By the Commission.

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61919; File No. 4–566]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amendment to the Plan for the Allocation of Regulatory Responsibilities Among the American Stock Exchange LLC, BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Regulation, Inc., NASDAQ OMX BX, Inc., and NASDAQ OMX PHLX, Inc. Relating to the Surveillance, Investigation, and Enforcement of Insider Trading Rules

April 15, 2010.

Notice is hereby given that the Securities and Exchange Commission ("Commission") has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 ("Act"),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility ("Plan") filed pursuant to Rule 17d–2 of the Act,[2] by the American Stock Exchange LLC ("Amex"), BATS Exchange, Inc. ("BATS"), Boston Stock Exchange, Inc. (n/k/a NASDAQ OMX BX, Inc.) ("BSE" or "BX"), Chicago Board Options Exchange, Incorporated ("CBOE"), Chicago Stock Exchange, Inc. ("CHX"), EDGA Exchange, Inc. ("EDGA"), EDGX Exchange, Inc. ("EDGX"), the Financial Industry Regulatory Authority, Inc. ("FINRA"), International Securities Exchange, LLC ("ISE"), The NASDAQ Stock Market LLC ("Nasdaq"), National Stock Exchange, Inc. ("NSX"), New York Stock Exchange LLC ("NYSE"), NYSE Arca, Inc. ("NYSE Arca"), NYSE Regulation, Inc. (acting pursuant to authority delegated to it by NYSE) ("NYSE Regulation"), and the Philadelphia Stock Exchagne, Inc. (n/k/a NASDAQ OMX PHLX, Inc.) ("Phlx") (collectively, "Participating Organizations" or "parties").

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization ("SRO") registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO ("common members"). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. 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.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On September 12, 2008, the Commission declared effective the Participating Organizations' Plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[11] The Plan is designed to eliminate regulatory duplication by allocating regulatory responsibility over Common NYSE Members[12] or Common FINRA Members,[13] as applicable, (collectively "Common Members") for the surveillance, investigation, and enforcement of common insider trading rules ("Common Rules").[14] The Plan assigns regulatory responsibility over Common NYSE Members to NYSE Regulation for surveillance, investigation, and enforcement of insider trading by broker-dealers, and

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 58536 (September 12, 2008), 73 FR 54646 (September 22, 2008) (File No. 4–566).

[12] Common NYSE Members include members of the NYSE and at least one of the Participating Organizations.

[13] Common FINRA Members include members of FINRA and at least one of the Participating Organizations.

[14] Common rules are defined as: (i) Federal securities laws and rules promulgated by the Commission pertaining to insider trading, and (ii) the rules of the Participating Organizations that are related to insider trading. *See* Exhibit A to the Plan.

their associated persons, with respect to NYSE-listed stocks and NYSE Arca-listed stocks, irrespective of the marketplace(s) maintained by the Participating Organizations on which the relevant trading may occur. The Plan assigns regulatory responsibility over Common FINRA Members to FINRA for surveillance, investigation, and enforcement of insider trading by broker-dealers, and their associated persons, with respect to NASDAQ-listed stocks and Amex-listed stocks, as well as any CHX solely-listed stock, irrespective of the marketplace(s) maintained by the Participating Organizations on which the relevant trading may occur.

III. Proposed Amendment to the Plan

On April 7, 2010, the parties submitted a proposed amendment to the Plan. The purpose of the amendment is to add EDGA and EDGX as participants to the Plan. The parties have followed the requisite procedure as set forth in Paragraph 27 to the Plan regarding the addition of new SROs to the Plan. The amended agreement replaces the previous agreement in its entirety. The text of the proposed amended 17d–2 plan is as follows (additions are *underlined;* deletions are [bracketed]):

* * * * *

Agreement for the Allocation of Regulatory Responsibility of Surveillance, Investigation and Enforcement for Insider Trading pursuant to § 17(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78q (d), and Rule 17d–2 Thereunder

This agreement (the "Agreement") by and among the American Stock Exchange LLC ("Amex"), BATS Exchange, Inc. ("BATS"), Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc. ("CBOE")*, Chicago Stock Exchange, Inc. ("CHX"), *EDGA Exchange, Inc. ("EDGA"), EDGX Exchange, Inc. ("EDGX"),* Financial Industry Regulatory Authority, Inc. ("FINRA"), International Securities Exchange, LLC ("ISE")†, The NASDAQ Stock Market LLC ("NASDAQ"), National Stock Exchange, Inc., New York Stock Exchange, LLC ("NYSE"), NYSE Arca Inc. ("NYSE Arca"), NYSE Regulation, Inc. (pursuant to delegated authority) ("NYSE Regulation"), and Philadelphia Stock Exchange, Inc. (together, the "Participating Organizations"), is made pursuant to § 17(d) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. § 78q(d), and Securities and Exchange Commission ("SEC") Rule 17d–2, which allow for plans to allocate regulatory responsibility among self-regulatory organizations ("SROs"). Upon approval by the SEC, this Agreement shall amend and restate the agreement among the Participating Organizations (except [BATS and CBOE, the latter of which replaces CBOE] *EDGA and EDGX*) approved by the SEC on [September 12] *October 17,* 2008.

Whereas, NYSE delegates to NYSE Regulation the regulation of trading by members in its market, and NYSE Regulation is a subsidiary of NYSE, all references to NYSE Regulation in this Agreement shall be read as references to both entities;

Whereas, the Participating Organizations desire to: (a) Foster cooperation and coordination among the SROs; (b) remove impediments to, and foster the development of, a national market system; (c) strive to protect the interest of investors; and (d) eliminate duplication in their regulatory surveillance, investigation and enforcement of insider trading;

Whereas, the Participating Organizations are interested in allocating to NYSE Regulation, Inc. ("NYSE Regulation") regulatory responsibility for Common NYSE Members for surveillance, investigation and enforcement of Insider Trading (as defined below) in NYSE Listed Stocks (as defined below) irrespective of the marketplace(s) maintained by the Participating Organizations on which the relevant trading may occur in violation of Common Insider Trading Rules;

