

OMB APPROVAL

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - 2007 - 055
Amendment No.

Proposed Rule Change by National Association of Securities Dealers
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial ☒	Amendment ☐	Withdrawal ☐	Section 19(b)(2) ☒	Section 19(b)(3)(A) ☐	Section 19(b)(3)(B) ☐
			Rule		
Pilot ☐	Extension of Time Period for Commission Action ☐	Date Expires 	☐ 19b-4(f)(1) ☐ 19b-4(f)(2) ☐ 19b-4(f)(3)	☐ 19b-4(f)(4) ☐ 19b-4(f)(5) ☐ 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document
☐

Exhibit 3 Sent As Paper Document
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Description

Provide a brief description of the proposed rule change (limit 250 characters).

Proposed Amendment to NASD IM-9216 to Expand the List of Violations Eligible for Disposition Under NASD's Minor Rule Violation Plan

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Patrice Last Name Gliniecki
Title Senior Vice President and Deputy General Counsel
E-mail patrice.gliniecki@nasd.com
Telephone (202) 728-8014 Fax (202) 728-8264

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 07/24/2007

By Patrice Gliniecki
(Name)

Senior Vice President and Deputy General Counsel

(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

PATRICE GLINIECKI,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Exhibit Sent As Paper Document

☐

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ the National Association of Securities Dealers, Inc. (“NASD”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend Interpretative Material 9216 (Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)) (“IM-9216”) to expand the list of violations eligible for disposition under NASD’s Minor Rule Violation Plan (“MRVP”). As further discussed herein, the MRVP would be amended to include certain rules of the New York Stock Exchange, LLC (“NYSE”) that will apply solely to members of the Financial Industry Regulatory Authority, Inc. (“FINRA”)² that also are members of the NYSE (“Dual Members”) on or after the date of closing of the Transaction.³ The proposed rule change also would delete from IM-9216 references to NASD rules that have been rescinded. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

9200. DISCIPLINARY PROCEEDINGS

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² As of the date of closing of the Transaction (as defined in the proposed rule change), NASD will change its corporate name to FINRA.

³ See File No. SR-NASD-2007-054, regarding the NYSE rules to be incorporated by FINRA.

IM-9216. Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)

Any member of FINRA that is also a member of the New York Stock Exchange LLC (“NYSE”) (“Dual Member”) (including any persons affiliated with such member) may be subject to a fine under NASD Rule 9216(b) with respect to any rule listed in this IM-9216 that applies to such member or person. However, any Dual Member that was not also a member of NASD as of [the date of closing of the Transaction] and that does not engage in any activities that would have required it to be an NASD member (and its affiliated persons that are not otherwise subject to NASD rules) shall only be subject to a fine under NASD Rule 9216(b) with respect to the following rules listed in this IM-9216: any NYSE rule, SEC Exchange Act rule, NASD By-Law or Schedule to the By-Laws, or the NASD Rule 8000 Series.

Any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under NASD Rule 9216(b) with respect to any rule listed in this IM-9216, with the exception of the NYSE rules.

—NASD Rules 2210, 2211, and 2220, and IM-2210-1, -2210-2, -2210-3, -2210-4, -2210-5, -2210-7, and -2210-8 — Communications with the public.

—NASD Rule 3360 — Failure to timely file reports of short positions on Form NS-1.

—NASD Rule 3110 — Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with NASD Rules.

—NASD Rules 8211[, Rule 8212,] and [Rule] 8213 — Failure to submit trading data as requested.

—Article IV of the NASD By-Laws — Failure to timely submit amendments to Form BD.

—Article V of the NASD By-Laws — Failure to timely submit amendments to Form U4.

—Article V of the NASD By-Laws — Failure to timely submit amendments to Form U5.

—NASD Rule 1120 — Failure to comply with the Firm Element of the continuing education requirements.

—NASD Rule 3010(b) — Failure to timely file reports pursuant to the Taping Rule.

—NASD Rule 3070 — Failure to timely file reports.

[—Rule 4619(d) — Failure to timely file notifications pursuant to SEC Regulation M.]

—NASD Rules 4632, [4642, 4652,]4632A, [5430,]6130, 6170, 6130A, 6170A, 6230, [6420,]6550, and 6620[, and 6720] — Transaction reporting in equity and debt securities.

