

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 25	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2018 - * 33	Amendment No. (req. for Amendments *)
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Filing by New York Stock Exchange LLC
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/>	19b-4(f)(1)	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>	19b-4(f)(2)	<input type="checkbox"/>
			<input type="checkbox"/>	19b-4(f)(3)	<input type="checkbox"/>
				19b-4(f)(4)	<input type="checkbox"/>
				19b-4(f)(5)	<input type="checkbox"/>
				19b-4(f)(6)	<input type="checkbox"/>

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to amend Rule 2 to remove a requirement that a registered broker-dealer be a member of the Financial Industry Regulatory Authority, Inc. or another national securities exchange

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name *	Christopher	Last Name *	Sogan
Title *	Senior Counsel NYSE Group Inc		
E-mail *	Chris.Solgan@theice.com		
Telephone *	(212) 656-3434	Fax	(212) 656-8101

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date	07/12/2018	Assistant Secretary
By	Martha Redding	<div style="border: 1px solid black; width: 100%; height: 20px;"></div>
	(Name *)	

Martha Redding,

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² New York Stock Exchange LLC (“NYSE” or the “Exchange”) proposes to amend Rule 2 (“Member,” “Membership,” “Membership Firm,” etc.) to remove a requirement that a registered broker-dealer be a member of the Financial Industry Regulatory Authority, Inc. (“FINRA”) or another national securities exchange.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and the text of the proposed rule change is attached as Exhibit 5.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Chris Solgan
Senior Counsel
NYSE Group, Inc.
(212) 656-3434

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

- (a) Purpose

The Exchange proposes to amend the definition of “member organization” under Rule 2 (“Member,” “Membership,” “Membership Firm,” etc.) to remove a

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

requirement that a registered broker-dealer seeking to be a member organization be a member of FINRA or another national securities exchange. In 2007, the Exchange amended Rule 2 to require FINRA membership as part of the consolidation of member firm regulatory functions of then NASD and NYSE Regulation, Inc. (“NYSE Regulation”) that resulted in a combined self-regulatory organization (“SRO”) that is now known as FINRA.³ As part of the consolidation, NYSE Regulation and NASD sought to harmonize certain of their member firm rules. At that time, it was anticipated that the rule harmonization would not be completed by the time NASD and NYSE Regulation completed their combination. Therefore, the combination contemplated a transition period during which FINRA would apply to NYSE member organizations the member firm rules of the NYSE. A necessary part of this transition was for NYSE to require all NYSE member organizations to become FINRA members.⁴ Prior to this time, FINRA membership was not a condition to become member organizations on the Exchange.

Subsequently, to enable more broker-dealers to become member organizations, the Exchange further amended Rule 2 to broaden the definition of “member organization” to include a registered broker-dealer that is not a member of FINRA but is a member of another national securities exchange.⁵ Rule 2 repeats the requirement in Section 15(b)(8) of the Act⁶ that requires member organizations that transact business with the public to be a member of FINRA. In addition, Rule 2 requires member organizations that conduct business on the Floor of the Exchange to be a member of FINRA, which is a requirement unique to the Exchange.⁷

On June 14, 2010, the NYSE, NYSE Regulation,⁸ and FINRA entered into a Regulatory Services Agreement, whereby FINRA was retained to perform the market surveillance and enforcement functions that had previously been performed by the NYSE. Pursuant to the Regulatory Services Agreement, FINRA had been performing Exchange enforcement-related regulatory services, including investigating and enforcing violations of Exchange rules, and

³ See Securities Exchange Act Release No. 56654 (October 12, 2007), 72 FR 59129 (October 18, 2007) (SR-NYSE-2007-67).

⁴ Id.

⁵ See Securities Exchange Act Release No. 60318 (July 16, 2009), 74 FR 36797 (July 24, 2009) (SR-NYSE-2009-63).

⁶ 15 U.S.C. 78q(b)(8).

⁷ Id.