Whereas, the Participating Organizations are interested in allocating to FINRA regulatory responsibility for Common FINRA Members for surveillance, investigation and enforcement of Insider Trading in NASDAQ Listed Stocks, Amex Listed Stocks, and CHX Solely Listed Stocks irrespective of the marketplace(s) maintained by the Participating Organizations on which the relevant trading may occur in violation of Common Insider Trading Rules;

Whereas, the Participating Organizations will request regulatory allocation of these regulatory responsibilities by executing and filing with the SEC a plan for the above stated purposes (this Agreement, also known herein as the "Plan") pursuant to the provisions of § 17(d) of the Act, and SEC Rule 17d–2 thereunder, as described below; and

Whereas, the Participating Organizations will also enter into certain Regulatory Services Agreements (the "Insider Trading RSAs"), of even date herewith, to provide for the investigation and enforcement of suspected Insider Trading against broker-dealers, and their associated persons, that (i) are not Common NYSE Members (as defined below) in the case of Insider Trading in NYSE Listed Stocks, and (ii) are not Common FINRA Members (as defined below) in the case of Insider Trading in NASDAQ Listed Stocks, Amex Listed Stocks, and CHX Solely Listed Stocks.

Now, therefore, in consideration of the mutual covenants contained hereafter, and other valuable consideration to be mutually exchanged, the Participating Organizations hereby agree as follows:

1. Definitions. Unless otherwise defined in this Agreement, or the context otherwise requires, the terms used in this Agreement will have the same meaning they have under the Act, and the rules and regulations thereunder. As used in this Agreement, the following terms will have the following meanings:

a. "Rule" of an "exchange" or an "association" shall have the meaning defined in Section 3(a)(27) of the Act.

b. "Common NYSE Members" shall mean members of the NYSE and at least one of the Participating Organizations.

c. "Common FINRA Members" shall mean members of FINRA and at least one of the Participating Organizations.

d. "Common Insider Trading Rules" shall mean (i) the federal securities laws and rules thereunder promulgated by the SEC pertaining to insider trading, and (ii) the rules of the Participating Organizations that are related to insider trading, as provided on Exhibit A to this Agreement.

e. "Effective Date" shall have the meaning set forth in paragraph 28.

f. "Insider Trading" shall mean any conduct or action taken by a natural person or entity related in any way to the trading of securities by an insider or a related party based on or on the basis of material non-public information obtained during the performance of the insider's duties at the corporation, or otherwise misappropriated, that could be deemed a violation of the Common Insider Trading Rules.

g. "Intellectual Property" will mean any: (1) processes, methodologies, procedures, or technology, whether or not patentable; (2) trademarks, copyrights, literary works or other works of authorship, service marks and

* CBOE's allocation of certain regulatory responsibilities to NYSE/FINRA under this Agreement is limited to the activities of the CBOE Stock Exchange, LLC, a facility of CBOE.

† ISE's allocation of certain regulatory responsibilities to NYSE/FINRA under this Agreement is limited to the activities of the ISE Stock Exchange, LLC, a facility of ISE.

trade secrets; or (3) software, systems, machine-readable texts and files and related documentation.

h. "Plan" shall mean this Agreement, which is submitted as a Plan for the allocation of regulatory responsibilities of surveillance for insider trading pursuant to § 17(d) of the Securities and Exchange Act of 1934, 15 U.S.C. § 78q(d), and SEC Rule 17d–2.

i. "NYSE Listed Stock" shall mean an equity security that is listed on the NYSE, or NYSE Arca.

j. "NASDAQ Listed Stock" shall mean an equity security that is listed on the NASDAQ.

k. "Amex Listed Stock" shall mean an equity security that is listed on the Amex.

l. "CHX Solely Listed Stock" shall mean an equity security that is listed only in the Chicago Stock Exchange.

m. "Listing Market" shall mean Amex, Nasdaq, NYSE, or NYSE Arca, but not CHX.

2. Assumption of Regulatory Responsibilities.

a. NYSE Regulation: Assumption of Regulatory Responsibilities. On the Effective Date of the Plan, NYSE Regulation will assume regulatory responsibilities for surveillance, investigation and enforcement of Insider Trading by broker-dealers, and their associated persons, for Common NYSE Members with respect to NYSE Listed Stocks irrespective of the marketplace(s) maintained by the Participant Organizations on which the relevant trading may occur in violation of the Common Insider Trading Rules ("NYSE's Regulatory Responsibility").

b. FINRA: Assumption of Regulatory Responsibilities. On the Effective Date of the Plan, FINRA will assume regulatory responsibilities for surveillance, investigation and enforcement of Insider Trading by broker-dealers, and their associated persons, for Common FINRA Members with respect to NASDAQ and Amex Listed Stocks, as well as any CHX Solely Listed equity security, irrespective of the marketplace(s) maintained by the Participant Organizations on which the relevant trading may occur in violation of the Common Insider Trading Rules ("FINRA's Regulatory Responsibility").

c. Change in Control. In the event of a change of control of a Listing Market, the Listing Market will have the discretion to transfer the regulatory responsibility for its listed stocks from NYSE Regulation to FINRA or from FINRA to NYSE Regulation, provided the SRO assuming regulatory responsibility consents to such transfer.

3. Certification of Insider Trading Rules.

a. Initial Certification. By signing this Agreement, the Participating Organizations, other than NYSE Regulation and FINRA, hereby certify to NYSE Regulation and FINRA that their respective lists of Common Insider Trading Rules contained in Attachment A hereto are correct, and NYSE Regulation and FINRA hereby confirm that such rules are Common Insider Trading Rules as defined in this Agreement.

b. Yearly Certification. Each year following the commencement of operation of this Agreement, or more frequently if required by changes in the rules of the Participating Organizations, each Participating Organization shall submit a certified and updated list of Common Insider Trading Rules to NYSE Regulation and FINRA for review, which shall (i) add Participating Organization rules not included in the then-current list of Common Insider Trading Rules that qualify as Common Rules as defined in this Agreement; (ii) delete Participating Organization rules included in the current list of Common Insider Trading Rules that no longer qualify as Common Insider Trading Rules as defined in this Agreement; and (iii) confirm that the remaining rules on the current list of Common Insider Trading Rules continue to be Participating Organization rules that qualify as Common Insider Trading Rules as defined in this Agreement. NYSE Regulation and FINRA shall review each Participating Organization's annual certification and confirm whether NYSE Regulation and FINRA agree with the submitted certified and updated list of Common Insider Rules by each of the Participating Organizations.