—NASD Rules 6954 and 6955 — Failure to submit data in accordance with the Order Audit Trail System (“OATS”).

—NASD Rule 11870 — Failure to abide by Customer Account Transfer Contracts.

—Failure to provide or update contact information as required by NASD Rules.

—SEC Exchange Act Rule 604 — Failure to properly display limit orders.

—SEC Exchange Act Rule 602(b)(5) — Failure to properly update published quotations in certain Electronic Communication Networks (“ECNs”).

—SEC Exchange Act Rule 17a-5 — Failure to timely file FOCUS reports and annual audit reports.

—SEC Exchange Act Rule 17a-10 — Failure to timely file Schedule I.

—MSRB Rule A-14 — Failure to timely pay annual fee.

—MSRB Rule G-12 — Failure to abide by uniform practice rules.

—MSRB Rule G-14 — Failure to submit reports.

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—MSRB Rule G-37 — Failure to timely submit reports for political contributions.

—MSRB Rule G-38 — Failure to timely submit reports detailing consultant activities.

—NYSE Rule 134(c) and (e) — Failure to comply with specified QT procedures and time periods.

—NYSE Rules 312(a), (b) & (c), 313, 345.12, 345.17, 346(c), 351, 421, and 440F & G — Reporting rule violations.

—NYSE Rules 345.11, 410, 432(a), 440, 440I, and 472(c) — Record retention rule violations.

—NYSE Rules 312(h) & (i), 342(c), 342.10, 346(e) and (f), 382(a), and 791(c) —

Failure to obtain approval rule violations.

—NYSE Rules 342(b), (d) & 342.13, 311(b)(5), and 344 — Failure of a member

organization to have individuals responsible and qualified for the positions of Financial

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Supervisory Analyst.

—NYSE Rule 343 — Requirements relating to member organization office

sharing arrangements.

—NYSE Rule 345(a) — Failure of a member organization to have individuals

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—NYSE Rule 346(b) — Failure to obtain employer's prior written consent for

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—NYSE Rule 387 — Requirements for customer COD/POD transactions.

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—NYSE Rule 411(b) — Requirements to bundle multiple odd-lot orders in the same stock, which aggregate to 100 shares or more, to aggregate the orders into round-lot orders.

—NYSE Rule 412 and the interpretations thereunder — Failure to transfer a customer securities account in accordance with requirements.

—NYSE Rule 416A — Failure to promptly provide or promptly update required membership profile information through the Electronic Filing Platform (“EFP”), or failure to electronically certify that required membership profile information is complete and accurate.

—NYSE Rule 445(4) — Failure to designate and identify an Anti-Money Laundering contact person or persons.

— NYSE Rules 704 and 705 — Options position limits and exercise limits.

— NYSE Rules 720 and 722(b) — Failure of a member organization to have individuals responsible and qualified for the positions of Registered Options Principal, Senior Registered Options Principal and Compliance Registered Options Principal.

— NYSE Rule 726 — Options disclosure document and prospectus delivery requirement violations.

— NYSE Rule 780(b)(i) — Requirement for members and member organizations to indicate final decisions of holders of equity options either to exercise or not to exercise expiring equity options by a specific time.

— NYSE Rule 780(f) — Requirement for members and member organizations to make, keep and file with the Exchange records concerning final exercise decisions made with respect to options in certain circumstances.

— NYSE Rule 780.10(b) — Requirement to deliver “exercise advice”.

— NYSE Rule 781 — Allocation of exercise assignment notice violations.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Governors of NASD (“NASD Board”) at its meeting on November 21, 2006, which authorized the filing of the rule change with the SEC. No other action by NASD is necessary for the filing of the proposed rule change. Section 1(a)(iii) of Article VII of the NASD By-Laws permits the NASD Board to adopt amendments to NASD interpretative material without recourse to the membership for approval.

The proposed rule change will become effective upon the later of the closing of the Transaction or the Commission’s approval of the proposed rule change. The proposed rule change will not become effective if the Transaction does not close.

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

(a) Purpose

On November 28, 2006, NASD and the NYSE Group, Inc. (“NYSE Group”) announced a plan to consolidate their member regulation operations into a combined

organization (the “Transaction”) that will be the sole U.S. private-sector provider of member firm regulation for securities firms that do business with the public.⁴ This consolidation will streamline the broker-dealer regulatory system, combine technologies, permit the establishment of a single set of rules and group examiners with complementary areas of expertise in a single organization—all of which will serve to enhance oversight of U.S. securities firms and help ensure investor protection.