⁸ See Securities Exchange Act Release No. 62355 (June 22, 2010), 75 FR 36729 (June 28, 2010) (SR-NYSE-2010-46).

conducting disciplinary proceedings arising out of such enforcement actions, including those relating to NYSE-only rules and against dual members and non-FINRA members. In October 2014, the Exchange announced that, upon expiration of the current Regulatory Services Agreement on December 31, 2015, certain market surveillance, investigation and enforcement functions performed on behalf of the Exchange would be reintegrated. Accordingly, as of January 1, 2016, the Exchange began to perform certain of the market surveillance, investigation and enforcement functions that FINRA was retained to perform in 2010.

As a result of the reintegration of these various regulatory functions, the Exchange proposes to make membership more readily available to registered broker-dealers that are not FINRA members or members of another national securities exchange. As proposed, the term “member organization” under Rule 2(i) would be defined as “a registered broker or dealer (unless exempt pursuant to the Securities Exchange Act of 1934) (the ‘Act’), including sole proprietors, partnerships, limited liability partnerships, corporations, and limited liability corporations, approved by the Exchange pursuant to Rule 311.” This proposed rule text is based in part on NYSE Arca, Inc. (“NYSE Arca”) Rule 2.3(a), which similarly provides that membership on that exchange “may be held by any entity which is a registered broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, including sole proprietors, partnerships, limited liability partnerships, corporations, and limited liability companies.”⁹ The Exchange proposes to include a cross reference to Rule 311, which is the rule that governs formation and approval of an exchange member organization.

The Exchange believes that the proposed change to the definition of “member organization” can be made without any regulatory impact because member organizations will continue to be subject to a comprehensive regulatory regime regardless of whether they are a member of another SRO or not. As discussed above, the Exchange did not require member organizations to also be members of FINRA prior to 2007 and only required FINRA membership as part of the combination of NASD and NYSE Regulation staff to form FINRA. The Exchange later contracted with FINRA to perform certain market surveillance, investigation and enforcement functions on behalf of the Exchange.¹⁰ However, since January 1, 2016, the Exchange is once again directly performing certain of those previously outsourced regulatory functions. For instance, the Exchange surveils and examines member organizations for compliance with its own rules and provisions of the federal securities laws governing various matters, including sales practices and trading activities and practices. The Exchange also investigates and enforces violations of Exchange rules and conducts disciplinary

⁹ See also NYSE Arca Rule 1.1(n).

¹⁰ See Securities Exchange Act Release No. 62355 (June 22, 2010), 75 FR 36729 (June 28, 2010) (SR-NYSE-2010-46).

proceedings arising out of such enforcement actions. FINRA continues to perform, pursuant to a Regulatory Services Agreement with the Exchange, investigations and enforcement of matters arising from FINRA's cross-market surveillances, as well as from its examination of members of the NYSE.

The reasons behind initially requiring FINRA membership no longer exist. As it does today, and as was the case prior to 2007, the Exchange performs the necessary regulatory oversight of member organizations as outlined above. For those member organizations that are FINRA members, they will continue to be regulated pursuant to the terms of an existing allocation plan pursuant to Rule 17d-2 of the Act between FINRA¹¹ and the Exchange for compliance with common FINRA and Exchange rules. Under the oversight of the NYSE's regulatory unit, FINRA will continue to perform certain regulatory services pursuant to the Regulatory Services Agreement, including certain membership application review services, registration, testing, and continuing education services, education and training services, examination services, surveillance and investigation services, disciplinary services, ancillary regulatory services, and audit services for the Exchange.¹²

Rule 17d-1 of the Act authorizes the Commission to name a single SRO as the Designated Examining Authority ("DEA") to examine members of more than one SRO ("common member") for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.¹³ The NYSE does not currently act as the as the DEA for any member organization. Should the

¹¹ See Securities Exchange Act Release No. 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Notice of Filing and Order Declaring Effective a Proposed Plan for the Allocation of Regulatory Responsibilities Among the Financial Industry Regulatory Authority, Inc., New York Stock Exchange LLC, NYSE Regulation, Inc. and NYSE Amex LLC). See, e.g., Securities Exchange Act Release Nos. 78473 (August 3, 2016), 81 FR 52722 (August 9, 2016) (Multiparty 17d-2 Plan Relating to the Surveillance, Investigation, and Enforcement of Insider Trading Rules); and 79928 (February 2, 2017), 82 FR 9814 (February 8, 2017) (Regulation NMS Multiparty 17d-2 Plan).