4. No Retention of Regulatory Responsibility. The Participating Organizations do not contemplate the retention of any responsibilities with respect to the regulatory activities being assumed by NYSE Regulation and FINRA, respectively, under the terms of this Agreement. Nothing in this Agreement will be interpreted to prevent NYSE Regulation or FINRA from entering into Regulatory Services Agreement(s) to perform their Regulatory Responsibilities.

5. Dually Listed Stocks. Stocks that are listed on more than one Participating Organization shall be designated as a NYSE Listed Stock, a NASDAQ Listed Stock, or an Amex Listed Stock based on the applicable transaction reporting plan for the equity security as set forth in paragraph 1.b. of Exhibit B.

6. Fees. NYSE Regulation and FINRA shall charge Participating Organizations for performing their respective Regulatory Responsibilities, as set forth in the Schedule of Fees, attached as Exhibit B.

7. Applicability of Certain Laws, Rules, Regulations or Orders. Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the SEC. To the extent such statute, rule, or order is inconsistent with one or more provisions of this Agreement, the statute, rule, or order shall supersede the provision(s) hereof to the extent necessary to be properly effectuated and the provision(s) hereof in that respect shall be null and void.

8. Exchange Committee; Reports.

a. Exchange Committee. The Participating Organizations shall form a committee (the "Exchange Committee"), which shall act on behalf of all of Participating Organizations in receiving copies of the reports described below and in reviewing issues that arise under this Agreement. Each Participating Organization shall appoint a representative to the Exchange Committee. The Exchange Committee representatives shall report to their respective executive management bodies regarding status or issues under the Agreement. The Participating Organizations agree that the Exchange Committee will meet regularly up to four (4) times a year, with no more than one meeting per calendar quarter. At these meetings, the Exchange Committee will discuss the conduct of the Regulatory Responsibilities and identify issues or concerns with respect to this Agreement, including matters related to the calculation of the cost formula and accuracy of fees charged and provision of information related to the same. The SEC shall be permitted to attend the meetings as an observer.

b. Reports. NYSE Regulation and FINRA shall provide the reports set forth in Exhibit C hereto and any additional reports related to the Agreement reasonably requested by a majority vote of all representatives to the Exchange Committee at each Exchange Committee meeting, or more often as the Participating Organizations deem appropriate, but no more often than once every quarterly billing period.

9. Customer Complaints.

a. If a Participating Organization receives a copy of a customer complaint relating to Insider Trading or other activity or conduct that is within the NYSE's Regulatory Responsibilities as set forth in this Agreement, the Participating Organization shall promptly forward to NYSE Regulation, as applicable, a copy of such customer complaint.

b. If a Participating Organization receives a copy of a customer complaint relating to Insider Trading or other activity or conduct that is within FINRA's Regulatory Responsibilities as set forth in this Agreement, the Participating Organization shall promptly forward to FINRA, as applicable, a copy of such customer complaint.

10. Parties to Make Personnel Available as Witnesses. Each Participating Organization shall make its personnel available to NYSE Regulation or FINRA to serve as testimonial or non-testimonial witnesses as necessary to assist NYSE Regulation and FINRA in fulfilling the Regulatory Responsibilities allocated under this Agreement. FINRA and NYSE Regulation shall provide reasonable advance notice when practicable and shall work with a Participating Organization to accommodate reasonable scheduling conflicts within the context and demands as the entities with ultimate regulatory responsibility. The Participating Organization shall pay all reasonable travel and other expenses incurred by its employees to the extent that NYSE Regulation or FINRA require such employees to serve as witnesses, and provide information or other assistance pursuant to this Agreement.

11. Market Data; Sharing of Work-Papers, Data and Related Information.

a. Market Data. FINRA and NYSE Regulation shall obtain raw market data necessary to the performance of regulation under this Agreement from (a) the Consolidated Tape Association ("CTA") as the exclusive securities information processor ("SIP") for all NYSE-listed, AMEX-listed securities, and CHX solely listed securities and (b) the NASDAQ Unlisted Trading Privileges Plan as the exclusive SIP for NASDAQ-listed securities.

b. Sharing. A Participating Organization shall make available to each of NYSE Regulation and FINRA information necessary to assist NYSE Regulation or FINRA in fulfilling the regulatory responsibilities assumed under the terms of this Agreement. Such information shall include any information collected by an exchange or association in the course of performing its regulatory obligations under the Act, including information relating to an on-going disciplinary investigation or action against a member, the amount of a fine imposed on a member, financial information, or information regarding proprietary trading systems gained in the course of examining a member ("Regulatory Information"). This Regulatory Information shall be used by NYSE Regulation and FINRA solely for the purposes of fulfilling their respective regulatory responsibilities.

c. No Waiver of Privilege. The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

d. Intellectual Property.

(i) Existing Intellectual Property. Each of NYSE Regulation and FINRA, respectively, is and will remain the owner of all right, title and interest in and to the proprietary Intellectual Property it employs in the provision of regulation hereunder (including the SONAR and Stock Watch systems), and any derivative works thereof. To the extent certain elements of either of these parties' systems, or portions thereof, may be licensed or leased from third parties, all such third party elements shall remain the property of such third parties, as applicable. Likewise, any other Participating Organization is and will remain the owner of all right, title and interest in and to its own existing proprietary Intellectual Property.

(ii) Enhancements to Existing Intellectual Property or New Developments of NYSE Regulation or FINRA. In the event NYSE Regulation or FINRA (a) makes any changes, modifications or enhancements to its respective Intellectual Property for any reason, or (b) creates any newly developed Intellectual Property for any reason, including as a result of requested enhancements or new development by the Exchange Committee (collectively, the "New IP"), the Participating Organizations acknowledge and agree that each of NYSE Regulation and FINRA shall be deemed the owner of the New IP created by each of them, respectively (and any derivative works thereof), and shall retain all right, title and interest therein and thereto, and each other Participating Organization hereby irrevocably assigns, transfers and conveys to each of NYSE Regulation and FINRA, as applicable, without further consideration all of its right, title and interest in or to all such New IP (and any derivative works thereof).