The combined organization, FINRA, will work expeditiously to consolidate the rules that apply to its member firms, reducing to one the two sets of rules currently applicable to Dual Members. During an interim period, however, until the adoption of a consolidated rulebook, NASD has proposed to incorporate into FINRA’s rulebook certain NYSE Rules that pertain to the regulation of member firm conduct (the “Incorporated NYSE Rules”).⁵ The Incorporated NYSE Rules will apply solely to Dual Members until such time as FINRA adopts, subject to SEC approval, consolidated rules applicable to all of its members.

As discussed in SR-NASD-2007-054, NASD is not proposing to incorporate, among other rules, the NYSE Disciplinary Rules or related interpretations, including NYSE’s MRVP as set forth in NYSE Rule 476A (Imposition of Fines for Minor

⁴ See SR-NASD-2007-023, which proposes to amend the By-Laws of NASD to implement governance and related changes to accommodate the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc., Securities Exchange Act Release No. 55495 (March 20, 2007), 72 FR 14149 (March 26, 2007).

⁵ See SR-NASD-2007-054, Exhibit 5.

Violation(s) of Rules);⁶ however, this proposed rule change would amend NASD's MRVP to include those Incorporated NYSE Rules currently enumerated in NYSE's MRVP. This would permit FINRA, during the interim period until the adoption of a consolidated rulebook, to impose a fine for minor rule violations by a Dual Member of the Incorporated NYSE Rules in lieu of commencing disciplinary proceedings.

The proposed amendments to IM-9216 also would specify the applicability of the rules listed therein to various members of FINRA. Specifically, any Dual Member (including any persons affiliated with such member) may be subject to a fine under Rule 9216(b) with respect to any rule listed in IM-9216 that applies to such member or person; provided, however, that any Dual Member that was not also a member of NASD as of the date of closing of the Transaction and that does not engage in any activities that would have required it to be an NASD member (and its affiliated persons that are not otherwise subject to NASD rules) would only be subject to a fine under Rule 9216(b) with respect to the following rules listed in IM-9216: any NYSE rule, SEC Exchange Act rule, NASD By-Law or Schedule to By-Laws, or the NASD Rule 8000 Series. In addition, any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under Rule 9216(b) with respect to any rule listed in IM-9216, with the exception of the NYSE rules.

NASD is not proposing to adopt the provision in NYSE's MRVP that establishes

⁶ NASD is not proposing to incorporate NYSE's MRVP (NYSE Rule 476A), because NYSE Rule 476A contains procedures that would conflict with the finding of a minor rule violation by FINRA. For example, NYSE Rule 476A permits a person against whom a fine is imposed to contest the NYSE's fine determination by, among other things, appealing to the NYSE board of directors.

a \$5,000 maximum fine that may be imposed under NYSE's MRVP for minor violations of NYSE rules; rather, FINRA would continue to apply the \$2,500 maximum fine level under NASD's MRVP in determining fine levels for minor violations of either an NASD or NYSE rule included in the plan. Among other things, such an approach helps to ensure greater consistency in the administration of the disciplinary process for FINRA and its members, as well as in the related reporting obligations for minor violations of rules.⁷

Finally, the proposed rule change would delete from IM-9216 references to NASD rules that have been rescinded. On June 30, 2006, the Commission approved SR-NASD-2005-087, which, among other things, deleted NASD Rules 4619, 4642, 4652,

⁷ SEC Rule 19d-1(c)(2) provides that any disciplinary action taken by a self-regulatory organization ("SRO") against any person of a rule of the SRO that has been designated as a minor rule violation pursuant to a plan is not considered "final" for purposes of Rule 19d-1(c)(1) if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the SRO with respect to the matter. SROs are permitted to report such minor rule violations (where the fine does not exceed \$2,500) to the SEC on a periodic, rather than immediate, basis. In addition, members are not required to report "minor rule violations" on the Forms BD, U4 or U5 (as such term is defined on the forms). These forms provide that a rule violation may be designated as "minor" under a plan approved by the SEC if, among other things, the sanction imposed consists of a fine of \$2,500 or less. See also Securities Exchange Act Release No. 40193 (July 10, 1998), 63 FR 39338 (July 22, 1998) (Order Granting Approval to Proposed Rule Change Relating to Fines for Disruptive Action on the Options Floor) (SR-PCX-98-21) (stating in the context of amendments to the Pacific Exchange's (now NYSE Arca) MRVP that, as noted in PCX's MRVP, pursuant to Securities Exchange Act Release No. 30958, any person or organization found in violation of a minor rule under the MRVP is not required to report such violation on Form BD, provided that, among other things, the sanction imposed consists of a fine not exceeding \$2,500).

