

Information Memo

New York Stock Exchange, Inc.
14 Wall Street
New York, NY 10005

Enforcement



Number 05-93
December 8, 2005

ATTENTION: CHIEF EXECUTIVE OFFICER, MANAGING PARTNERS,
COMPLIANCE AND LEGAL DEPARTMENTS

TO: ALL MEMBERS, MEMBER ORGANIZATIONS AND CHIEF
OPERATING OFFICERS

SUBJECT: AMENDMENT TO DISCLOSURE REQUIREMENTS FOR
INDIVIDUAL RESPONDENTS

The purpose of this Information Memo is to provide notice to the New York Stock Exchange Member and Member Firm Community that the Division of Enforcement is revising its policy with respect to individual respondents' disclosure requirements. In particular, the Enforcement Division will no longer require individual respondents to disclose the existence of an investigation on the Form U-4 (the Uniform Application For Securities Industry Registration or Transfer) upon receipt of a jurisdiction letter. Rather, disclosure of the investigation will take place after a "Wells" notice has been given or when Enforcement communicates its intention to recommend disciplinary action.

The requirement to disclose New York Stock Exchange investigations on the Form U-4 is located in the general instructions section of the Form U-4. In that section "Investigation" is presently defined to include, among other things: (i) U.S. Securities and Exchange Commission investigations "after the 'Wells' notice has been given;" (ii) NASD investigations "after the 'Wells' notice has been given or after a person associated with a member, as defined in the NASD By-Laws, has been advised by the staff that it intends to recommend formal disciplinary action;" and (iii) "formal investigations by other SROs." The Exchange is requesting a revision to the instructions to the Form U-4 to reflect the Exchange's new policy regarding individual respondents' disclosure obligations. Because it may take some time to implement this change, jurisdiction letters from the Enforcement Division will now state that receipt of the jurisdiction letter is not a reportable event.

In addition, because the Form U-4 must now be updated to reflect the existence of an investigation either at the “Wells” stage, or when Enforcement staff communicates its intent to recommend formal action, the Enforcement Division will notify individual respondents when such circumstances occur, that they constitute reportable events.

Susan L. Merrill
Executive Vice President
Division of Enforcement