¹² The Exchange has also entered into Regulatory Services Agreements with FINRA covering member compliance with the Tick Size Pilot Program's data collection and reporting requirements as well as for investigations and enforcement activities related to insider trading.

¹³ 17 CFR 240.17d-1. Rule 17d-1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices, which the Exchange will retain and continue to perform.

NYSE be assigned by the Commission as the DEA for a member organization and, therefore be required to examine that member organization for compliance with the financial responsibility requirements pursuant to Rule 17d-1 of the Act, FINRA will perform those duties on behalf of the Exchange pursuant to the same Regulatory Services Agreement and under the continued oversight of the NYSE's regulatory unit.¹⁴

The Exchange also proposes to make various related changes to the rule. Because Section 15(b)(8) of the Act¹⁵ requires broker-dealers that transact with the public to be FINRA members, the Exchange proposes to remove this requirement from its definition of member organization as redundant. Consistent with the proposed amendment, Rule 2(i) would also no longer require that a member organization that conducts business on the Floor of the Exchange to be a FINRA member. The Exchange also proposes to amend paragraph (ii) of Rule 2 to remove references to being a member of FINRA or another national securities exchange. These provisions and references to FINRA would no longer be necessary in the Exchange's rules since membership in FINRA, or another SRO, would no longer be required as a condition to becoming a members organization on the Exchange. Those member organizations that transact business with the public would, however, continue to be required to be members of FINRA pursuant to Section 15(b)(8) of the Act.¹⁶

¹⁴ Though FINRA would examine member organizations for which NYSE is the DEA on the NYSE's behalf, the NYSE would remain responsible under Rule 17d-1 to ensure that FINRA performs those regulatory duties in compliance with Act under the Regulatory Services Agreement. The Exchange notes that its affiliates, NYSE American LLC and NYSE Arca, Inc., have both been named by the Commission as DEAs for certain of their members and that FINRA examines those members as required by Rule 17d-1 of the Act pursuant to a Regulatory Services Agreement. In addition, Cboe Exchange, Inc. and Cboe C2 Exchange, Inc. (collectively, "Cboe") have also entered into Regulatory Services Agreements with FINRA under which FINRA performs, among other things, examination functions of Cboe members for which Cboe is DEA on Cboe's behalf. See, [FINRA Signs Regulatory Services Agreement with CBOE and C2](http://www.finra.org/newsroom/2014/finra-signs-regulatory-services-agreement-cboe-and-c2), available at <http://www.finra.org/newsroom/2014/finra-signs-regulatory-services-agreement-cboe-and-c2>, dated December 22, 2014. See also, [CBOE and C2 Enter into Agreements with FINRA Involving Regulatory Services](http://ir.cboe.com/press-releases/2014/dec-22-2014), available at <http://ir.cboe.com/press-releases/2014/dec-22-2014>, dated December 22, 2014. See [Regulatory Services, FINRA Exchange Solutions](http://www.finra.org/industry/regulatory-services), available at <http://www.finra.org/industry/regulatory-services> for a list of exchanges that FINRA provides examination services on behalf of.

¹⁵ 15 U.S.C. 78o(b)(8).

¹⁶ Id.

The definition of “member organization” under Rule 2 will continue to require a registered broker or dealer to be approved by the Exchange and authorized to designate an associated natural person to effect transactions on the floor of the Exchange or any facility thereof.

