

*Accelerated Approval of Amendment No. 2*

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the amendment is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.<sup>65</sup> Amendment No. 2 clarified: (1) The effective date of the proposed rule change and the process for transitioning to Form BR; (2) the description of conforming changes to be made to Forms U4 and U5; and (3) the description of the reports that will be able to be generated in the CRD system. Amendment No. 2 also included other minor edits, including technical, non-substantive changes to the proposed Form BR, modifications to Sections 1 and 6 and related Specific Instructions on the Form U4, and modifications to Sections 1 and 6 and related Specific Instructions and other technical, non-substantive changes to the Form U5. The Commission believes that Amendment No. 2 provides for a clearer understanding of the implementation schedule of the proposed Form BR, the proposed changes to Forms U4 and U5, and the new functionality in the CRD system and notes that the technical and clarifying changes made to the Form BR and Forms U4 and U5 raise no new issues of regulatory concern.

Accordingly, the Commission believes that accelerated approval of Amendment No. 2 is appropriate.

## VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities association, and, in particular, Section 15A(b)(6) of the Act.<sup>66</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>67</sup> that the proposed rule change (SR-NASD-2005-030), as amended by Amendment No. 1, is hereby approved and that Amendment No. 2 thereto is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>68</sup>

**Jonathan G. Katz,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52550; File No. SR-NYSE-2005-64]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change to Add Rules Regarding Time Tracking Requirements of Specialists and Specialist Organizations to Its Minor Rule Violation Plan

October 3, 2005.

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 September 22, 2005, the New York Stock Exchange, Inc. (“NYSE” or “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 Exchange proposes to amend NYSE Rule 476A in order to include NYSE Rule 103.12, which relates to time tracking requirements of specialists and specialist organizations, in its Minor Rule Violation Plan. The text of the proposed rule change is available on the Exchange’s Internet Web site (<http://www.nyse.com>), at the Exchange’s principal office, and at the Commission’s Public Reference Room.

#### 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

On August 12, 2005, the Exchange filed with the Commission a proposed rule change relating to NYSE Rule 103.12,<sup>3</sup> which requires specialists and specialist organizations to record and report the actual time individuals spend working as a specialist or clerk while on the trading floor of the Exchange. NYSE Rule 103.12 requires specialists and specialist member organizations to make and keep, in the regular course of business, records of the times that each of the member organization’s specialists and clerks work in such capacities on the floor. The specialists and specialist member organizations must be able to provide such records to the Exchange within the time frame and in a format determined by the Exchange. In addition, NYSE Rule 103.12 requires specialists and clerks to log in to the Exchange’s IDTrack system and register their presence with respect to specialty stocks in which they are working. The IDTrack system provides reports and information pertaining to specialist and clerk activity to the Exchange’s Division of Market Surveillance and to specialist firms.

NYSE Rule 103.12 allows the Exchange to more accurately track the identity of specialists and their clerks and the times when each specialist and clerk act in such capacities while on the floor. This proposed rule change seeks to add NYSE Rule 103.12 to NYSE Rule 476A’s Supplementary Material, List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A, as an enforcement tool.

NYSE Rule 476A provides that the Exchange may impose a fine, not to exceed \$5,000, 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. NYSE Rule 476A’s procedures for the imposition of fines are designed to provide meaningful sanctions for certain rule violations when the initiation of a formal disciplinary procedure 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 response than an admonition letter. The Exchange believes that

<sup>65</sup> 15 U.S.C. 78s(b)(2).

<sup>66</sup> 15 U.S.C. 78o-3(b)(6).

<sup>67</sup> 15 U.S.C. 78s(b)(2).

<sup>68</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 52251 (August 12, 2005), 70 FR 48790 (August 19, 2005) (SR-NYSE-2005-47).

specialists and their clerks may at times fail to adhere to the record keeping requirements of NYSE Rule 103.12 in a manner that may be appropriate to be addressed with formal discipline (as provided under NYSE Rule 476) or informal discipline (such as a fine as provided under NYSE Rule 476A).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it would promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and 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 would 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

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

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.

## 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2005-64 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-NYSE-2005-64. 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, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal offices 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-2005-64 and should be submitted on or before October 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52543; File No. SR-NYSE-2005-13]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Proposed Uniform Branch Office Registration Form ("Form BR")

September 30, 2005.

#### I. Introduction

On April 13, 2005, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposal to adopt the Uniform Branch Office Registration Form<sup>3</sup> ("Form BR").<sup>4</sup> The proposed rule change was published for comment in the **Federal Register** on July 1, 2005.<sup>5</sup> The Commission received no comments regarding the proposal.<sup>6</sup> This order approves the proposed rule change.

#### II. Description of Proposed Rule Change

The NYSE proposes to adopt Form BR, developed by a working group composed of representatives from the Exchange, NASD, the North American Securities Administrators Association ("NASAA") and various states. The proposed Form BR would enable Exchange members and member organizations ("NYSE Membership") to submit branch office application information to the Exchange, NASD, other self-regulatory organizations

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

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

<sup>3</sup> At the request of the NYSE, the Commission staff corrected the title of the Form BR, which was inadvertently shown in the initial filing as "Uniform Branch Office Form." Telephone conversation between Stephen Kasprzak, Senior Special Counsel, NYSE and Elizabeth Badawy, Accountant, Division of Market Regulation ("Division"), Commission, on September 28, 2005.

<sup>4</sup> The National Association of Securities Dealers, Inc. ("NASD") also filed a proposed rule change proposing to establish the Form BR, which is substantially similar to the Exchange's proposal. The Commission is simultaneously approving NASD's proposed rule change. See Securities Exchange Act Release No. 52544 (September 30, 2005) (SR-NASD-2005-030) ("NASD Release").

<sup>5</sup> See Securities Exchange Act Release No. 51923 (June 24, 2005), 70 FR 38229 ("Notice").

<sup>6</sup> The Commission notes that it received six comment letters on the NASD's proposed rule change and the NASD addressed the comments. See letter from Shirley H. Weiss, Associate General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated August 17, 2005 ("NASD Response Letter"). See NASD Release, *supra* note 4, for a summary of the comments and the NASD Response Letter.

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>6</sup> 17 CFR 200.30-3(a)(12).