

determined to exclude activity in XSP options from the calculation of the fee.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>14</sup>, in general, and furthers the objectives of Section 6(b)(4)<sup>15</sup> of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of 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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(2)<sup>17</sup> thereunder. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such proposed 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.<sup>18</sup>

## 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-CBOE-2007-127 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-CBOE-2007-127. 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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. 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-CBOE-2007-127 and should be submitted on or before January 7, 2008.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-24310 Filed 12-14-07; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56936; File No. SR-FINRA-2007-022]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to FINRA's NYSE Rule 342.13 and the General Securities Principal Examination

December 10, 2007.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 9, 2007, the Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by FINRA. This order provides notice of the proposed rule change and approves the proposed rule change on an accelerated basis.

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

FINRA is proposing to amend FINRA's New York Stock Exchange LLC ("NYSE") Rule 342.13 (Acceptability of Supervisors)<sup>3</sup> to eliminate the requirement that the General Securities Principal Examination ("Series 24 Examination") be passed after July 1, 2001 in order to be recognized by NYSE as an acceptable alternative to the General Securities Sales Supervisor Qualification Examination ("Series 9/10 Examination") for persons whose duties do not include supervision of options or municipal securities sales activities. The proposed rule change is identical to a rule change by the NYSE to its version

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

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

<sup>3</sup> FINRA has incorporated certain NYSE rules into its rulebook, including NYSE Rule 342. This incorporated NYSE rule applies solely to those members of FINRA that also are members of NYSE on or after July 30, 2007 ("Dual Members"), and until the time FINRA adopts a consolidated rulebook applicable to all of its members. The incorporated NYSE rules apply to the same categories of persons to which they applied as of July 30, 2007. In applying the incorporated NYSE rules to Dual Members, FINRA also has incorporated the related interpretive positions set forth in the NYSE Rule Interpretations Handbook and NYSE Information Memos.

<sup>14</sup> 15 U.S.C. 78f(b).

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

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 19b-4(f)(2).

<sup>18</sup> For purposes of calculating the 60-day abrogation period, the Commission considers the abrogation period to have commenced on November 30, 2007.

<sup>19</sup> 17 CFR 200.30-3(a)(12).

of Rule 342.13, which was recently approved by the Commission.<sup>4</sup>

The text of the proposed rule change is available at FINRA, the Commission's Public Reference Room, and on FINRA's Web site at <http://www.finra.org>.

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

In its filing with the Commission, FINRA 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. FINRA 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

FINRA is proposing a rule change to FINRA's NYSE Rule 342.13 that would eliminate the requirement that the Series 24 Examination be passed after July 1, 2001, in order to be recognized by the NYSE as an acceptable alternative to the Series 9/10 Examination requirement for persons whose duties do not include supervision of options or municipal securities sales activities.<sup>5</sup> The proposed rule change is identical to a proposed rule change by NYSE to its version of

Rule 342.13,<sup>6</sup> which was recently approved.<sup>7</sup>

NYSE Rule 342 (Offices—Approval, Supervision and Control) prescribes the general supervisory requirements for NYSE member organizations. Among these requirements, Rule 342.13 (Acceptability of Supervisors) prescribes the NYSE's qualification standards for personnel delegated supervisory responsibility. Before 2001, this provision provided, in part, that a person delegated supervisory responsibility must pass the Series 9/10 Examination or an historical equivalent (*i.e.*, the Series 8 Examination).

In October 2002, NYSE amended Rule 342.13<sup>8</sup> to recognize FINRA's Series 24 Examination, if taken and passed after July 1, 2001, as an acceptable alternative to the Series 9/10 Examination requirement for persons whose duties do not include supervision of options or municipal securities sales activities. NYSE reasoned that, as of July 2, 2001, FINRA had enhanced the Series 24 Examination to include questions that provide appropriate coverage of NYSE Rules. As noted above, NYSE recently eliminated the requirement in Rule 342.13 that the Series 24 Examination be taken and passed after July 1, 2001. FINRA is proposing an identical change to its version of Rule 342.13.

Further rationale for the proposed rule change is set forth in NYSE's filing.<sup>9</sup> As noted in that filing, the NYSE

<sup>6</sup> Pursuant to Rule 17d-2 under the Act, 17 CFR 240.17d-2, NASD, NYSE, and NYSE Regulation, Inc. entered into an agreement ("Agreement") to reduce regulatory duplication for firms that are Dual Members by allocating certain regulatory responsibilities for selected NYSE rules from NYSE Regulation, Inc. to FINRA. The Agreement includes a list of all of those rules ("Common Rules") for which FINRA has assumed examination, enforcement and surveillance responsibilities under the Agreement relating to compliance by Dual Members to the extent that such responsibilities involve member firm regulation. See Securities Exchange Act Release No. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (approving a plan for allocating regulatory responsibilities). The Common Rules are the same NYSE rules that FINRA has incorporated into its rulebook. See Securities Exchange Act Release No. 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR-NASD-2007-054) (order approving incorporation of certain NYSE Rules relating to member firm conduct). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by either NYSE or FINRA to the substance of any of the Common Rules.

