

quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: April 30, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-10604 Filed 5-10-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available
From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form 1, Rules 6a-1 and 6a-2—SEC File No. 270-0018—OMB Control No. 3235-0017.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995,¹ the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The Securities Exchange Act of 1934 (“Act”) sets forth a regulatory scheme for national securities exchanges. Rule 6a-1 under the Act² generally requires an applicant for initial registration as a national securities exchange to file an application with the Commission on Form 1. An exchange that seeks an exemption from registration based on limited trading volume also must apply for such exemption on Form 1. Rule 6a-2 under the Act³ requires registered and exempt exchanges: (1) To amend the Form 1 if there are any material changes to the information provided in the initial Form 1; and (2) to submit

periodic updates of certain information provided in the initial Form 1, whether such information has changed or not. The information required pursuant to Rules 6a-1 and 6a-2 is necessary to enable the Commission to maintain accurate files regarding the exchange and to exercise its statutory oversight functions. Without the information submitted pursuant to Rule 6a-1 on Form 1, the Commission would not be able to determine whether the respondent met the criteria for registration or exemption set forth in sections 6 and 19 of the Act. Without the amendments and periodic updates of information submitted pursuant to Rule 6a-2, the Commission would have substantial difficulty determining whether a national securities exchange or exempt exchange was continuing to operate in compliance with the Act.

The respondents to the collection of information are entities that seek registration as a national securities exchange or that seek exemption from registration based on limited trading volume. After the initial filing of Form 1, both registered and exempt exchanges are subject to ongoing informational requirements.

Initial filings on Form 1 by new exchanges are made on a one-time basis. The Commission estimates that it will receive approximately three initial Form 1 filings per year and that each respondent would incur an average burden of 47 hours to file an initial Form 1 at an average cost per response of approximately \$4517. Therefore, the Commission estimates that the annual burden for all respondents to file the initial Form 1 would be 141 hours (one response/respondent × three respondents × 47 hours/response) and \$13,551 (one response/respondent × three respondents × \$4517/response).

There currently are nine entities registered as national securities exchanges and two exempt exchanges. The Commission estimates that each registered or exempt exchange files one amendment or periodic update to Form 1 per year, incurring an average burden of 25 hours to comply with Rule 6a-2. The Commission estimates that the annual burden for all respondents to file amendments and periodic updates to the Form 1 pursuant to Rule 6a-2 is 275 hours (11 respondents × 25 hours/response × one response/respondent per year) and \$25,630 (11 respondents × \$2330/response × one response/respondent per year).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: April 30, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-10605 Filed 5-10-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49653; File No. SR-NYSE-2004-19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 thereto by the New York Stock Exchange, Inc. Relating to Series 86/87 Examination Development Fee for Research Analysts

May 4, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4² thereunder, notice is hereby given that on April 30, 2004, the New York Stock Exchange, Inc. (“NYSE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. On April 30, 2004, the NYSE filed Amendment number 1 to the proposed rule change (“Amendment No. 1”).³ The NYSE has designated this proposal as one establishing or changing a due, fee or other charge imposed by

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from William Jannace, Director, Rule and Interpretive Standards, NYSE, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated April 29, 2004. In Amendment No. 1, the NYSE clarified that after implementation of the Series 86/87, the NYSE will continue to update, as necessary, the examination content and questions, and maintain statistics related to the maintenance of the exam.

¹ 44 U.S.C. 3501 *et seq.*

² 17 CFR 240.6a-1.

³ 17 CFR 240.6a-2.

the NYSE pursuant to section 19(b)(3)(A)(ii) of the Act⁴ and Rule 19b-4(f)(2) thereunder,⁵ which renders the proposal effective upon filing with the Commission. 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

The NYSE is filing with the Commission a proposed rule change that would establish an examination development fee for the Research Analyst Qualification Examination ("Series 86/87").

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 NYSE 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. The NYSE 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

NYSE Rule 344.10 requires that research analysts be registered with, qualified by, and approved by the NYSE. On July 29, 2003, the Commission approved amendments to NYSE Rule 472 ("Communications With The Public"), Rule 351 ("Reporting Requirements"), Rule 344 ("Research Analysts And Supervisory Analysts"), and Rule 345A ("Continuing Education For Registered Persons").⁶ The amendments include a new Research Analyst Qualification Examination requirement for research analysts who are primarily responsible for the preparation of the substance of research reports and/or whose names appear on such reports (NYSE Rule 344.10).

Accordingly, the NYSE, together with the National Association of Securities Dealers, Inc. ("NASD"), developed a Research Analyst Qualification Examination, which is a two-part

examination that tests competency of fundamental security analysis and valuation (Series 86) and applicable federal rules and regulations and self-regulatory organization (SRO) rules (Series 87).⁷

NYSE Rule 344.10 became effective on March 30, 2004. Concurrently, the NASD filed a proposed rule change establishing an administration fee of \$105.00 and \$55.00 for an associated person to take the Series 86 and Series 87 examinations, respectively.⁸ Its fees are based on the costs to the NASD to administer the examinations, including printing, delivery and systems changes. Associated persons of NYSE only members and member organizations that take the examination must pay the fees stated in the NASD's filing to the NASD.

The NYSE's filing would establish an examination development fee of \$45.00, to be collected by the NASD on behalf of the NYSE, each time an individual takes either of the Series 86 or Series 87 examinations. This development fee, which is the subject of this filing, was determined by the NYSE based on the costs incurred to develop, implement, and maintain the Series 86 and Series 87 examinations.⁹ The NYSE represents that after implementation of the Series 86/87, the NYSE expects to continue to update, as necessary, the examination content and questions, and maintain statistics and conduct various examination committee meetings.¹⁰ Accordingly, the NYSE notes that this fee will be assessed on an on-going basis, as is the case with various other qualification examinations, e.g. the Series 7 (General Securities Registered Representative) Examination. The total examination and development fees assessed on each individual who takes

a Series 86 examination for registration as a research analyst will be \$150.00.

