

allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations ("FINRA Incorporated NYSE Rules"). The Exchange became a party to the Agreement effective December 15, 2008.<sup>7</sup>

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.<sup>8</sup>

In 2008, FINRA deleted FINRA Incorporated NYSE Rule 446 (Business Continuity and Contingency Plans) as substantively duplicative of NASD Rules 3510 (Business Continuity Plans) and 3520 (Emergency Contact Information).<sup>9</sup> Correspondingly, the Exchange amended Rule 446—NYSE Amex Equities (Business Continuity and Contingency Plans) to remove the existing text and incorporate NASD Rules 3510 and 3520 by reference.<sup>10</sup> Subsequently, FINRA adopted, subject to certain amendments, NASD Rules 3510 and 3520 as consolidated FINRA Rule 4370 (Business Continuity Plans and Emergency Contact Information).<sup>11</sup>

The Exchange correspondingly proposes to delete Rule 446—NYSE Amex Equities and replace it with proposed Rule 4370—NYSE Amex Equities, which is substantially similar to the new FINRA Rule.<sup>12</sup> The Exchange

<sup>7</sup> 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, 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.

<sup>8</sup> 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, 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.

<sup>9</sup> See Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (order approving SR—FINRA—2008—036).

<sup>10</sup> See Securities Exchange Act Release No. 59022 (November 26, 2008), 73 FR 73683 (December 3, 2008) (order approving SR—NYSEALTR—2008—10).

<sup>11</sup> See Release No. 34—60534, *supra* note 4.

<sup>12</sup> New York Stock Exchange LLC submitted a companion rule filing amending its rules in accordance with FINRA's rule changes, which the Commission has approved. See Securities Exchange Act Release No. 62015 (April 30, 2010) (SR—NYSE—2010—23).

states that the purpose of this is to harmonize the NYSE Amex Equities Rules with the consolidated FINRA Rules. The Exchange states that, as proposed, Rule 4370—NYSE Amex Equities adopts the same language as FINRA Rule 4370, except for substituting for or adding to, as needed, the term "member organization" for the term "member," and making corresponding technical changes that reflect the difference between NYSE Amex's and FINRA's membership structures. The Exchange also states that, in paragraph (f)(2) to proposed NYSE Rule 4370—NYSE Amex Equities, the Exchange has added a cross-reference to Rule 416A—NYSE Amex Equities to ensure that those Exchange members and member organizations that are not FINRA members are required to update the contact information for emergency personnel in accordance with NYSE Amex Equities Rules.

The Exchange also proposes to add Supplementary Material .01 to Rule 4370—NYSE Amex Equities to provide that, for the purposes of the rule, the term "associated person" shall have the same meaning as the terms "person associated with a member" or "associated person of a member" as defined in Article I (rr) of the FINRA By-Laws. The Exchange states that this change is necessary to ensure that both proposed Rule 4370—NYSE Amex Equities and FINRA Rule 4370 are fully harmonized.

Finally, the Exchange proposes that the effective date for the proposed rule changes be retroactive to December 14, 2009, the same effective date for the corresponding FINRA rule changes.<sup>13</sup> As a result, there should be no regulatory gaps between the FINRA and NYSE Amex Equities Rules and that, as applicable, the NYSE Amex Equities Rules would maintain their status as Common Rules under the Agreement.<sup>14</sup>

#### IV. Discussion and Commission Findings

After careful review, 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 exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>15</sup> which requires, among other things, that the rules of a

<sup>13</sup> See FINRA Regulatory Notice 09—60 (October 15, 2009).

<sup>14</sup> 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.

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

national securities exchange 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.<sup>16</sup>

The Commission believes that the proposed rule change provides greater harmonization between NYSE Amex Equities Rules and FINRA Rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for NYSE Amex members. In addition, the Commission believes that retroactive application of the proposed rule change to December 14, 2009, is appropriate to assure that there are no regulatory gaps between FINRA and NYSE Amex Equities Rules, and that, as applicable, the NYSE Amex Rules would maintain their status as Common Rules under the Agreement.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the proposed rule change (SR—NYSEAmex—2010—26), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010—10952 Filed 5—7—10; 8:45 am]

BILLING CODE 8011—01—P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34—62015; File No. SR—NYSE—2010—23]

#### Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Deleting NYSE Rule 446 and Adopting New Rule 4370 To Correspond With Rule Changes Filed by the Financial Industry Regulatory Authority, Inc.

April 30, 2010.

#### I. Introduction

On March 11, 2010, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act

<sup>16</sup> In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

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

<sup>18</sup> 17 CFR 200.30—3(a)(12).