(iii) NYSE Regulation and FINRA will not charge the Participating Organizations any fees for any New IP created and used by NYSE Regulation or FINRA, respectively; provided, however, that NYSE Regulation and FINRA will each be permitted to charge fees for software maintenance work performed on systems used in the discharge of their respective duties hereunder.

12. Special or Cause Examinations. Nothing in this Agreement shall restrict or in any way encumber the right of a party to conduct special or cause examinations of Common NYSE Members or Common FINRA Members as any party, in its sole discretion, shall deem appropriate or necessary.

13. Dispute Resolution Under this Agreement.

a. Negotiation. The Parties will attempt to resolve any disputes through good faith negotiation and discussion, escalating such discussion up through the appropriate management levels until reaching the executive management level. In the event a dispute cannot be settled through these means, the Parties shall refer the dispute to binding arbitration.

b. Binding Arbitration. All claims, disputes, controversies, and other matters in question between the Parties to this Agreement arising out of or relating to this Agreement or the breach thereof that cannot be resolved by the Parties will be resolved through binding arbitration. Unless otherwise agreed by the Parties, a dispute submitted to binding arbitration pursuant to this paragraph shall be resolved using the following procedures:

(i) The arbitration shall be conducted in the city of New York in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof; and

(ii) There shall be three arbitrators, and the chairperson of the arbitration panel shall be an attorney.

14. Limitation of Liability. As between the Participating Organizations, no Participating Organization, including its respective directors, governors, officers, employees and agents, will be liable to any other Participating Organization, or its directors, governors, officers, employees and agents, for any liability, loss or damage resulting from any delays, inaccuracies, errors or omissions with respect to its performing or failing to perform regulatory responsibilities, obligations, or functions, except (a) as otherwise provided for under the Act, (b) in instances of a Participating Organization's gross negligence, willful misconduct or reckless disregard with respect to another Participating Organization, (c) in instances of a breach of confidentiality obligations owed to another Participating Organization, or (d) in the case of any Participating Organization paying fees hereunder, for any payments due. The Participating Organizations understand and agree that the regulatory

responsibilities are being performed on a good faith and best effort basis and no warranties, express or implied, are made by any Participating Organization to any other Participating Organization with respect to any of the responsibilities to be performed hereunder. This paragraph is not intended to create liability of any Participating Organization to any third party.

15. SEC Approval.

a. The parties agree to file promptly this Agreement with the SEC for its review and approval. NYSE Regulation and FINRA shall jointly file this Agreement on behalf, and with the explicit consent, of all Participating Organizations.

b. If approved by the SEC, the Participating Organizations will notify their members of the general terms of the Agreement and of its impact on their members.

16. Subsequent Parties; Limited Relationship. This Agreement shall inure to the benefit of and shall be binding upon the Participating Organizations hereto and their respective legal representatives, successors, and assigns. Nothing in this Agreement, expressed or implied, is intended or shall: (a) confer on any person other than the Participating Organizations hereto, or their respective legal representatives, successors, and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, (b) constitute the Participating Organizations hereto partners or participants in a joint venture, or (c) appoint one Participating Organization the agent of the other.

17. Assignment. No Participating Organization may assign this Agreement without the prior written consent of all the other Participating Organizations, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that any Participating Organization may assign the Agreement to a corporation controlling, controlled by or under common control with the Participating Organization without the prior written consent of any other party.

18. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

19. Termination.

a. Any Participating Organization may cancel its participation in the Agreement at any time, provided that it has given 180 days written notice to the other Participating Organizations (or in the case of a change of control in ownership of a Participating Organization, such other notice time period as that Participating Organization may choose), and provided that such termination has been approved by the SEC. The cancellation of its participation in this Agreement by any Participating Organization shall not terminate this Agreement as to the remaining Participating Organizations.

b. The Regulatory Responsibilities assumed under this Agreement by NYSE Regulation or FINRA (either, an "Invoicing Party") may be terminated by the Invoicing Party against any Participating Organization as follows. The Participating Organization will have thirty (30) days from receipt to satisfy the invoice. If the Participating Organization fails to satisfy the invoice within thirty (30) days of receipt ("Default"), the Invoicing Party will notify the Participating Organization of the Default. The Participating Organization will have thirty (30) days from receipt of the Default notice to satisfy the invoice.

c. The Invoicing Party will have the right to terminate the Regulatory Responsibilities assumed under this Agreement if a Participating Organization has Defaulted in its obligation to pay the invoice on more than three (3) occasions in any rolling twenty-four (24) month period.

20. Intermarket Surveillance Group ("ISG"). In order to participate in this Agreement, all Participating Organizations to this Agreement must be members of the ISG.

21. General. The Participating Organizations agree to perform all acts and execute all supplementary instruments or documents that may be reasonably necessary or desirable to carry out the provisions of this Agreement.

22. Liaison and Notices. All questions regarding the implementation of this Agreement shall be directed to the persons identified below, as applicable. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon (i) actual receipt by the notified party or (ii) constructive receipt (as of the date marked on the return receipt) if sent by certified or registered mail, return receipt requested, to the following addresses:

* * * * *

23. Confidentiality. The parties agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations under this Agreement. No party shall assert regulatory or other privileges as against the other with respect to Regulatory Information that is required to be shared pursuant to this Agreement, as defined by paragraph 11, above.

24. Regulatory Responsibility. Pursuant to Section 17(d)(1)(A) of the Act, and Rule 17d–2 thereunder, the Participating Organizations jointly and severally request the SEC, upon its approval of this Agreement, to relieve the Participating Organizations, jointly and severally, of any and all responsibilities with respect to the matters allocated to NYSE Regulation and FINRA pursuant to this Agreement for purposes of §§ 17(d) and 19(g) of the Act.