5430, 6720, and 8212 from the NASD Manual.⁸ On September 28, 2006, the Commission approved SR-NASD-2006-091, which, among other things, deleted NASD Rule 6420.⁹

As noted in Item 2 of this filing, the proposed rule change will become effective upon the later of the closing of the Transaction or the Commission's approval of the proposed rule change. The proposed rule change will not become effective if the Transaction does not close.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,¹⁰ including Section 15A(b)(2) of the Act,¹¹ in that it will permit FINRA to carry out the purposes of the Act, to comply with the Act and to enforce compliance by FINRA members and persons associated with members with the Act, the rules and regulations thereunder and FINRA rules. The proposed rule change also is consistent with Section 15A(b)(7) of the Act,¹² in that it will provide that FINRA members and their associated persons are appropriately disciplined for violations of FINRA rules. The proposed rule change also is consistent with Section 15A(b)(8) of the

⁸ Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (Order Approving SR-NASD-2005-087).

⁹ Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006) (Order Approving SR-NASD-2006-091).

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(b)(2).

¹² 15 U.S.C. 78o-3(b)(7).

Act¹³ in that it furthers the statutory goals of providing a fair procedure for disciplining members and their associated persons. The addition of these violations to NASD's MRVP will provide FINRA staff with the ability to impose minor rule violations for the Incorporated NYSE Rules that are currently enumerated in NYSE's MRVP.

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

NASD 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.¹⁴

5. 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.

6. Extension of Time Period for Commission Action

NASD does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.¹⁵

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

¹³ 15 U.S.C. 78o-3(b)(8).

¹⁴ 15 U.S.C. 78a.

¹⁵ 15 U.S.C. 78s(b)(2).

The proposed rule change amends NASD IM-9216 to include those rules listed in NYSE Rule 476A (Imposition of Fines for Minor Violation(s) of Rules) that also are being incorporated by FINRA.

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2007-055)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Relating to Interpretative Material 9216, Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)

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 , the National Association of Securities Dealers, Inc. (“NASD”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. 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

NASD is proposing to amend Interpretative Material 9216 (Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)) (“IM-9216”) to expand the list of violations eligible for disposition under NASD’s Minor Rule Violation Plan (“MRVP”). The proposed rule change also would delete from IM-9216 references to NASD rules that have been rescinded. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

9200. DISCIPLINARY PROCEEDINGS

* * * * *

IM-9216. Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)

Any member of FINRA that is also a member of the New York Stock Exchange LLC (“NYSE”) (“Dual Member”) (including any persons affiliated with such member) may be subject to a fine under NASD Rule 9216(b) with respect to any rule listed in this IM-9216 that applies to such member or person. However, any Dual Member that was not also a member of NASD as of [the date of closing of the Transaction] and that does not engage in any activities that would have required it to be an NASD member (and its affiliated persons that are not otherwise subject to NASD rules) shall only be subject to a fine under NASD Rule 9216(b) with respect to the following rules listed in this IM-9216: any NYSE rule, SEC Exchange Act rule, NASD By-Law or Schedule to the By-Laws, or the NASD Rule 8000 Series.

Any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under NASD Rule 9216(b) with respect to any rule listed in this IM-9216, with the exception of the NYSE rules.

—NASD Rules 2210, 2211, and 2220, and IM-2210-1, -2210-2, -2210-3, -2210-4, -2210-5, -2210-7, and -2210-8 — Communications with the public.

—NASD Rule 3360 — Failure to timely file reports of short positions on Form NS-1.

—NASD Rule 3110 — Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with NASD Rules.

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—Article V of the NASD By-Laws — Failure to timely submit amendments to Form U4.

—Article V of the NASD By-Laws — Failure to timely submit amendments to Form U5.

—NASD Rule 1120 — Failure to comply with the Firm Element of the continuing education requirements.

—NASD Rule 3010(b) — Failure to timely file reports pursuant to the Taping Rule.