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

of 1934 (the “Act”),<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> a proposed rule change to delete NYSE Rule 446 and adopt new Rule 4370 to correspond with rule changes filed by the Financial Industry Regulatory Authority, Inc. (“FINRA”) and approved by the Commission.<sup>4</sup> The proposed rule change was published for comment in the **Federal Register** on March 26, 2010.<sup>5</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

The Exchange proposes to delete NYSE Rule 446 and adopt new Rule 4370 to correspond with rule changes filed by FINRA and approved by the Commission.<sup>6</sup>

### Background

On July 30, 2007, FINRA’s predecessor, 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 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.<sup>7</sup>

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.<sup>8</sup>

In 2008, FINRA deleted FINRA Incorporated NYSE Rule 446 (Business Continuity and Contingency Plans) as substantively duplicative of NASD Rules 3510 (Business Continuity Plans) and 3520 (Emergency Contact Information).<sup>9</sup> Correspondingly, the Exchange amended NYSE Rule 446 (Business Continuity and Contingency Plans) to remove the existing text and incorporate NASD Rules 3510 and 3520 by reference.<sup>10</sup> Subsequently, FINRA adopted, subject to certain amendments, NASD Rules 3510 and 3520 as consolidated FINRA Rule 4370 (Business Continuity Plans and Emergency Contact Information).<sup>11</sup>

The Exchange correspondingly proposes to delete NYSE Rule 446 and replace it with proposed NYSE Rule 4370, which is substantially similar to the new FINRA Rule.<sup>12</sup> The Exchange states that the purpose of this proposed rule change is to harmonize the NYSE Rules with the consolidated FINRA Rules. The Exchange states that, as proposed, NYSE Rule 4370 adopts the same language as FINRA Rule 4370, except for substituting for or adding to, as needed, the term “member organization” for the term “member,” and making corresponding technical changes that reflect the difference between NYSE’s and FINRA’s membership structures. The Exchange also states that, in paragraph (f)(2) to proposed NYSE Rule 4370, the Exchange has added a cross-reference to NYSE Rule 416A to ensure that those Exchange members and member organizations that are not FINRA members are required to update the contact information for emergency personnel in accordance with NYSE Rules.

The Exchange also proposes to add Supplementary Material .01 to NYSE Rule 4370 to provide that, for the

purposes of the rule, the term “associated person” shall have the same meaning as the terms “person associated with a member” or “associated person of a member” as defined in Article I (rr) of the FINRA By-Laws. The Exchange states that this change is necessary to ensure that both proposed NYSE Rule 4370 and FINRA Rule 4370 are fully harmonized.

Finally, the Exchange proposes that the effective date for the proposed rule changes be retroactive to December 14, 2009, the same effective date for the corresponding FINRA rule changes.<sup>13</sup> As a result, there should be no regulatory gaps between the FINRA and NYSE Rules and that, as applicable, the NYSE Rules would maintain their status as Common Rules under the Agreement.<sup>14</sup>

## III. Discussion and Commission Findings

After careful review, 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 exchange. In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>15</sup> which requires, among other things, that the rules of a national securities exchange 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.<sup>16</sup>

The Commission believes that the proposed rule change provides greater harmonization between NYSE Rules and FINRA Rules (including Common Rules) of similar purpose, resulting in less burdensome and more efficient regulatory compliance for NYSE members, including Dual Members. In addition, the Commission believes that retroactive application of the proposed rule change to December 14, 2009 is appropriate to assure that there are no regulatory gaps between FINRA and NYSE Rules, and that, as applicable, the NYSE Rules would maintain their status as Common Rules under the Agreement.

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>4</sup> See Securities Exchange Act Release No. 60534 (August 19, 2009), 74 FR 44410 (August 28, 2009) (order approving SR–FINRA–2009–036) (“Release No. 34–60534”).

<sup>5</sup> See Securities Exchange Act Release No. 61743 (March 19, 2010), 75 FR 14650.

<sup>6</sup> See Release No. 34–60534, *supra* note 4.

<sup>7</sup> 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, 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.

<sup>8</sup> 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.

<sup>9</sup> See Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (order approving SR–FINRA–2008–036).

<sup>10</sup> See Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (order approving SR–NYSE–2008–080).

<sup>11</sup> See Release No. 34–60534, *supra* note 4.

<sup>12</sup> NYSE Amex submitted a companion rule filing amending its rules in accordance with FINRA’s rule changes, which the Commission has approved. See Securities Exchange Act Release No. 62014 (April 30, 2010) (SR–NYSE–Amex–2010–26).