25. Governing Law. This Agreement shall be deemed to have been made in the State of New York, and shall be construed and enforced in accordance with the law of the State of New York, without reference to principles of conflicts of laws thereof. Each of the parties hereby consents to submit to the jurisdiction of the courts of the State of New York in connection with any action or proceeding relating to this Agreement.

26. Survival of Provisions. Provisions intended by their terms or context to survive and continue notwithstanding delivery of the regulatory services by NYSE Regulation or FINRA, as applicable, the payment of the Fees by the Participating Organizations, and any expiration of this Agreement shall survive and continue.

27. Amendment.

a. This Agreement may be amended to add a new Participating Organization, provided that such Participating Organization does not assume regulatory responsibility, solely by an amendment executed by NYSE Regulation, FINRA and such new Participating Organization. All other Participating Organizations expressly consent to allow NYSE Regulation and FINRA to jointly add new Participating Organizations to the Agreement as provided above. NYSE Regulation and FINRA will promptly notify all Participating Organizations of any such amendments to add a new Participating Organization.

b. All other amendments must be made approved by each Participating Organization. All amendments, including adding a new Participating Organization, must be filed with and

approved by the Commission before they become effective.

28. Effective Date. The Effective Date of this Agreement will be the date the SEC declares this Agreement to be effective pursuant to authority conferred by § 17(d) of the Act, and SEC Rule 17d–2 thereunder.

29. Counterparts. This Agreement may be executed in any number of counterparts, including facsimile, each of which will be deemed an original, but all of which taken together shall constitute one single agreement between the Parties.

In Witness Whereof, the Parties hereto have each caused this Agreement for the Allocation of Regulatory Responsibility of Surveillance, Investigation and Enforcement for Insider Trading Agreement to be signed and delivered by its duly authorized representative.

Exhibit A: Common Insider Trading Rules

1. Securities Exchange Act of 1934 Section 10(b), and rules and regulations promulgated there under in connection with insider trading, including SEC Rule 10b–5 (as it pertains to insider trading), which states that:

Rule 10b–5—Employment of Manipulative and Deceptive Devices

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,

a. To employ any device, scheme, or artifice to defraud,

b. To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

c. To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

2. Securities Exchange Act of 1934 Section 17(a), and rules and regulations promulgated there under in connection with insider trading, including SEC Rule 17a–3 (as it pertains to insider trading).

3. The following SRO Rules as they pertain to violations of insider trading:

FINRA NASD Rule 2110 (Standards of Commercial Honor and Principles of Trade)
FINRA NASD Rule 2120 (Use of Manipulative, Deceptive or Other Fraudulent Devices)
FINRA NASD Rule 3010 (Supervision)
FINRA NASD Rule 3110 (a) and (c) (Books and Records; Financial Condition)
NYSE Rule 401(a) (Business Conduct)
NYSE Rule 476(a) (Disciplinary Proceedings Involving Charges Against Members, Member Organizations, Allied Members, Approved Persons, Employees, or Others)
NYSE Rule 440 (Books and Records)
NYSE Rule 342 (Offices—Approval, Supervision and Control)
AMEX Cons. Art. II Sec. 3, Confidential Information
AMEX Cons. Art. V Sec. 4 Suspension or Expulsion (b), (h), (i), (j) and (r)
AMEX Cons. Art. XI Sec. 4 Controlled Corporations and Associations—Responsibility for Corporate Subsidiary; Duty to Produce Books
AMEX Rule 3 General Prohibitions and Duty to Report (d), (h) (j) and (l)
AMEX Rule 3–AEMI General Prohibitions and Duty to Report (d) and (h)
AMEX Rule 16 Business Conduct
AMEX Rule 320 Offices—Approval, Supervision and Control
AMEX Rule 324 Books and Records
NASDAQ Rule 2110 (Standards of Commercial Honor and Principles of Trade)
NASDAQ Rule 2120 (Use of Manipulative, Deceptive or Other Fraudulent Devices)
NASDAQ Rule 3010 (Supervision)
NASDAQ Rule 3110 (a) and (c) (Books and Records; Financial Condition)
CHX Article 8, Rule 3 (Fraudulent Acts)
CHX Article 9, Rule 2 (Just & Equitable Trade Principles)
CHX Article 11, Rule 2 (Maintenance of Books and Records)
CHX Article 6, Rule 5 (Supervision of Registered Persons and Branch and Resident Offices)
ISE RULE 400 (Just and Equitable Principles of Trade)
ISE RULE 405 (Manipulation)
ISE RULE 408 (Prevention of Misuse of Material Nonpublic Information)
CBOE RULE 4.1 (Practices inconsistent with just and equitable principles)
CBOE RULE 4.2 (adherence to law)
CBOE RULE 4.7 (Manipulation)
CBOE RULE 4.18 (Prevention of the misuse of material non public information)
PHLX RULE 707 (Conduct Inconsistent with Just and Equitable Principles of Trade)
PHLX RULE 748 (Supervision)
PHLX RULE 760 (Maintenance, Retention and Furnishing of Books, Records and Other Information)
PHLX RULE 761 (Supervisory Procedures Relating to ITSFEA and to Prevention of Misuse of Material Nonpublic Information)
PHLX RULE 782 (Manipulative Operations)
NYSE Arca Rule 6.3 (Prevention of the Misuse of Material, Nonpublic Information)
NYSE Arca Rule 6.2(b) Prohibited Acts (J&E)
NYSE Arca Rule 6.1 Adherence to Law
NYSE Arca Rule 6.18 Supervision
NYSE Arca Rule 9.1(c) Office Supervision
NYSE Arca Rule 9.2(b) Account Supervision
NYSE Arca Rule 9.2(c) Customer Records
NYSE Arca Rule 9.17 Books and Records
NSX Rule 3.1 Business Conduct of ETP Holders
NSX Rule 3.2. Violations Prohibited
NSX Rule 3.3. Use of Fraudulent Devices
NSX Rule 4.1 Requirements
NSX Rule 5.1. Written Procedures
NSX Rule 5.3 Records
NSX Rule 5.5 Chinese Wall Procedures
BSE Chapter II, Sections 26–28 (Anti-Manipulative Provisions)
BSE Chapter II, Section 37 (ITSFEA Procedures)
BSE Chapter XXIV–C, Section 2 (Securities Accounts and Orders of Specialists)
BSE Chapter XXXVII, Section 11 (Limitations on Dealings)
BATS Rule 3.1 Business Conduct of ETP Holders
BATS Rule 3.2. Violations Prohibited
BATS Rule 3.3. Use of Fraudulent Devices
BATS Rule 4.1 Requirements
BATS Rule 5.1. Written Procedures
BATS Rule 5.3 Records
BATS Rule 5.5 Chinese Wall Procedures
BATS Rule 12.4 Manipulative Transactions
EDGA 3.1 Business Conduct of Members
EDGA 3.2 Violations Prohibited
EDGA 3.3 Use of Fraudulent Devices
EDGA 4.1 Requirements
EDGA 5.1 Written Procedures
EDGA 5.3 Records
EDGA 5.5 Prevention of misuse of material, nonpublic information
EDGA 12.4 Manipulative Transactions
EDGX 3.1 Business Conduct of Members
EDGX 3.2 Violations Prohibited
EDGX 3.3 Use of Fraudulent Devices
EDGX 4.1 Requirements
EDGX 5.1 Written Procedures
EDGX 5.3 Records
EDGX 5.5 Prevention of misuse of material, nonpublic information
EDGX 12.4 Manipulative Transactions

