rule 476A. However, due to the serious nature of any failure to honor an arbitration award,⁴ the Exchange’s management concluded that violations of NYSE Rule 637 are not properly remedied through disciplinary action pursuant to the minor fine provisions of NYSE Rule 476A. Therefore, the discrepancy would be more appropriately eliminated through an amendment deleting NYSE Rule 637’s reference to NYSE Rule 476A, as proposed herein.

2. Statutory Basis

The proposed amendment to NYSE Rule 637 is consistent with Section 6(b) of

³ NYSE Rule 476A provides that the Exchange may impose a fine, not to exceed \$5000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules. The NYSE represents that the purpose of the NYSE Rule 476A procedure is to provide a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under NYSE Rule 476 would be more costly and time consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory response than an admonition letter would convey. The NYSE states that NYSE Rule 476A preserves due process rights, identifies those rule violations that may be the subject of summary fines, and includes a schedule of fines.

⁴ The NYSE Represents that NYSE arbitration awards rarely remain unsatisfied.

the Act⁵ in general and in particular furthers the requirements of Section 6(b)(6)⁶, which requires the rules of the Exchange to provide that its members and persons associated with its members be appropriately disciplined for violation of Exchange rules by fitting sanction, in that it corrects a discrepancy between NYSE Rules 637 and 476A as to the appropriate sanction for violations of NYSE Rule 637.

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

The Exchange believes that the proposal would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

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

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change; or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(6).

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-2005-29 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-NYSE-2005-29. 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/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 Section. Copies of such filing also will be available for inspection and copying at the principal office of the

Exchange. 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-2005-29 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).