<sup>13</sup> See FINRA Regulatory Notice 09–60 (October 15, 2009).

<sup>14</sup> 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.

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

<sup>16</sup> In approving the proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the proposed rule change (SR-NYSE-2010-23) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-10953 Filed 5-7-10; 8:45 am]

BILLING CODE 8010-01-P

#### SOCIAL SECURITY ADMINISTRATION

##### Privacy Act of 1974; as Amended; Proposed Alteration to an Existing Privacy Act System of Records, Housekeeping Changes, and New Routine Uses

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Altered system of records, housekeeping changes, and routine uses.

**SUMMARY:** In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (e)(11)) we are issuing public notice of our intent to alter an existing system of records, make housekeeping and other miscellaneous changes, and add routine uses applicable to our system of records entitled the *Representative Disqualification/Suspension Information System (60-0219)*, hereinafter referred to as the *Representative Disqualification, Suspension, and Non-Recognition Information File*.

We propose the following changes:

- Expand the existing category of representatives covered by the *Representative Disqualification, Suspension, and Non-Recognition Information File* system of records to include persons who allegedly fail to meet our qualifications to serve as a claimant's representative.
- Expand the category of records we maintain in the system to include the name, Social Security number (SSN), date of birth, address, and other relevant information about persons who want to serve as representatives for our claimants. The expanded category will also include information about representatives, such as the representative's date of birth, SSN, representative identification number, telephone and facsimile (fax) numbers, and e-mail address.

We will also include the type of representative (e.g., attorney, non-

attorney, eligible direct pay non-attorney), attorney status (e.g., suspended, disqualified, convicted of a violation), bar, court, and Federal agency program admission information (e.g., year admitted, license number, present standing, and disciplinary history), and employer identification number.

- Expand the record storage medium to house records in paper and electronic form.

- Change the system of records name from the *Representative Disqualification/Suspension Information System* to the *Representative Disqualification, Suspension, and Non-Recognition Information File* to more accurately reflect the persons and representatives covered by the system of records.

- Add new routine uses 2-4, 6, and 8-10 to allow us to release information about persons who allegedly fail to meet our qualifications to serve as a claimant's representative, representatives whom we have disqualified or suspended from representing claimants and beneficiaries before us, and pursue the investigation of, and litigation against, representatives alleged to have violated the provisions of the Social Security Act or our regulations. We are also adding our data protection routine use to the system of records. The routine use, listed as number 12 in this system of records, will allow us to respond to incidents involving the unintentional release of our records.

- Make edits throughout the document to ensure a more reader-friendly document and correct miscellaneous and stylistic format errors.

We discuss the system of records, housekeeping changes, and new routine uses in the Supplementary Information section below. We invite public comments on this proposal.

**DATES:** We filed a report of the *Representative Disqualification, Suspension, and Non-Recognition Information File* system of records and new routine use disclosures with the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, the Chairman of the House Committee on Oversight and Government Reform, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on April 29, 2010. The altered *Representative Disqualification, Suspension, and Non-Recognition Information File* system of records and new routine uses will become effective on June 7, 2010, unless we receive

comments before that date that would result in a contrary determination.

**ADDRESSES:** Interested persons may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, Room 3-A-6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401. All comments we receive will be available for public inspection at the above address.

**FOR FURTHER INFORMATION CONTACT:** Christine W. Johnson, Social Insurance Specialist (Senior Analyst), Disclosure Policy Development and Services Division I, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 3-A-6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, *telephone:* (410) 965-8563 or *e-mail:* [chris.w.johnson@ssa.gov](mailto:chris.w.johnson@ssa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Purpose of the Representative Disqualification, Suspension, and Non-Recognition Information File System of Records

###### A. General Background

The *Representative Disqualification, Suspension, and Non-Recognition Information File* system of records allows us to collect, maintain, and use information about persons who fail to meet our qualifications to serve as representatives for our claimants and beneficiaries, representatives about whom we have received complaints alleging that they have violated the provisions of the Social Security Act or regulations, and representatives who we have disqualified or suspended from representing claimants and beneficiaries in matters before us.

We require the information covered by this system of records to efficiently administer the disqualified or suspended representative business process. For example, the information enables us to identify and monitor persons who fail to meet the criteria to represent our claimants and beneficiaries, determine whether a violation has occurred, investigate alleged violations, and administratively prosecute disciplinary actions against representatives, in a more efficient and timely manner.

###### B. Discussion of Representative Disqualification, Suspension, and Non-Recognition Information File System of Records

The proposed alteration will significantly strengthen the disqualified

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

<sup>18</sup> 17 CFR 200.30-3(a)(12).