

# Information Memo

Member Firm Regulation

New York Stock Exchange, Inc.  
20 Broad Street  
New York, NY 10005

Number 05-63  
September 2, 2005

**ATTENTION:** CHIEF EXECUTIVE, FINANCIAL AND OPERATIONS  
OFFICERS/PARTNERS AND COMPLIANCE DEPARTMENT

**TO:** ALL MEMBERS AND MEMBER ORGANIZATIONS

**SUBJECT:** Guidance Pertaining to Hurricane Katrina

Due to the recent tragic events resulting from Hurricane Katrina, the Exchange is aware that member organizations with offices in the affected areas are concerned with a number of regulatory and compliance issues. In this regard, the Exchange is providing the following guidance:

## **Emergency Office Relocations**

Member organizations not impacted by Hurricane Katrina are encouraged to make office space available and to otherwise assist those who have been recently displaced. If a member organization relocates displaced personnel to a location not currently registered as an office of the member organization, the Exchange will not require that each such temporary office or space sharing arrangement (i.e., arrangements with an expected duration of 90 calendar days or less) be approved, as is normally required by NYSE Rules 342 ("Offices-Approval Supervision and Control") and 343 ("Offices-Sole Tenancy, Hours, Display of Membership Certificates"). However, member organizations must provide written notification to the Exchange as soon as possible after establishing a new temporary office or space sharing arrangement, to include at minimum: the office address, the entities involved, the names of registered personnel, a contact phone number and, if possible, the expected duration. The notification should also indicate whether any space sharing arrangements are with an organization in a securities or kindred business.

When making temporary office arrangements, firms should remain mindful of the need for proper supervision of these locations and the requirement for an on-site branch office manager for any office with more than three registered individuals. If the circumstances associated with the relocation effort make on-site supervision impracticable, the organization should contact their Finance Coordinator immediately to discuss a temporary supervisory plan for the office.

## **Form U4**

The requirement to maintain updated Form U4 information (e.g., office of employment address) for registered employees affected by relocations resulting from this event are temporarily suspended. However, any relocations with an anticipated, or actual, duration extending beyond 90 days will require an updated Form U4. Similarly, branch

office locations on the Form BD will not need to be updated unless they actually extend beyond 90 days.

It is not necessary to submit branch office applications for any newly opened temporary office locations or space sharing arrangements established as a result of recent events. However, space sharing arrangements or other relocations expected to, or in actuality, extend beyond 90 days should be filed with the Exchange pursuant to Rules 342 and 343. Notification filings should be directed to:

**Evelyn Kriegel**  
**Qualifications and Registrations Department**  
**New York Stock Exchange Regulation**  
**20 Broad Street, 22nd Floor**  
**New York, New York 10005**

### **Books and Records Maintained at the Affected Locations**

Member organizations that maintained books and records, required to be maintained pursuant to NYSE Rule 440 ("Books and Records") and SEA Rules 17a-3 and 17a-4, at the affected locations, should make every effort to retrieve or back up such records. If any such records were permanently destroyed, a list of the specific books and records must be prepared. The list should identify the specific records destroyed and include the time periods affected. Destroyed records that can be recreated from an electronic database or that can be retrieved otherwise from a service bureau, back-up records storage facility, etc., need not be included. All such lists must be submitted to your Finance Coordinator at the Exchange as soon as possible, but no later than October 30, 2005. If you are unable to meet this time frame, please contact your Finance Coordinator.

### **Customer Funds and Securities**

As soon as is expeditiously possible, members and member organizations should determine the dollar amount of any customer checks or securities held at affected business offices that cannot be located or accounted for. This information should be provided, in writing, as soon as possible, to your Finance Coordinator.

In areas where postal service has been suspended or the firm is concerned about a customers' ability to receive mail, the Exchange will not object to interim solutions for dealing with customer dividend, interest and similar cash payments. See the U.S. Postal Web Site for further information on areas with disrupted or suspended mail service at <http://www.usps.com/communications/news/serviceupdates.htm?from=bannercommunications&page=katrina>

In instances where a branch office has been relocated or customer calls are being rerouted to another office, it is understood that firms may need to provide exemptions from standard operating procedures to accommodate customers who need to access their funds. Procedures that generally require written letters of authorization to move funds or direct a check to a third party address may, at the firm's discretion, be waived but firms should exercise as much due diligence as possible in validating the identity of the customer as well as provide heightened overall supervision of these accounts. For instance, firms should implement interim practices whereby a customer's identity is

verified and validated. This can be accomplished through a series of questions about customers and their accounts before funds are released, or where in-person transactions are occurring, identification should be checked where possible. Where e-mail addresses of record are on file, firms should consider sending e-mail verifications of disbursements.

