

Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR-CHX-2005-40 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 20549-9303.

All submissions should refer to File No. SR-CHX-2005-40. 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 will also be available for inspection and copying at the principal office of the CHX. 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 No. SR-CHX-2005-40 and should be submitted on or before February 22, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6-1304 Filed 1-31-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53182; File No. SR-NASD-2005-135]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving a Proposed Rule Change Relating to the Status of Former Registered Persons Serving in the Armed Forces of the United States

January 26, 2006.

#### I. Introduction

On November 15, 2005, the National Association of Securities Dealers, Inc. ("NASD") 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 amend NASD IM-1000-2 to toll the two-year expiration provisions for qualification examination requirements set forth in NASD Rules 1021(c), 1031(c), and 1041(c) for certain former registered persons serving in the Armed Forces of the United States, including persons who commence their active military duty within two years after they have ceased to be registered with a member and persons who terminate their registration with a member while on active military duty. The proposed rule change was published for comment in the **Federal Register** on December 27, 2005.<sup>3</sup> The Commission received one comment letter on the proposal.<sup>4</sup> This order approves the proposed rule change.

<sup>11</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. 52979 (December 19, 2005), 70 FR 76483.

<sup>4</sup> See e-mail from John C. Vallier dated January 18, 2006. The comment narrowly addresses the commenter's personal situation as a registered person serving in the Armed Forces of the United States and does not directly address the subject of this proposal.

#### II. Description of the Proposal

The filing proposes to amend NASD IM-1000-2 to toll the "two-year licensing expiration provisions" for a person previously registered with a member who commences his active military duty within two years after he has ceased to be registered with the member. Under the proposal, the tolling would start on the date such person enters active military service and would terminate 90 days following the person's completion of active service in the Armed Forces of the United States. The proposal requires that NASD be properly notified of the person's period of active military service within 90 days following his completion of active service or upon his re-registration with a member, whichever occurs first. The proposal also provides that if such person does not re-register with a member within 90 days following his completion of active service in the Armed Forces of the United States, the amount of time in which the person must become re-registered with a member without being subject to the "two-year licensing expiration provisions" will consist of the standard two-year period reduced by the period of time between the person's termination of registration and beginning of active service in the Armed Forces of the United States.

In addition, NASD is proposing to amend NASD IM-1000-2 to toll the "two-year licensing expiration provisions" for a person placed upon "inactive" status pursuant to NASD IM-1000-2 who while serving in the Armed Forces of the United States ceases to be registered with a member.<sup>5</sup> Under the proposal, the tolling would start on the date such person ceases to be registered with the member and would terminate 90 days following the person's completion of active service in the Armed Forces of the United States. The proposal requires that NASD be properly notified of the person's period of active military service within two years following his completion of active service or upon his re-registration with a member, whichever occurs first. NASD is proposing to toll the "two-year licensing expiration provisions" for such persons based on available information in the Central Registration Depository (CRD) regarding their active military status. The proposal further provides that if such person does not re-

<sup>5</sup> Persons on "inactive" status due to active military duty who do not cease their registration with a member while serving in the Armed Forces of the United States are not subject to the "two-year licensing expiration provisions" because they are considered registered for purposes of NASD Rules. See NASD IM-1000-2.

register with a member within 90 days following his completion of active service in the Armed Forces of the United States, the person would have 90 days plus two years following the end of the person's active service in the Armed Forces of the United States to become re-registered with a member.

### III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.<sup>6</sup> Specifically, the Commission believes that the proposal is consistent with Section 15A(b)(6) of the Act<sup>7</sup> in that it is 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. The Commission believes that the proposed rule change provides appropriate tailored relief to persons actively serving in the Armed Forces of the United States by tolling the "two-year licensing expiration provisions" in a manner consistent with the goals of investor protection and market integrity.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NASD-2005-135) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6-1307 Filed 1-31-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53176; File No. SR-NYSE-2005-36]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to the Proposed Rule Change To Amend Rule 445

January 25, 2006.

#### I. Introduction

On May 23, 2005, the New York Stock Exchange, Inc. ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or the "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change relating to amendments to NYSE Rule 445. The Commission published the proposed rule change for comment in the **Federal Register** on July 6, 2005.<sup>3</sup> The Commission received one comment letter on the proposal.<sup>4</sup> On January 17, 2006, NYSE filed a response to the comment letter,<sup>5</sup> as well as Amendment No. 1 to the proposed rule change.<sup>6</sup> This order approves the proposed rule change, grants accelerated approval to Amendment No. 1 to the proposed rule change, and solicits comments from interested persons on Amendment No. 1.

#### II. Description of the Proposed Rule Change

The proposed rule change consists of amendments to NYSE Rule 445 (the "Anti-Money Laundering Compliance Rule") to establish that the "independent testing" requirement of the rule must be conducted, at minimum, on an annual calendar-year basis by members and member

organizations that conduct a public business, or every two years if no public business is conducted. The amendments also establish a standard to determine who is adequately qualified and sufficiently independent to conduct the required testing. Further, they clarify that each person designated to implement and monitor the Anti-Money Laundering Compliance Rule must either be an employee of the member or member organization for which they are designated or, with the prior approval of the Exchange, an employee of a parent, affiliate, or subsidiary of the member or member organization. Employees of a parent, affiliate, or subsidiary of a member or member organization who are designated to implement and monitor the Anti-Money Laundering Compliance Rule must consent to the jurisdiction of the Exchange and the member or member organization must acknowledge their responsibility to supervise them as employees.

#### *Background and Detail*

NYSE Rule 445, which became effective on April 24, 2002,<sup>7</sup> requires each member organization and each member not associated with a member organization to develop and implement an anti-money laundering ("AML") program consistent with ongoing obligations pursuant to Treasury regulation 31 CFR 103.120 under the Bank Secrecy Act,<sup>8</sup> as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.<sup>9</sup>

The prescribed AML program obligations include the development of internal policies, procedures and controls; the designation of a person to implement and monitor the day-to-day operations and internal controls of the program (commonly referred to as an "AML Officer"); ongoing training for appropriate persons; and an independent testing function for overall compliance.

Neither the Bank Secrecy Act nor NYSE Rule 445 currently specifies: (1) Timeframes within which the independent testing function must be performed, (2) qualification and independence standards for those who conduct such testing function, or (3) jurisdictional requirements pertaining to AML Officers. In order to provide

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</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. 51934 (June 29, 2005), 70 FR 38994 (July 6, 2005).

<sup>4</sup> See letter from Alan E. Sorcher, Vice President and Associate General Counsel, Securities Industry Association ("SIA"), to Jonathan G. Katz, Secretary, SEC, dated July 27, 2005 (the "SIA Letter").

<sup>5</sup> See letter from Mary Yeager, Acting Corporate Secretary, NYSE, to Catherine McGuire, Chief Counsel, Division of Market Regulation, SEC, dated January 17, 2006 (the "NYSE Response").

<sup>6</sup> Amendment No. 1 amended the rule text to clarify that notice to the Exchange, as opposed to approval by the Exchange, is required if a person holding the AML Officer designation (employed by an entity that directly or indirectly controls, or is controlled by, or is under common control with the member or member organization), is replaced by another person and the structure of the arrangement has been previously approved by the Exchange.

<sup>7</sup> See Securities Exchange Act Release No. 45798 (April 22, 2002); 67 FR 20854 (April 26, 2002) (SR-NYSE-2002-10).

<sup>8</sup> Currency and Foreign Transactions Reporting Act of 1970 (commonly referred to as the Bank Secrecy Act), 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5330.

<sup>9</sup> Public Law No. 107-56, 115 Stat. 272 (2001).