The Exchange proposes to delete the last sentence of Rule 2(i), which currently provides that member organizations include a natural person so registered, approved and licensed who directly effects transactions on the floor of the Exchange or any facility thereof. The Exchange does not currently have any natural persons that are member organizations of the Exchange, and, therefore, removing this language would not impact any current member organizations. The Exchange further believes that the addition of the reference to “sole proprietor” to Rule 2(i) would address any natural persons that seek to be approved as a member organization in the future. In addition, removing this sentence would also further harmonize the Exchange’s membership requirements with its affiliate, NYSE Arca.¹⁷

(b) Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Sections 6(b)(5) of the Act,¹⁹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by expanding the number of registered brokers-dealers that would be eligible to become NYSE member organizations and trade on the Exchange, while maintaining high regulatory standards and a comprehensive regulatory regime with respect to such firms. The Exchange notes that it did not require member organizations to also be members of FINRA prior to 2007. It only subsequently required FINRA membership to accommodate a transition period as part of the combination of NASD and NYSE Regulation to form FINRA. Since that time, the Exchange

¹⁷ See supra note 8.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

reintegrated numerous regulatory function performed by FINRA.²⁰ The reasons behind initially requiring FINRA membership no longer exist.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because member organization will continue to be subject to a comprehensive, mature, and rigorous regulatory program, regardless of whether they are members of FINRA or another SRO. As mentioned above, the Exchange will perform the necessary regulatory oversight of member organizations, as it did prior to 2007. Certain of the Exchange's regulatory obligations with respect to member organizations that are FINRA members are allocated to FINRA pursuant to the terms of allocation plan under Rule 17d-2 of the Act between FINRA and the Exchange.²¹ For those member organizations that are not FINRA members, the Exchange will provide for certain of its regulatory responsibilities, including, if applicable, DEA responsibilities, pursuant to an existing Regulatory Services Agreement between the Exchange and FINRA.²²

The proposed rule change would also contribute to perfecting the mechanism of a free and open market and a national market system, which outcomes are also consistent with the protection of investors and the public interest by aligning NYSE membership requirements more closely with those of the Exchange's affiliate, NYSE Arca.²³ In addition, the proposed rule change is not without additional precedent. For example, the rules of the Cboe do not require membership in FINRA or on another SRO to be a Trading Permit Holder on Cboe.²⁴ Finally, no federal securities law requires that a broker-dealer be a member of more than one national securities exchange or SRO (e.g., FINRA).²⁵ The Exchange's proposal would merely remove the requirement under its rules that broker-dealers be members of another SRO when they are not otherwise required to do so.

The proposed rule change would also not unfairly discriminate between or among market participants because both current and prospective members would be

²⁰ FINRA continues to perform pursuant to a Regulatory Services Agreement with the Exchange investigations and enforcement of matters arising from FINRA's cross-market surveillances, as well as from its examination of members of the NYSE.

²¹ See supra note 11.

²² See supra notes 13 and 14 and accompanying text.

²³ See supra note 8 and accompanying text.

²⁴ See Cboe Rules 3.2 and 3.3.

²⁵ See generally 15 U.S.C. 78o.

subject to the rule. All member organizations would be regulated in the same manner by the Exchange should they be a member of another SRO or not.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,²⁶ the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to have a competitive impact because it is not intended to attract additional business to the Exchange. It is simply intended to align the definition of "member organization" with that of its affiliates and similar definitions of other national securities exchanges while ensuring the member organizations continue to be subject to comprehensive regulatory oversight. This proposal should also move to harmonize the membership requirements between the exchange and its affiliate NYSE Arca, thereby avoiding potential confusion.²⁷

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based on the rules of the Exchange's affiliate, NYSE Arca,²⁸ as well as the rules of Cboe.²⁹

²⁶ 15 U.S.C. 78f(b)(8).

²⁷ See supra note 8 and accompanying text.

²⁸ Id.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Publication in the Federal Register

Exhibit 5 – Text of the Proposed Rule Change

²⁹ See supra note 24.

