

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41152; File No. SR-NYSE-99-05]

### Self-Regulatory Organization; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. for Approval of Interim Forms U-4 and U-5

March 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 10, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II 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. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

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

The Exchange proposes to implement Interim Forms U-4 (Uniform Application for Securities Industry Registration or Transfer) and U-5 (Uniform Termination Notice for Securities Industry Registration) for the duration of their application as the industry standard. The forms, submitted as Exhibit A with this proposal, may be examined in the Commission's Public Reference Room and at the Exchange.

#### 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 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 III below. The NYSE 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 filing Interim Forms U-4 and U-5. These forms are used by the Exchange as part of its registration and oversight of persons associated with members and member organizations.<sup>3</sup> These forms are employed in connection with the industry's Central Registration Depository ("CRD"). The CRD is an automated industry-wide system which allows for the review and tracking of registered persons within the securities industry and is used by self-regulatory organizations, the Commission, and the states.

In July 1996, the Commission approved revisions to Forms U-4 and U-5.<sup>4</sup> These revisions were developed by a task force of industry representatives that included the Exchange. The most significant of these revisions related to questions on the Forms dealing with disclosure by applicants of prior regulatory, civil or criminal actions. In addition, the Commission approved new Form U-4 and U-5 formats compatible with a redesign of the CRD system anticipated in the Spring of 1997.<sup>5</sup>

On November 25, 1996, the NASD filed a proposed rule change designed to permit the release of additional information regarding the disciplinary history of members and their associated persons as part of a Public Disclosure Program ("PDP").<sup>6</sup> Additionally, the filing sought to make the Forms U-4 and U-5 compatible with the redesigned CRD system. The information proposed to be disclosed through the PDP included:

- All pending arbitrations and civil proceedings that relate to securities or commodities transactions.
- Pending written customer complaints alleging sales practice violations and compensatory damages of \$5,000 or more.
- Settlements of \$10,000 or more of arbitrations, civil suits, and customer

<sup>3</sup>The Commission notes that these forms have been approved by the Commission and are currently in effect. See Securities Exchange Act Release No. 37407 (July 5, 1996), 61 FR 36595 (July 11, 1996) (order granting accelerated approval of SR-NASD-96-19) and Securities Exchange Act Release No. 39562 (January 20, 1998), 63 FR 3942 (January 27, 1998) (order granting approval of SR-NASD-97-78).

<sup>4</sup>See Securities Exchange Act Release No. 37407 (July 5, 1996), 61 FR 36595 (July 11, 1996) (order granting accelerated approval of SR-NASD-96-19).

<sup>5</sup>*Id.*

<sup>6</sup>See Securities Exchange Act Release No. 37994 (November 27, 1996), 61 FR 64549 (December 5, 1996) (notice of filing of SR-NASD-96-38).

complaints involving securities or commodities transactions.

- Current investigations involving criminal or regulatory matters.
- Terminations of employment after allegations involving violations of investment-related statutes of rules, fraud, theft, or failure to supervise investment-related activities.
- Bankruptcies less than 10 years old and outstanding liens or judgments.
- Bonding company denials, payouts, or revocations.
- Any suspension or revocation to act as an attorney, accountant, or federal contractor.

In early 1997, the NASD determined that the scheduled CRD redesign should be reassessed. A revised, Internet-based approach and a longer range schedule were adopted for its implementation. In October 1997, the NASD submitted a filing withdrawing the November 1996 filing because it was premised on the implementation of the previous CRD redesign.<sup>7</sup>

However, to accomplish the release of the PDP information, the October 1997 filing also proposed the implementation of reformatted Interim Forms U-4 and U-5.<sup>8</sup> These forms would require the same substantive disclosure as the November 1996 filing, but would be compatible with current CRD technology. In addition, the October 1997 filing included amendments which clarified the definition of the terms "Investigation," "Sales Practice Violation," "Investment Related," and "Appropriate Signatory." The October 1997 filing became effective in March 1998.<sup>9</sup>

The Exchange requests approval for the use of these Interim Forms U-4 and U-5 for the duration of their application as the industry standard until the industry establishes a more permanent format.