Exhibit B: Fee Schedule

1. Fees. NYSE Regulation and, separately, FINRA shall charge each

Participating Organization a Quarterly Fee in arrears for the performance of NYSE Regulation's and FINRA's respective regulatory responsibilities under the Plan (each, a "Quarterly Fee,", and together, the "Fees").

a. Quarterly Fees.

(1) Quarterly Fees for each Participating Organization will be charged by NYSE Regulation and FINRA, respectively, according to the Participating Organization's "Percentage of Publicly Reported Trades" occurring over three-month billing periods. The "Percentage of Publicly Reported Trades" shall equal a Participating Organization's number of reported NYSE-listed trades (when billing originates from NYSE Regulation) and combined AMEX-listed, NASDAQ-listed, and CHX solely-listed trades (when billing originates from FINRA) during the relevant period (the "Numerator"), divided by the total number of either all NYSE-listed trades or all combined AMEX-listed, NASDAQ-listed, and CHX solelylisted trades, respectively, for the same period (the "Denominator"). For purposes of clarification, ADF and Trade Reporting Facility (TRF) activity will be included in the Denominator. Additionally, with regard to TRFs, TRF trade volume will be charged to FINRA. Consequently, for purposes of calculating the Quarterly Fees, the volume for each Participant Organization's TRF will be calculated separately (that is, TRF volume will be broken out from the Participating Organization's overall Percentage of Publicly Reported Trades) and the fees for such will be billed to FINRA in accordance with paragraph 1(a)(2), rather than to the applicable Participating Organization.

(2) The Quarterly Fees shall be determined by each of NYSE Regulation and FINRA, as applicable, in the following manner for each Participating Organization:

(a) Less than 1.0%: If the Participating Organization's Percentage of Publicly Reported Trades for NYSE-listed trades (in the case of NYSE Regulation) or for combined AMEX-listed, NASDAQ-listed, and CHX solelylisted trades (in the case of FINRA) for the relevant three-month billing period is less than 1.0%, the Quarterly Fee shall be $3,125, per quarter ("Static Fee");

(b) Less than 2.0% but No Less than 1.0%: If the Participating Organization's Percentage of Publicly Reported Trades for NYSE-listed trades (in the case of NYSE Regulation) or for combined AMEX-listed, NASDAQ-listed, and CHX solely-listed trades (in the case of FINRA) for the relevant three-month billing period is less than 2.0% but no less than 1.0%, the Quarterly Fee shall be $9,375, per quarter ("Static Fee");

(c) 2.0% or Greater: If the Participating Organization's Percentage of Publicly Reported Trades for NYSE-listed trades (in the case of NYSE Regulation) or for combined AMEX-listed, NASDAQ-listed, and CHX solely listed trades (in the case of FINRA) for the relevant three-month billing period is 2.0% or greater, the Quarterly Fee shall be the amount equal to the Participating Organization's Percentage of Publicly Reported Trades multiplied by NYSE Regulation's or FINRA's total charge ("Total Charge"), respectively, for its performance of Insider Trading regulatory responsibilities for the relevant three-month billing period.

(3) Increases in Static Fees. NYSE Regulation and FINRA will re-evaluate the Quarterly Fees on an annual basis during the annual budget process outlined in paragraph 1.c. below. During each annual re-evaluation, NYSE Regulation and FINRA will have the discretion to increase the Static Fees by a percentage no greater than the percentage increase in the Final Budget over the preceding year's Final Budget. Any changes to the Static Fees shall not require an amendment to this Agreement, but rather shall be memorialized through the Budget Process.

(4) Increases in Total Charges. Any change in the Total Charges (whether a Final Budget increase or any mid year change) shall not require an amendment to this Agreement, but rather shall be memorialized through the budget process.

b. Source of Data. For purposes of calculation of the Percentage of Publicly Reported Trades for each Participating Organization, NYSE Regulation and FINRA shall use (a) the Consolidated Tape Association ("CTA") as the exclusive securities information processor ("SIP") for all NYSE Listed Stocks, AMEX Listed Stocks, and CHXSolely Listed Stocks, and (b) the Unlisted Trading Privileges Plan as the exclusive SIP for NASDAQ-listed Stocks.

c. Annual Budget Forecast. NYSE Regulation and FINRA will notify the Participating Organizations of the forecasted costs of their respective insider trading programs for the following calendar year by close of business on October 15 of the then-current year (the "Forecasted Budget"). NYSE Regulation and FINRA shall use best efforts to provide as accurate a forecast as possible. NYSE Regulation and FINRA shall then provide a final submission of the costs following approval of such costs by their respective governing Boards (the "Final Budget"). Subject to paragraph 1(d) below, in the event of a difference between the Forecasted Budget and the Final Budget, the Final Budget will govern.

d. Increases in Fees over Twenty Percent.