—NASD Rule 3070 — Failure to timely file reports.

[—Rule 4619(d) — Failure to timely file notifications pursuant to SEC Regulation M.]

—NASD Rules 4632, [4642, 4652,]4632A, [5430,]6130, 6170, 6130A, 6170A, 6230, [6420,]6550, and 6620[, and 6720] — Transaction reporting in equity and debt securities.

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—Failure to provide or update contact information as required by NASD Rules.

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—NYSE Rule 346(b) — Failure to obtain employer's prior written consent for
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—NYSE Rule 445(4) — Failure to designate and identify an Anti-Money Laundering contact person or persons.

— NYSE Rules 704 and 705 — Options position limits and exercise limits.

— NYSE Rules 720 and 722(b) — Failure of a member organization to have individuals responsible and qualified for the positions of Registered Options Principal, Senior Registered Options Principal and Compliance Registered Options Principal.

— NYSE Rule 726 — Options disclosure document and prospectus delivery requirement violations.

— NYSE Rule 780(b)(i) — Requirement for members and member organizations to indicate final decisions of holders of equity options either to exercise or not to exercise expiring equity options by a specific time.

— NYSE Rule 780(f) — Requirement for members and member organizations to make, keep and file with the Exchange records concerning final exercise decisions made with respect to options in certain circumstances.

— NYSE Rule 780.10(b) — Requirement to deliver “exercise advice”.

— NYSE Rule 781 — Allocation of exercise assignment notice violations.

* * * * *

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

In its filing with the Commission, NASD 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. NASD 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

On November 28, 2006, NASD and the NYSE Group, Inc. (“NYSE Group”) announced a plan to consolidate their member regulation operations into a combined organization (the “Transaction”) that will be the sole U.S. private-sector provider of member firm regulation for securities firms that do business with the public.³ This consolidation will streamline the broker-dealer regulatory system, combine technologies,

³ See SR-NASD-2007-023, which proposes to amend the By-Laws of NASD to implement governance and related changes to accommodate the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc., Securities Exchange Act Release No. 55495 (March 20, 2007), 72 FR 14149 (March 26, 2007).

permit the establishment of a single set of rules and group examiners with complementary areas of expertise in a single organization—all of which will serve to enhance oversight of U.S. securities firms and help ensure investor protection.

The combined organization, the Financial Industry Regulatory Authority, Inc. (“FINRA”),⁴ will work expeditiously to consolidate the rules that apply to its member firms, reducing to one the two sets of rules currently applicable to Dual Members. During an interim period, however, until the adoption of a consolidated rulebook, NASD has proposed to incorporate into FINRA’s rulebook certain NYSE Rules that pertain to the regulation of member firm conduct (the “Incorporated NYSE Rules”).⁵ The Incorporated NYSE Rules will apply solely to Dual Members until such time as FINRA adopts, subject to SEC approval, consolidated rules applicable to all of its members.

As discussed in SR-NASD-2007-054, NASD is not proposing to incorporate, among other rules, the NYSE Disciplinary Rules or related interpretations, including NYSE’s MRVP as set forth in NYSE Rule 476A (Imposition of Fines for Minor Violation(s) of Rules);⁶ however, this proposed rule change would amend NASD’s MRVP to include those Incorporated NYSE Rules currently enumerated in NYSE’s MRVP. This would permit FINRA, during the interim period until the adoption of a consolidated rulebook, to impose a fine for minor rule violations by a Dual Member of

⁴ As of the date of closing of the Transaction, NASD will change its corporate name to FINRA.

⁵ See SR-NASD-2007-054, Exhibit 5.

⁶ NASD is not proposing to incorporate NYSE’s MRVP (NYSE Rule 476A), because NYSE Rule 476A contains procedures that would conflict with the finding of a minor rule violation by FINRA. For example, NYSE Rule 476A permits a person against whom a fine is imposed to contest the NYSE’s fine determination by, among other things, appealing to the NYSE board of directors.

the Incorporated NYSE Rules in lieu of commencing disciplinary proceedings.