SECURITIES AND EXCHANGE COMMISSION
 (Release No. 34- ; File No. SR-NYSE-2018-33)

[Date]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of
 Proposed Rule Change to Amend Rule 2 to Remove a Requirement

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on July 12, 2018, 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, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange proposes to amend Rule 2 to remove a requirement that a registered broker-dealer be a member of the Financial Industry Regulatory Authority, Inc. or another national securities exchange. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of 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 self-regulatory organization included

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 those statements may be examined at the places specified in Item IV 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

The Exchange proposes to amend the definition of “member organization” under Rule 2 (“Member,” “Membership,” “Membership Firm,” etc.) to remove a requirement that a registered broker-dealer seeking to be a member organization be a member of FINRA or another national securities exchange. In 2007, the Exchange amended Rule 2 to require FINRA membership as part of the consolidation of member firm regulatory functions of then NASD and NYSE Regulation, Inc. (“NYSE Regulation”) that resulted in a combined self-regulatory organization (“SRO”) that is now known as FINRA.⁴ As part of the consolidation, NYSE Regulation and NASD sought to harmonize certain of their member firm rules. At that time, it was anticipated that the rule harmonization would not be completed by the time NASD and NYSE Regulation completed their combination. Therefore, the combination contemplated a transition period during which FINRA would apply to NYSE member organizations the member firm rules of the NYSE. A necessary part of this transition was for NYSE to require all NYSE member

⁴ See Securities Exchange Act Release No. 56654 (October 12, 2007), 72 FR 59129 (October 18, 2007) (SR-NYSE-2007-67).

organizations to become FINRA members.⁵ Prior to this time, FINRA membership was not a condition to become member organizations on the Exchange.

Subsequently, to enable more broker-dealers to become member organizations, the Exchange further amended Rule 2 to broaden the definition of “member organization” to include a registered broker-dealer that is not a member of FINRA but is a member of another national securities exchange.⁶ Rule 2 repeats the requirement in Section 15(b)(8) of the Act⁷ that requires member organizations that transact business with the public to be a member of FINRA. In addition, Rule 2 requires member organizations that conduct business on the Floor of the Exchange to be a member of FINRA, which is a requirement unique to the Exchange.⁸

On June 14, 2010, the NYSE, NYSE Regulation,⁹ and FINRA entered into a Regulatory Services Agreement, whereby FINRA was retained to perform the market surveillance and enforcement functions that had previously been performed by the NYSE. Pursuant to the Regulatory Services Agreement, FINRA had been performing Exchange enforcement-related regulatory services, including investigating and enforcing violations of Exchange rules, and conducting disciplinary proceedings arising out of such enforcement actions, including those relating to NYSE-only rules and against dual members and non-FINRA members. In October 2014, the Exchange announced that,

⁵ Id.

⁶ See Securities Exchange Act Release No. 60318 (July 16, 2009), 74 FR 36797 (July 24, 2009) (SR-NYSE-2009-63).

⁷ 15 U.S.C. 78q(b)(8).

⁸ Id.

⁹ See Securities Exchange Act Release No. 62355 (June 22, 2010), 75 FR 36729 (June 28, 2010) (SR-NYSE-2010-46).

upon expiration of the current Regulatory Services Agreement on December 31, 2015, certain market surveillance, investigation and enforcement functions performed on behalf of the Exchange would be reintegrated. Accordingly, as of January 1, 2016, the Exchange began to perform certain of the market surveillance, investigation and enforcement functions that FINRA was retained to perform in 2010.