(1) In the event that any proposed increase to Fees by NYSE Regulation or by FINRA for a given calendar year (which increase may arise either during the annual budgetary forecasting process or through any mid-year increase) will result in a cumulative increase in such calendar year's Fees of more than twenty percent (20%) above the preceding calendar year's Final Budget (a "Major Increase"), then senior management of any Participating Organization (a) that is a Listing Market or (b) for which the Percentage of Publicly Reported Trades is then currently twenty percent (20%) or greater, shall have the right to call a meeting with the senior management of NYSE Regulation or FINRA, respectively, in order to discuss any disagreement over such proposed Major Increase. By way of example, if NYSE Regulation provides a Final Budget for 2009 that represents an 8% increase above the Final Budget for 2008, the terms of this paragraph 1.d.(1) shall not apply; if, however, in April of 2009, NYSE Regulation notifies the Exchange Committee of an increase in Fees that represents an additional 14% increase above the Final Budget for 2008, then the increase shall be deemed a Major Increase, and the terms of this paragraph 1.d.(1) shall become applicable (i.e., 8% + 14% = a cumulative increase of 22% above 2008 Final Budget).

(2) In the event that senior management members of the involved parties are unable to reach an agreement regarding the proposed Major Increase, then the matter shall be referred back to the Exchange Committee for final resolution. Prior to the matter being referred back to the Exchange Committee, nothing shall prohibit the parties from conferring with the SEC. Resolution shall be reached through a vote of no fewer than all Participating Organizations seated on the Exchange Committee, and a simple majority shall be required in order to reject the proposed Major Increase.

e. Time Tracking. NYSER and FINRA shall track the time spent by staff on insider trading responsibilities under this Agreement; however, time tracking will not be used to allocate costs.

2. Invoicing and Payment.

a. NYSE Regulation shall invoice each Participating Organization for the Quarterly Fee associated with the

regulatory activities performed pursuant to this Agreement during the previous three-month billing period within forty five (45) days of the end of such previous 3-month billing period. A Participating Organization shall have thirty (30) days from date of invoice to make payment to NYSE Regulation on such invoice. The invoice will reflect the Participating Organization's Percentage of Publicly Reported Trades for that billing period.

b. FINRA shall invoice each Participating Organization for the Quarterly Fee associated with the regulatory activities performed pursuant to this Agreement during the previous three-month billing period within forty five (45) days of the end of such previous 3-month billing period. A Participating Organization shall have thirty (30) days from date of invoice to make payment to FINRA on such invoice. The invoice will reflect the Participating Organization's Percentage of Publicly Reported Trades for that billing period.

3. Disputed Invoices; Interest. In the event that a Participating Organization disputes an invoice or a portion of an invoice, the Participating Organization shall notify in writing either FINRA or NYSE Regulation (each, an "Invoicing Party"), as applicable, of the disputed item(s) within fifteen (15) days of receipt of the invoice. In its notification to the Invoicing Party of the disputed invoice, the Participating Organization shall identify the disputed item(s) and provide a brief explanation of why the Participating Organization disputes the charges. An Invoicing Party may charge a Participating Organization interest on any undisputed invoice or the undisputed portions of a disputed invoice that a Participating Organization fails to pay within thirty (30) days of its receipt of such invoice. Such interest shall be assessed monthly. Interest will mean one and one half percent per month, or the maximum allowable under applicable Law, whichever is less.

4. Taxes. In the event any governmental authority deems the regulatory activities allocated to NYSE Regulation or FINRA to be taxable activities similar to the provision of services in a commercial context, the other Participating Organizations agree that they shall bear full responsibility, on a joint and several basis, for the payment of any such taxes levied on NYSE Regulation or FINRA, or, if such taxes are paid by NYSE Regulation or FINRA directly to the governmental authority, the other Participating Organizations agree that they shall reimburse NYSE Regulation and/or FINRA, as applicable, for the amount of any such taxes paid.

5. Audit Right; Record Keeping.

a. Audit Right.

(i) Audit of NYSE Regulation.

(a) Once every rolling twelve (12) month period, NYSE Regulation shall permit no more than one audit (to be performed by one or more Participating Organizations) of the Fees charged by NYSE Regulation to the Participating Organizations hereunder and a detailed cost analysis supporting such Fees (the "Audit"). The Participating Organization or Organizations that conduct this Audit will select a nationally-recognized independent auditing firm (or may use its regular independent auditor, providing it is a nationally-recognized auditing firm) ("Auditing Firm") to act on its, or their behalf, and will provide reasonable notice to other Participating Organizations of the Audit and invite the other Participating Organizations to participate in the Audit. NYSE Regulation will permit the Auditing Firm reasonable access during NYSE Regulation's normal business hours, with reasonable advance notice, to such financial records and supporting documentation as are necessary to permit review of the accuracy of the calculation of the Fees charged to the Participating Organizations. The Participating Organization, or Organizations, as applicable, other than NYSE Regulation, shall be responsible for the costs of performing any such audit.

(b) If, through an Audit, the Exchange Committee determines that NYSE Regulation has inaccurately calculated the Fees for any Participating Organization, the Exchange Committee will promptly notify NYSE Regulation in writing of the amount of such difference in the Fees, and, if applicable, NYSE Regulation shall issue a reimbursement of the overage amount to the relevant Participating Organization(s), less any amount owed by the Participating Organization under any outstanding, undisputed invoice(s). If such an Audit reveals that any Participating Organization paid less than what was required pursuant to the Agreement, then that Participating Organization shall promptly pay NYSE Regulation the difference between what the Participating Organization owed pursuant to the Agreement and what that Participating Organization originally paid NYSE Regulation. If NYSE Regulation disputes the results of an audit regarding the accuracy of the Fees, it will submit the dispute for resolution pursuant to the dispute resolution procedures in paragraph 13 hereof.