<sup>7</sup> See *supra*, note 4.

<sup>8</sup> See Securities Exchange Act Release No. 46631 (October 9, 2002), 67 FR 64187 (October 17, 2002) (order approving SR-NYSE-2002-24). See also NYSE Information Memo 02-51 (November 12, 2002).

<sup>9</sup> See Securities Exchange Act Release No. 56686 (October 23, 2007), 72 FR 61193 (October 29, 2007) (SR-NYSE-2007-53) (notice of proposed rule change, as modified by amendments no. 1 and 2, to amend NYSE Rule 342.13 (Acceptability of Supervisors)).

and NASD rulebooks have converged significantly in the last six years, and individuals who took the Series 24 Examination before July 1, 2001 have been subject to regulatory standards that have, to a large degree, been harmonized.<sup>10</sup> In addition, these individuals have been subject to regulatory and firm element continuing education, which provides ongoing training with respect to current regulatory requirements, including NYSE and NASD Rules, applicable to these persons' duties and responsibilities.

FINRA seeks accelerated approval of the proposed rule change and requests that the effective date of its proposed rule change be the same date as approval of the proposed rule change for the identical NYSE rule.<sup>11</sup>

#### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>12</sup> which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change would reduce unnecessary regulatory burdens and provide greater harmonization between the NYSE and FINRA qualification and examination requirements by eliminating the requirement that the Series 24 Examination be taken and passed after July 1, 2001 in order to be recognized by the NYSE as an acceptable alternative to the Series 9/10 Examination for persons whose duties do not include supervision of options or municipal sales activities.

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

FINRA does not believe that the proposed rule change will result in 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 nor received.

<sup>10</sup> *Id.*

<sup>11</sup> The Commission notes that the comparable amendment to NYSE Rule 342.13 was approved on November 28, 2007. See *supra*, note 4. Thus, the Commission considers FINRA to be requesting a retroactive effective date of November 28, 2007, for this proposed rule change.

<sup>12</sup> 15 U.S.C. 78o-3(b)(6).

<sup>4</sup> See Securities Exchange Act Release No. 56854 (November 28, 2007), 72 FR 68613 (December 5, 2007) (SR-NYSE-2007-53) (order approving an amendment to NYSE Rule 342.13 (Acceptability of Supervisors)).

<sup>5</sup> The Series 24 Examination does not address these activities. Prospectively, persons may continue to qualify to supervise options or municipal securities sales activity by taking and passing the Series 24 Examination and also taking and passing the Registered Options Principal ("Series 4") and/or Municipal Securities Principal ("Series 53") Examinations.

### III. 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-FINRA-2007-022 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-FINRA-2007-022. 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 Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2007-022 and should be submitted on or before January 7, 2008.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

applicable to a national securities association.<sup>13</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,<sup>14</sup> which requires, among other things, that FINRA's rules be 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 proposed rule change would make FINRA's NYSE Rule 342.13 identical to the version of NYSE Rule 342.13 in the NYSE rulebook that was recently approved by the Commission.<sup>15</sup> In addition, the Commission believes that the proposed rule change comports with the provisions of the 17d-2 Agreement, as approved by the Commission, in which FINRA and NYSE agreed to promptly propose conforming changes, absent a disagreement about the substance of a proposed rule change to one of the Common Rules, to ensure that such rules continue to be Common Rules under the Agreement. In this regard, the Commission believes it is appropriate for the proposed rule to be effective retroactively as of November 28, 2007, which is the date NYSE's amendment to NYSE Rule 342.13 was approved by the Commission.<sup>16</sup>

The Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>17</sup> for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register**. This approval allows the proposed rule change to take effect without delay. NYSE's proposed revision to NYSE Rule 342.13 was published for comment and approved by the Commission.<sup>18</sup> Interested persons were provided the opportunity to submit comments on rule text that is identical to FINRA's proposal, and no comments were received. The Commission believes FINRA's proposal raises no new regulatory or substantive issues.

### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>19</sup> that the proposed rule change (SR-FINRA-

2007-022), be, and it hereby is, approved on an accelerated basis effective November 28, 2007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-24309 Filed 12-14-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56930; File No. SR-OCC-2006-09]

### Self-Regulatory Organizations; the Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Choice of Law and Forum Selection

December 7, 2007.

#### I. Introduction

On May 22, 2006, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2006-09 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 27, 2007.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### II. Description

The proposed rule change will add new general choice of law and forum selection provisions to OCC's By-Laws. The purpose of the proposed rule change is to ensure there are appropriate choice of law and forum selection provisions governing all contractual relations between OCC and each of its clearing members. The proposed provisions should provide greater clarity, consistency, and predictability in the application of the law to all contractual relations between OCC and each of its clearing members and in the choice of forum in the event of litigation on such matters.

OCC's By-Laws and Rules each currently contain choice of law provisions that apply in somewhat limited circumstances. This approach is problematic as it could lead to inconsistencies between the two provisions or because it may fail to

<sup>13</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78o-3(b)(6).

<sup>15</sup> See *supra*, note 4.

<sup>16</sup> *Id.*

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 55653,