

documents that NYSE members and member organizations review in the absence of confirmations and statements on private securities transactions, the NYSE stated that the proposed rule language currently addresses this concern by providing for the review of confirmations, statements, "or their equivalents."¹³ The NYSE also stated that it expects members and member organizations to monitor individual transactions based on the information available to them.¹⁴ Further, the NYSE stated that where confirmations and statements were not available from the issuers, members and member organizations would be required to develop and implement policies, which among other things, provide for periodic updates and attestations from employees as to their existing, and any additional, private securities transactions.¹⁵

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁶ In particular, the Commission finds that the proposal, as amended, is consistent with Section 6(b)(5) of the Act,¹⁷ which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade.

The Commission believes that requiring associated persons of members or member organizations to obtain their employers' written approval before entering into private securities transactions will provide member organizations another tool to assist in carrying out their supervisory responsibilities. In addition, it will make for more consistent regulation across the industry.¹⁸ After careful consideration of the commenters' concerns about the proposed rule language and its requirements, the Commission believes that the proposal sufficiently addresses the types of information that would be necessary to be reviewed by a designated Exchange member or member organization. The Commission believes that the proposed rule change should assist the Exchange

and its members and member organizations in monitoring employee transactions for possible conflicts of interest or violations of self-regulatory organization or SEC requirements.

IV. Amendment No. 2 of the Proposed Rule Change

The Commission finds good cause for approving Amendment No. 2 of the proposed rule change prior to the thirtieth day after notice of publication in the **Federal Register**. Amendment No. 2 clarifies that the proposal applies to associated persons of members or member organizations that either establish or maintain a securities or commodities account, or a private securities transaction. In addition, Amendment No. 2 modifies the proposed rule text to require members and member organizations to develop and maintain written procedures for reviewing any securities or commodities accounts, or private securities transactions. The Commission believes that it is not necessary to separately solicit comment on Amendment No. 2 before approving this proposal because Amendment No. 2 makes changes to clarify the responsibilities of Exchange members, member organizations, and their employees, pursuant to this rule. The Commission therefore finds that the approval of Amendment No. 2 on an accelerated basis is appropriate.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether the amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 Exchange. All submissions should refer to File No. SR-NYSE-2001-44 and should be submitted by September 10, 2002.

VI. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁹ that the proposed rule change (SR-NYSE-2001-44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.²⁰

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region I Regulatory Fairness Board

The Small Business Administration Region I Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Tuesday, September 17, 2002 at 9 a.m. at the Thomas P. O'Neil Federal Building, Auditorium—First Floor, 10 Causeway Street, Boston, MA 02222, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by Federal agencies.

Anyone wishing to attend or to make a presentation must contact David Polatin in writing or by fax, in order to be put on the agenda. David Polatin, U.S. Small Business Administration, Massachusetts District Office, 10 Causeway Street, Suite 812, Boston, MA 02222, phone (617) 565-5562, fax (617) 565-5597, e-mail david.polatin@sba.gov.

For more information, see our Web site at <http://www.sba.gov/ombudsman>.

Dated: August 13, 2002.

Michael L. Barrera,

National Ombudsman.

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¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ See NASD Rule 3040.

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ 17 CFR 200.30-3(a)(12).