The total examination and development fees assessed on each individual who takes a Series 87 examination for registration as a research analyst will be \$100.00. In addition, there shall be a service charge of \$15.00 in addition to the fees described above for any examination taken in a foreign test center located outside the territorial limits of the United States. Such fees will be paid to the NASD, with no portion thereof being remitted to the NYSE.

On March 24, 2004, the Commission approved an interpretation to NYSE Rule 344, which permits a research analyst candidate who has passed both Level I and Level II of the Chartered Analyst (CFA) Examination to request an exemption from the Series 86 examination.¹¹ The CFA examination is administered by the Association for Investment Management and Research. To be eligible for the exemption, an applicant must not only have passed Levels I and II of the CFA examination, but also must either (1) have functioned continuously as a research analyst since having passed CFA Level II or (2) have passed CFA Level II within two years of application for registration as a research analyst. Applicants who do not meet these criteria may, based upon previous related employment/experience, make a written request to the NYSE or the NASD for a waiver. The NASD will be processing all requests for exemptions from the Series 86. Each candidate who is granted a waiver for the Series 86 shall be assessed as a waiver application fee, the fee for this examination. Associated persons of NYSE-only members and member organizations who are granted a waiver or exemption must still pay the examination fee to the NASD, plus the NYSE development fee that will be collected by the NASD and remitted to the NYSE.

2. Statutory Basis

The NYSE believes that the proposal is consistent with section 6(b) of the Act,¹² in general, and section 6(b)(4) of the Act,¹³ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

The NYSE does not believe that the proposed rule change will impose any

⁷ On January 27, 2004, the Exchange filed with the Commission for immediate effectiveness the Series 86/87 study outline. See Securities Exchange Act Release No. 49253 (February 13, 2004), 69 FR 8257 (February 23, 2004) (notice of filing and immediate effectiveness of File No. SR NYSE-2003-41). The NYSE previously filed with the Commission on January 16, 2004, a proposed rule change for immediate effectiveness that delayed the effective date of NYSE Rule 344.10 to "not later than March 30, 2004." See Securities Exchange Act Release No. 49119 (January 23, 2004), 69 FR 4337 (January 29, 2004) (notice of filing and immediate effectiveness of File No. SR-NYSE-2004-01). On January 30, 2004, the Exchange filed with the Commission a proposed rule change that would establish certain prerequisites to and exemptions from the Research Analyst Qualification Examination. See Securities Exchange Release No. 49314 (February 24, 2004), 69 FR 9888 (March 2, 2004) (SR-NYSE-2004-03).

⁸ See Securities Exchange Act Release No. 49527 (April 2, 2004), 69 FR 19255 (April 12, 2004) (SR-NASD-2004-49).

⁹ See Amendment No. 1, *supra* note 3.

¹⁰ See Amendment No. 1, *supra* note 3.

¹¹ See Securities Exchange Act Release No. 49464 (March 24, 2004), 69 FR 16628 (March 30, 2004) (SR-NYSE-2004-03).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4).

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

⁶ See Securities Exchange Act Release No. 48252 (July 29, 2003), 68 FR 45875 (August 4, 2003) (SR-NYSE-2002-49).

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 on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act¹⁴ and subparagraph (f)(2) of Rule 19b-4¹⁵ thereunder because it establishes a fee to be imposed by the NYSE. Accordingly, the proposal has taken effect upon filing with the Commission. At any time within 60 days of the filing of such 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.¹⁶

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-NYSE-2004-19 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-NYSE-2004-19. 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 the NYSE. 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-2004-19 and should be submitted on or before June 1, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-10602 Filed 5-10-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49649; File No. SR-NYSE-2004-21]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 thereto by the New York Stock Exchange, Inc. to Extend for an Additional Year the Pilot Relating to the Allocation Policy for Trading of Exchange-Traded Funds on an Unlisted Trading Privileges Basis (NYSE Rule 103B)

May 4, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 13, 2004, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. On

April 23, 2004, NYSE filed Amendment No. 1 to the proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The proposed rule change seeks to extend for an additional year⁴ the pilot relating to the allocation policy for trading certain ETFs ("Pilot"), which has been codified in NYSE Rule 103B ("Rule 103B"), Section VIII. The Pilot is set to expire on May 8, 2004. In addition, the Exchange proposes to substitute the term "Chief Executive Officer" for "Chairman" in NYSE Rule 103B, Section VIII as a result of changes to the governance structure of the NYSE, which differentiated the authority and responsibilities of the Chairman of the Board of Directors and the Chief Executive Officer (CEO). For purposes of the allocation policy, ETFs include both Investment Company Units (as defined in paragraph 703.16 of the Listed Company Manual) and Trust Issued Receipts (as defined in Rule 1200), which trade on an Unlisted Trading Privileges Basis ("UTP"). The text of the proposed rule change is available at the NYSE and at the Commission.

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 NYSE 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.

³ See letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated April 22, 2004 ("Amendment No. 1"). In Amendment No. 1, NYSE amended the filing to request that the Commission waive the 30-day delayed operative date to ensure that the pilot relating to the allocation policy for trading certain Exchange-Traded Funds ("ETFs") continued without interruption.

⁴ The Exchange is continuing to develop its market in ETFs and is reviewing the results of utilizing the allocation procedures adopted in the pilot. As greater experience is gained, the Exchange will evaluate the continued usefulness of these procedures and consider whether to make the procedures permanent.

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ For the purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on April 30, 2004, the date the NYSE filed Amendment No. 1.

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.