As a result of the reintegration of these various regulatory functions, the Exchange proposes to make membership more readily available to registered broker-dealers that are not FINRA members or members of another national securities exchange. As proposed, the term “member organization” under Rule 2(i) would be defined as “a registered broker or dealer (unless exempt pursuant to the Securities Exchange Act of 1934) (the ‘Act’), including sole proprietors, partnerships, limited liability partnerships, corporations, and limited liability corporations, approved by the Exchange pursuant to Rule 311.” This proposed rule text is based in part on NYSE Arca, Inc. (“NYSE Arca”) Rule 2.3(a), which similarly provides that membership on that exchange “may be held by any entity which is a registered broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, including sole proprietors, partnerships, limited liability partnerships, corporations, and limited liability companies.”¹⁰ The Exchange proposes to include a cross reference to Rule 311, which is the rule that governs formation and approval of an exchange member organization.

The Exchange believes that the proposed change to the definition of “member organization” can be made without any regulatory impact because member organizations will continue to be subject to a comprehensive regulatory regime regardless of whether

¹⁰ See also NYSE Arca Rule 1.1(n).

they are a member of another SRO or not. As discussed above, the Exchange did not require member organizations to also be members of FINRA prior to 2007 and only required FINRA membership as part of the combination of NASD and NYSE Regulation staff to form FINRA. The Exchange later contracted with FINRA to perform certain market surveillance, investigation and enforcement functions on behalf of the Exchange.¹¹ However, since January 1, 2016, the Exchange is once again directly performing certain of those previously outsourced regulatory functions. For instance, the Exchange surveils and examines member organizations for compliance with its own rules and provisions of the federal securities laws governing various matters, including sales practices and trading activities and practices. The Exchange also investigates and enforces violations of Exchange rules and conducts disciplinary proceedings arising out of such enforcement actions. FINRA continues to perform, pursuant to a Regulatory Services Agreement with the Exchange, investigations and enforcement of matters arising from FINRA's cross-market surveillances, as well as from its examination of members of the NYSE.

The reasons behind initially requiring FINRA membership no longer exist. As it does today, and as was the case prior to 2007, the Exchange performs the necessary regulatory oversight of member organizations as outlined above. For those member organizations that are FINRA members, they will continue to be regulated pursuant to the terms of an existing allocation plan pursuant to Rule 17d-2 of the Act between FINRA¹²

¹¹ See Securities Exchange Act Release No. 62355 (June 22, 2010), 75 FR 36729 (June 28, 2010) (SR-NYSE-2010-46).

¹² See Securities Exchange Act Release No. 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Notice of Filing and Order Declaring Effective a Proposed Plan for

and the Exchange for compliance with common FINRA and Exchange rules. Under the oversight of the NYSE's regulatory unit, FINRA will continue to perform certain regulatory services pursuant to the Regulatory Services Agreement, including certain membership application review services, registration, testing, and continuing education services, education and training services, examination services, surveillance and investigation services, disciplinary services, ancillary regulatory services, and audit services for the Exchange.¹³

Rule 17d-1 of the Act authorizes the Commission to name a single SRO as the Designated Examining Authority ("DEA") to examine members of more than one SRO ("common member") for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.¹⁴ The NYSE does not currently act as the as the DEA for any member organization. Should the NYSE be assigned by the Commission as the DEA for a member organization and, therefore be required to examine that member organization for compliance with the financial responsibility

the Allocation of Regulatory Responsibilities Among the Financial Industry Regulatory Authority, Inc., New York Stock Exchange LLC, NYSE Regulation, Inc. and NYSE Amex LLC). See, e.g., Securities Exchange Act Release Nos. 78473 (August 3, 2016), 81 FR 52722 (August 9, 2016) (Multiparty 17d-2 Plan Relating to the Surveillance, Investigation, and Enforcement of Insider Trading Rules); and 79928 (February 2, 2017), 82 FR 9814 (February 8, 2017) (Regulation NMS Multiparty 17d-2 Plan).

¹³ The Exchange has also entered into Regulatory Services Agreements with FINRA covering member compliance with the Tick Size Pilot Program's data collection and reporting requirements as well as for investigations and enforcement activities related to insider trading.

