

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57671; File No. SR-NYSE-2008-27)

April 16, 2008

Self-Regulatory Organizations: New York Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Amending NYSE Rule Interpretation 344/02 (Research Analysts and Supervisory Analysts)

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 11, 2008, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is simultaneously approving the proposal on an accelerated basis.

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

The Exchange proposes to amend, retroactively effective to April 7, 2008, NYSE Rule Interpretation 344/02 (Research Analysts and Supervisory Analysts) concerning research analysts employed by a member organization’s foreign affiliate who contribute to the preparation of the member organization’s research reports. The proposed rule change conforms NYSE’s version of Rule Interpretation 344/02 to approved amendments filed by the Financial Industry Regulatory Authority, Inc. (“FINRA”) to its incorporated version of NYSE Rule Interpretation 344/02. The text of the proposed rule change is

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

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

<sup>3</sup> 17 CFR 240.19b-4.

available on the Exchange's Web site ([www.nyse.com](http://www.nyse.com)), at the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of those statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

On July 30, 2007, NASD and NYSE Regulation, Inc. consolidated their member firm regulation operations into a combined organization, FINRA.<sup>4</sup> Pursuant to FINRA's new regulatory responsibilities, FINRA amended FINRA's incorporated NYSE Rule Interpretation 344/02 concerning research analysts employed by a member organization's foreign affiliate who contribute to the preparation of the member organization's research

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<sup>4</sup> Pursuant to Rule 17d-2 under the Act, NYSE, NYSE Regulation, Inc., and NASD entered into an agreement (the "Agreement") to reduce regulatory duplication for firms that are members of FINRA and also members of NYSE on or after July 30, 2007 ("Dual Members"), by allocating to FINRA certain regulatory responsibilities for selected NYSE rules. The Agreement includes a list of all of those rules ("Common Rules") for which FINRA has assumed regulatory responsibilities. See Securities Exchange Act Release No. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (File No. 4-544) (Notice of Filing and Order Approving and Declaring Effective a Plan for the Allocation of Regulatory Responsibilities). The Common Rules are the same NYSE rules that FINRA has incorporated into its rulebook. See Securities Exchange Act Release No. 56417 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR-NASD-2007-054) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Incorporate Certain NYSE Rules Relating to Member Firm Conduct). Paragraph 2(b) of the 17d-2 Agreement sets forth procedures regarding proposed changes by either NYSE or FINRA to the substance of any of the Common Rules.

reports.<sup>5</sup> The NYSE proposes to amend its version of Rule Interpretation 344/02 in order to ensure it remains consistent with the recently approved changes to FINRA's incorporated NYSE Rule Interpretation 344/02. The effective date of the proposed rule change is April 7, 2008, which is the operative date of FINRA's identical amendments to its incorporated version of NYSE Rule Interpretation 344/02.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in that it is 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.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

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<sup>5</sup> See Securities Exchange Act Release No. 57278 (February 6, 2008), 73 FR 8086 (February 12, 2008) (SR-FINRA-2007-010). See also Securities Exchange Act Release No. 57622 (April 4, 2008), 73 FR 19916 (April 11, 2008) (SR-FINRA-2008-012) (discussing further non-substantive, technical amendments to the text for incorporated NYSE Rule Interpretation 344/02).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

### 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-NYSE-2008-27 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-NYSE-2008-27. 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 20549-1090, on official business days between the hours of 10 am and 3

pm. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2008-27 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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 exchange.<sup>7</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that the Exchange'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 the Exchange's NYSE Rule Interpretation 344/02 identical to the version that FINRA administers. The FINRA version was approved by the Commission.<sup>9</sup> The Commission also believes that the proposed rule

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<sup>7</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>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See supra note 5.

change comports with the provisions of the 17d-2 Agreement, as approved by the Commission. In this Agreement, FINRA and NYSE agreed to promptly propose conforming changes, absent a disagreement about the substance of a proposed rule change, to ensure that such rules continue to be Common Rules as defined in the Agreement. In this regard, the Commission believes it is appropriate for the proposed rule to be effective retroactively as of April 7, 2008, which is the date FINRA's identical amendments became effective.<sup>10</sup>

The Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>11</sup> for approving this proposed rule change before the thirtieth day after publication of notice thereof in the Federal Register. This approval allows the proposed rule change to take effect without delay. FINRA's change to its version of NYSE Rule Interpretation 344/02 was published for comment and approved by the Commission.<sup>12</sup> Interested persons were provided the opportunity to submit comments on rule text that is identical to the Exchange's proposal, and FINRA responded to those comments that were received. The Commission believes that the Exchange's proposal raises no new regulatory or substantive issues.

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<sup>10</sup> FINRA Regulatory Notice 08-15 (April 2008).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> See supra note 5.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-NYSE-2008-27), be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).