Member organizations should review their internal controls to ensure that the policies and procedures relating to the transmittal of customer funds, customer change of address and increased requests for hand delivery of checks are adequate after considering changes to normal operations. Interim controls should be considered that will mitigate risk that may arise due to reduced ability to communicate with customers, inability to rely on mail or other disruption to the existing controls. Firms should educate their employees as to how to handle these issues and, if possible, should consider centralizing the function at the organization to ensure that proper enhanced controls are effected.

Member organizations that clear for introducing firms which are unable to conduct business are encouraged to accept liquidating orders from customers so that customers' access to funds is not restricted.

### **Continuing Education and Qualification Examinations**

NYSE will be extending CE and qualification exam windows for candidates who reside in a Louisiana, Mississippi or Alabama county or parish declared a "major disaster" by the President. Registered persons who have an exam or CE window due to expire in September or October will have their windows extended to November 1, 2005. As more information becomes available, additional extensions may be given. Questions may be directed to the Qualifications and Registration Department to Evelyn Kriegel at 212-656-6444.

### **Credit Regulation**

NYSE Regulation will be accepting margin extensions on a case-by-case basis for reason code "Acts of God" for customers located in regions affected by the hurricane.

Please contact the Credit Regulation Department at (212) 656-8572 prior to transmission.

### **Confirmations and Customer Statements**

The Exchange will not object to member organizations holding confirmations, statements and other communications or notices on behalf of those customers located in the affected areas for a period not to exceed 90 calendar days. Member organizations must exercise appropriate supervisory review of the accounts affected, maintain a log of those accounts whose mail is being held, and notify the customer that those communications are being held on their behalf, as soon as possible. If additional time is required beyond 90 calendar days, please contact your Finance Coordinator.

### **Customer Communication**

Member organizations are encouraged to promptly place a notice on their websites that indicates to affected customers who they may contact concerning their accounts, access

to funds or securities, etc. If feasible, member organizations should consider the activation of toll free numbers dedicated to responding to these customers.

### **Business Continuity and Contingency Plans**

A member organization affected by Hurricane Katrina should contact their Finance Coordinator to discuss those business continuity and contingency plan actions implemented to address any problems that have resulted.

### **Military Personnel & National Guard**

The Exchange provides specific relief under Section (a)/03 of the Interpretation of Rule 345 (“Employees-Registration, Approval, Records”) to registered employees of members or member organizations who volunteer or are called into active military duty. Such registered employees will be placed in a specifically designated “inactive” status upon notification to the Exchange of their volunteering or military call-up. However, such employees will remain registered with the Exchange, and, therefore are eligible to receive transaction-based compensation. Since such employees are “inactive,” they may not perform any of the duties performed by a registered representative. However, his or her member or member organization may make arrangements with another registered representative of the member or member organization to have the accounts of such registered person serviced and to provide for a sharing of the commissions such accounts generate.

Further, members and member organizations shall be waived from remitting to the Exchange the annual maintenance fees for such registered employees as prescribed in Rule 345.14.

Such registered employees who volunteer or are called into active military duty shall receive a deferment from the Regulatory Element and Firm Element of the Continuing Education Program as prescribed in Exchange Rule 345A. Continuing Education requirements will be reinstated upon the registered person’s return from active military duty.

Dual members or member organizations of the NYSE and NASD should notify the NASD of their registered employees who volunteer or are called into active military duty by mailing or faxing to the CRD/Public Disclosure Department of the NASD a letter (on firm letterhead) identifying the name and CRD number of the registered person called into active duty, the name and CRD number of the firm, or firms, with whom such person is associated, and a copy of the official call-up notification.

NYSE-only members or member organizations should notify the Exchange of their registered employees who volunteer or are called into active duty by mailing or faxing to the Exchange’s Qualifications and Registrations Department, a letter (on firm letterhead) identifying the name and CRD number of person(s) who volunteer or are called into active duty, the name and CRD number of the firm, or firms, with whom such person is associated, and a copy of the official call-up notification.