¹⁴ 17 CFR 240.17d-1. Rule 17d-1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices, which the Exchange will retain and continue to perform.

requirements pursuant to Rule 17d-1 of the Act, FINRA will perform those duties on behalf of the Exchange pursuant to the same Regulatory Services Agreement and under the continued oversight of the NYSE's regulatory unit.¹⁵

The Exchange also proposes to make various related changes to the rule. Because Section 15(b)(8) of the Act¹⁶ requires broker-dealers that transact with the public to be FINRA members, the Exchange proposes to remove this requirement from its definition of member organization as redundant. Consistent with the proposed amendment, Rule 2(i) would also no longer require that a member organization that conducts business on the Floor of the Exchange to be a FINRA member. The Exchange also proposes to amend paragraph (ii) of Rule 2 to remove references to being a member of FINRA or another national securities exchange. These provisions and references to FINRA would no longer be necessary in the Exchange's rules since membership in FINRA, or another

¹⁵ Though FINRA would examine member organizations for which NYSE is the DEA on the NYSE's behalf, the NYSE would remain responsible under Rule 17d-1 to ensure that FINRA performs those regulatory duties in compliance with Act under the Regulatory Services Agreement. The Exchange notes that its affiliates, NYSE American LLC and NYSE Arca, Inc., have both been named by the Commission as DEAs for certain of their members and that FINRA examines those members as required by Rule 17d-1 of the Act pursuant to a Regulatory Services Agreement. In addition, Cboe Exchange, Inc. and Cboe C2 Exchange, Inc. (collectively, "Cboe") have also entered into Regulatory Services Agreements with FINRA under which FINRA performs, among other things, examination functions of Cboe members for which Cboe is DEA on Cboe's behalf. See, FINRA Signs Regulatory Services Agreement with CBOE and C2, available at <http://www.finra.org/newsroom/2014/finra-signs-regulatory-services-agreement-cboe-and-c2>, dated December 22, 2014. See also, CBOE and C2 Enter into Agreements with FINRA Involving Regulatory Services, available at <http://ir.cboe.com/press-releases/2014/dec-22-2014>, dated December 22, 2014. See Regulatory Services, FINRA Exchange Solutions, available at <http://www.finra.org/industry/regulatory-services> for a list of exchanges that FINRA provides examination services on behalf of.

¹⁶ 15 U.S.C. 78o(b)(8).

SRO, would no longer be required as a condition to becoming a members organization on the Exchange. Those member organizations that transact business with the public would, however, continue to be required to be members of FINRA pursuant to Section 15(b)(8) of the Act.¹⁷

The definition of “member organization” under Rule 2 will continue to require a registered broker or dealer to be approved by the Exchange and authorized to designate an associated natural person to effect transactions on the floor of the Exchange or any facility thereof.

The Exchange proposes to delete the last sentence of Rule 2(i), which currently provides that member organizations include a natural person so registered, approved and licensed who directly effects transactions on the floor of the Exchange or any facility thereof. The Exchange does not currently have any natural persons that are member organizations of the Exchange, and, therefore, removing this language would not impact any current member organizations. The Exchange further believes that the addition of the reference to “sole proprietor” to Rule 2(i) would address any natural persons that seek to be approved as a member organization in the future. In addition, removing this sentence would also further harmonize the Exchange’s membership requirements with its affiliate, NYSE Arca.¹⁸

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the

¹⁷ Id.

¹⁸ See supra note 9.

Act,¹⁹ in general, and furthers the objectives of Sections 6(b)(5) of the Act,²⁰ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by expanding the number of registered brokers-dealers that would be eligible to become NYSE member organizations and trade on the Exchange, while maintaining high regulatory standards and a comprehensive regulatory regime with respect to such firms. The Exchange notes that it did not require member organizations to also be members of FINRA prior to 2007. It only subsequently required FINRA membership to accommodate a transition period as part of the combination of NASD and NYSE Regulation to form FINRA. Since that time, the Exchange reintegrated numerous regulatory function performed by FINRA.²¹ The reasons behind initially requiring FINRA membership no longer exist.