The proposed amendments to IM-9216 also would specify the applicability of the rules listed therein to various members of FINRA. Specifically, any Dual Member (including any persons affiliated with such member) may be subject to a fine under Rule 9216(b) with respect to any rule listed in IM-9216 that applies to such member or person; provided, however, that any Dual Member that was not also a member of NASD as of the date of closing of the Transaction and that does not engage in any activities that would have required it to be an NASD member (and its affiliated persons that are not otherwise subject to NASD rules) would only be subject to a fine under Rule 9216(b) with respect to the following rules listed in IM-9216: any NYSE rule, SEC Exchange Act rule, NASD By-Law or Schedule to By-Laws, or the NASD Rule 8000 Series. In addition, any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under Rule 9216(b) with respect to any rule listed in IM-9216, with the exception of the NYSE rules.

NASD is not proposing to adopt the provision in NYSE's MRVP that establishes a \$5,000 maximum fine that may be imposed under NYSE's MRVP for minor violations of NYSE rules; rather, FINRA would continue to apply the \$2,500 maximum fine level under NASD's MRVP in determining fine levels for minor violations of either an NASD or NYSE rule included in the plan. Among other things, such an approach helps to ensure greater consistency in the administration of the disciplinary process for FINRA and its members, as well as in the related reporting obligations for minor violations of rules.⁷

⁷ SEC Rule 19d-1(c)(2) provides that any disciplinary action taken by a self-

Finally, the proposed rule change would delete from IM-9216 references to NASD rules that have been rescinded. On June 30, 2006, the Commission approved SR-NASD-2005-087, which, among other things, deleted NASD Rules 4619, 4642, 4652, 5430, 6720, and 8212 from the NASD Manual.⁸ On September 28, 2006, the Commission approved SR-NASD-2006-091, which, among other things, deleted NASD Rule 6420.⁹

The proposed rule change will become effective upon the later of the closing of the Transaction or the Commission's approval of the proposed rule change. The proposed rule change will not become effective if the Transaction does not close.

2. Statutory Basis

regulatory organization ("SRO") against any person of a rule of the SRO that has been designated as a minor rule violation pursuant to a plan is not considered "final" for purposes of Rule 19d-1(c)(1) if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the SRO with respect to the matter. SROs are permitted to report such minor rule violations (where the fine does not exceed \$2,500) to the SEC on a periodic, rather than immediate, basis. In addition, members are not required to report "minor rule violations" on the Forms BD, U4 or U5 (as such term is defined on the forms). These forms provide that a rule violation may be designated as "minor" under a plan approved by the SEC if, among other things, the sanction imposed consists of a fine of \$2,500 or less. See also Securities Exchange Act Release No. 40193 (July 10, 1998), 63 FR 39338 (July 22, 1998) (Order Granting Approval to Proposed Rule Change Relating to Fines for Disruptive Action on the Options Floor) (SR-PCX-98-21) (stating in the context of amendments to the Pacific Exchange's (now NYSE Arca) MRVP that, as noted in PCX's MRVP, pursuant to Securities Exchange Act Release No. 30958, any person or organization found in violation of a minor rule under the MRVP is not required to report such violation on Form BD, provided that, among other things, the sanction imposed consists of a fine not exceeding \$2,500).

⁸ Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (Order Approving SR-NASD-2005-087).

⁹ Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006) (Order Approving SR-NASD-2006-091).

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,¹⁰ including Section 15A(b)(2) of the Act,¹¹ in that it will permit FINRA to carry out the purposes of the Act, to comply with the Act and to enforce compliance by FINRA members and persons associated with members with the Act, the rules and regulations thereunder and FINRA rules. The proposed rule change also is consistent with Section 15A(b)(7) of the Act,¹² in that it will provide that FINRA members and their associated persons are appropriately disciplined for violations of FINRA rules. The proposed rule change also is consistent with Section 15A(b)(8) of the Act¹³ in that it furthers the statutory goals of providing a fair procedure for disciplining members and their associated persons. The addition of these violations to NASD's MRVP will provide FINRA staff with the ability to impose minor rule violations for the Incorporated NYSE Rules that are currently enumerated in NYSE's MRVP.

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

NASD 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.¹⁴

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

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(b)(2).

¹² 15 U.S.C. 78o-3(b)(7).

¹³ 15 U.S.C. 78o-3(b)(8).

¹⁴ 15 U.S.C. 78a.

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.

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-NASD-2007-055 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-NASD-2007-055. 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. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

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-NASD-2007-055 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.¹⁵

Nancy M. Morris
Secretary

¹⁵ 17 CFR 200.30-3(a)(12).