##### 2. Statutory Basis

The Exchange believes that the use of Forms U-4 and U-5 is consistent with Section 6(b)(5)<sup>10</sup> of the Act because the use of standard registration forms fosters cooperation and coordination with persons engaged in the regulating transactions in securities. Additionally, the information reported on the forms

<sup>7</sup>See Securities Exchange Act Release No. 39322 (November 13, 1997), 62 FR 62391 (November 21, 1997) (notice of filing of SR-NASD-97-78).

<sup>8</sup>*Id.*

<sup>9</sup>See Securities Exchange Act Release No. 39562 (January 20, 1998), 63 FR 3942 (January 27, 1998) (order granting approval of SR-NASD-97-78). See also Securities Exchange Act Release No. 39731 (March 6, 1998), 63 FR 12558 (March 13, 1998) (notice changing the effective date of the forms from February 17, 1998 to March 16, 1998).

<sup>10</sup>15 U.S.C. 78f(b)(5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

assists the Exchange in its responsibilities under Section 6(c)<sup>11</sup> of the Act, which requires that an Exchange deny membership to persons subject to a statutory disqualification or persons who cannot meet such standards of training, experience and competence as are prescribed by the rules of the Exchange or persons who have engaged in acts or practices inconsistent with just and equitable principles of trade.

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

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

### **III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-99-05 and should be submitted by April 2, 1999.

### **IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change**

The Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder<sup>12</sup> applicable to a national

securities exchange. In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5)<sup>13</sup> which requires, among other things, that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, not to permit unfair discrimination among customers, issuers, brokers or dealers, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change benefits the public because the release of additional PDP information provides investors with a resource to aid them in choosing a broker-dealer for their investment needs. Moreover, increasing disclosure of members' and their associated persons' relevant disciplinary history could help investors determine whether to conduct or continue to conduct business with a particular broker-dealer or associated person. The Commission notes that disclosure of this additional information may serve as a deterrent to fraudulent activity as well.

In reassessing the CRD redesign, the task force determined that the Forms U-4 and U-5 had to be redesigned to accomplish the release of the additional PDP information. In addition to facilitating the release of additional information, the forms were also redesigned to be compatible with the current CRD protocol (*i.e.*, the answers on the interim forms now match the location of questions in the CRD system). The Commission, therefore, approves the use of these interim forms, recognizing their necessity in disseminating this additional disciplinary history to the public.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the forms have previously been approved by the Commission and are currently in effect.<sup>14</sup> The Commission also notes that the previous filing was submitted for the requisite notice and comment period, and the Commission received no public comments. Furthermore, the proposed rule change

impact on efficiency, competition, and capital formation. The Commission notes that a version of the Forms U-4 and U-5 are used by all self-regulatory organizations. Moreover, the forms provide self-regulatory organizations with a centralized and efficient means of maintaining information on member firms and their associated persons. 15 U.S.C. 78c(f).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See *supra* note 3.

raises no new issue of regulatory concern. The Commission believes, therefore, that granting accelerated approval to the proposed rule change is appropriate and consistent with Section 6<sup>15</sup> of the Act.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>16</sup> that the proposed rule change (SR-NYSE-99-05) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-6552 Filed 3-17-99; 8:45 am]

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## **SMALL BUSINESS ADMINISTRATION**

### **Region IV, North Florida District, Jacksonville, FL, Advisory Council Meeting; Public Meeting**

The U.S. Small Business Administration, North Florida District Office, Jacksonville, Florida, Advisory Council will hold a public meeting from 12 p.m. to 2 p.m., April 8, 1999, at Bethune-Cookman College, 640 Dr. Mary McLeod Bethune Blvd., in the Holmes Bldg., Lincoln Street, Daytona Beach, Florida, to discuss such matters as may be presented by members, staff of the U. S. Small Business Administration, or others present.

For further information, write or call Claudia D. Taylor, U. S. Small Business Administration, 7825 Baymeadows Way, Suite 100-B, Jacksonville, Florida 32256-7504, telephone (904) 443-1933.

Dated: March 11, 1999.

**Shirl Thomas,**

*Director of External Affairs.*

[FR Doc. 99-6647 Filed 3-17-99; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

[USCG-1999-5220]

### **Agency Information Collection Activities Under OMB Review**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520, the Coast Guard

<sup>15</sup> U.S.C. 78f.

<sup>16</sup> 15 U.S.C. 78s(b)(2).

<sup>17</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> 15 U.S.C. 78f(c).

<sup>12</sup> Pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's