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ FINRA continues to perform pursuant to a Regulatory Services Agreement with the Exchange investigations and enforcement of matters arising from FINRA's cross-market surveillances, as well as from its examination of members of the NYSE.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because member organization will continue to be subject to a comprehensive, mature, and rigorous regulatory program, regardless of whether they are members of FINRA or another SRO. As mentioned above, the Exchange will perform the necessary regulatory oversight of member organizations, as it did prior to 2007. Certain of the Exchange's regulatory obligations with respect to member organizations that are FINRA members are allocated to FINRA pursuant to the terms of allocation plan under Rule 17d-2 of the Act between FINRA and the Exchange.²² For those member organizations that are not FINRA members, the Exchange will provide for certain of its regulatory responsibilities, including, if applicable, DEA responsibilities, pursuant to an existing Regulatory Services Agreement between the Exchange and FINRA.²³

The proposed rule change would also contribute to perfecting the mechanism of a free and open market and a national market system, which outcomes are also consistent with the protection of investors and the public interest by aligning NYSE membership requirements more closely with those of the Exchange's affiliate, NYSE Arca.²⁴ In addition, the proposed rule change is not without additional precedent. For example, the rules of the Cboe do not require membership in FINRA or on another SRO to be a Trading Permit Holder on Cboe.²⁵ Finally, no federal securities law requires that a broker-dealer be a member of more than one national securities exchange or SRO (e.g.,

²² See supra note 12.

²³ See supra notes 14 and 15 and accompanying text.

²⁴ See supra note 9 and accompanying text.

²⁵ See Cboe Rules 3.2 and 3.3.

FINRA).²⁶ The Exchange's proposal would merely remove the requirement under its rules that broker-dealers be members of another SRO when they are not otherwise required to do so.

The proposed rule change would also not unfairly discriminate between or among market participants because both current and prospective members would be subject to the rule. All member organizations would be regulated in the same manner by the Exchange should they be a member of another SRO or not.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,²⁷ the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to have a competitive impact because it is not intended to attract additional business to the Exchange. It is simply intended to align the definition of "member organization" with that of its affiliates and similar definitions of other national securities exchanges while ensuring the member organizations continue to be subject to comprehensive regulatory oversight. This proposal should also move to harmonize the membership requirements between the exchange and its affiliate NYSE Arca, thereby avoiding potential confusion.²⁸

²⁶ See generally 15 U.S.C. 78o.

²⁷ 15 U.S.C. 78f(b)(8).

²⁸ See supra note 9 and accompanying text.

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.

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-2018-33 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2018-33. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2018-33 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Robert W. Errett
Deputy Secretary

²⁹ 17 CFR 200.30-3(a)(12).

Additions underscored.
Deletions are [bracketed].

Rules of the New York Stock Exchange LLC

* * * * *

Rule 2. “Member,” “Membership,” “Membership Firm,” etc.

(a) (No change).

(b)

(i) The term “member organization” means a registered broker or dealer (unless exempt pursuant to the Securities Exchange Act of 1934) (the “Act”), including sole proprietors, partnerships, limited liability partnerships, corporations, and limited liability corporations, approved by the Exchange pursuant to Rule 311 [that is a member of the Financial Industry Regulatory Authority, Inc. (“FINRA”) or another registered securities exchange. Member organizations that transact business with public customers or conduct business on the Floor of the Exchange shall at all times be members of FINRA]. A registered broker or dealer must also be approved by the Exchange and authorized to designate an associated natural person to effect transactions on the floor of the Exchange or any facility thereof. [This term shall include a natural person so registered, approved and licensed who directly effects transactions on the floor of the Exchange or any facility thereof.]

(ii) The term “member organization” also includes any registered broker or dealer [that is a member of FINRA or a registered securities exchange, consistent with the requirements of section 2(b)(i) of this Rule,]which does not own a trading license and agrees to be regulated by the Exchange as a member organization and which the Exchange has agreed to regulate.

* * * * *