(c) In the event that through the review of any supporting documentation provided during the Audit, any one or more Participating Organizations desire to discuss with NYSE Regulation the supporting documentation and any questions arising therefrom with regard to the manner in which regulation was conducted, the Participating Organization(s) shall call a meeting with NYSE Regulation. NYSE Regulation shall in turn notify the Exchange Committee of this meeting in advance, and all Participating Organizations shall be welcome to attend (the "Fee Analysis Meeting"). The parties to this Agreement acknowledge and agree that while NYSE Regulation commits to discuss the supporting documentation at the Fee Analysis Meeting, NYSE Regulation shall not be subject, by virtue of the above Audit rights or any discussions during the Fee Analysis Meeting or otherwise, to any limitation whatsoever, other than the Increase in Fee provisions set forth in paragraph 1.d. of this Exhibit, on its discretion as to the manner and means by which it conducts its regulatory efforts in its role as the SRO primarily liable for regulatory decisions under this Agreement. To that end, no disagreement among the Participating Organizations as to the manner or means by which NYSE Regulation conducts its regulatory efforts hereunder shall be subject to the dispute resolution procedures hereunder, and no Participating Organization shall have the right to compel NYSE Regulation to alter the manner or means by which it conducts its regulatory efforts. Further, a Participating Organization shall not have the right to compel a rebate or reassessment of fees for services rendered, on the basis that the Participating Organization would have conducted regulatory efforts in a different manner than NYSE Regulation in its professional judgment chose to conduct its regulatory efforts.

ii. Audit of FINRA.

(a) Once every rolling twelve (12) month period, FINRA shall permit no more than one audit (to be performed by one or more Participating Organizations) of the Fees charged by FINRA to the Participating Organizations hereunder and a detailed cost analysis supporting such Fees (the "Audit"). The Participating Organization or Organizations that conduct this Audit will select a nationally-recognized independent auditing firm (or may use its regular independent auditor, providing it is a nationally-recognized auditing firm) ("Auditing Firm") to act on its, or their behalf, and will provide

reasonable notice to other Participating Organizations of the Audit. FINRA will permit the Auditing Firm reasonable access during FINRA's normal business hours, with reasonable advance notice, to such financial records and supporting documentation as are necessary to permit review of the accuracy of the calculation of the Fees charged to the Participating Organizations. The Participating Organization, or Organizations, as applicable, other than FINRA, shall be responsible for the costs of performing any such audit.

(b) If, through an Audit, the Exchange Committee determines that FINRA has inaccurately calculated the Fees for any Participating Organization, the Exchange Committee will promptly notify FINRA in writing of the amount of such difference in the Fees, and, if applicable, FINRA shall issue a reimbursement of the overage amount to the relevant Participating Organization(s), less any amount owed by the Participating Organization under any outstanding, undisputed invoice(s). If such an Audit reveals that any Participating Organization paid less than what was required pursuant to the Agreement, then that Participating Organization shall promptly pay FINRA the difference between what the Participating Organization owed pursuant to the Agreement and what that Participating Organization originally paid FINRA. If FINRA disputes the results of an audit regarding the accuracy of the Fees, it will submit the dispute for resolution pursuant to the dispute resolution procedures in paragraph 13 hereof.

(c) In the event that through the review of any supporting documentation provided during the Audit, any one or more Participating Organizations desire to discuss with FINRA the supporting documentation and any questions arising therefrom with regard to the manner in which regulation was conducted, the Participating Organization(s) shall call a meeting with FINRA. FINRA shall in turn notify the Exchange Committee of this meeting in advance, and all Participating Organizations shall be welcome to attend (the "Fee Analysis Meeting"). The parties to this Agreement acknowledge and agree that while FINRA commits to discuss the supporting documentation at the Fee Analysis Meeting, FINRA shall not be subject, by virtue of the above Audit rights or any discussions during the Fee Analysis Meeting or otherwise, to any limitation whatsoever, other than the Increase in Fee provisions set forth in paragraph 1.d. of this Exhibit, on its discretion as to the manner and means by which it conducts its regulatory efforts in its role as the SRO primarily liable for regulatory decisions under this Agreement. To that end, no disagreement among the Participating Organizations as to the manner or means by which FINRA conducts its regulatory efforts hereunder shall be subject to the dispute resolution procedures hereunder, and no Participating Organization shall have the right to compel FINRA to alter the manner or means by which it conducts its regulatory efforts. Further, a Participating Organization shall not have the right to compel a rebate or reassessment of fees for services rendered, on the basis that the Participating Organization would have conducted regulatory efforts in a different manner than FINRA in its professional judgment chose to conduct its regulatory efforts.

b. Record Keeping. In anticipation of any audit that may be performed by the Exchange Committee under paragraph 5.a. above, NYSE and FINRA shall each keep accurate financial records and documentation relating to the Fees charged by each, respectively, under this Agreement.

Exhibit C: Reports

NYSE Regulation and FINRA shall provide the following information in reports to the Exchange Committee, which information covers activity occurring under this Agreement:

1. Alert Summary Statistics: Total number of surveillance system alerts generated by quarter along with associated number of reviews and investigations. In addition, this paragraph shall also reflect the number of reviews and investigations originated from a source other than an alert. A separate table would be presented for Amex Listed, Nasdaq Listed, and CHX Solely Listed equity trading activity.

2008	Surveillance alerts	Investigations
1st Quarter 2nd Quarter 3rd Quarter 4th Quarter		
2008 Total		

2. Aging of Open Matters: Would reflect the aging for all currently open matters for the quarterly period being reported. A separate table would be presented for Amex Listed, Nasdaq Listed, and CHX Solely Listed equity trading activity. Example:

	Surveillance alerts	Investigations
0–6 months 6–9 months 9–12 months 12+ months		
Total		

3. Timeliness of Completed Matters: Would reflect the total age of those matters that were completed or closed during the quarterly period being reported. NYSE and FINRA will provide total referrals to the SEC. Example:

	Surveillance alerts	Investigations
0–6 months 6–9 months 9–12 months 12+ months		
Total		

4. Disposition of Closed Matters: Would reflect the disposition of those matters that were completed or closed during the quarterly period being reported. A separate table would be presented for Amex Listed, Nasdaq Listed, and CHX Solely Listed equity trading activity.

Example:

	Surveillance YTD	Investigations YTD
No Further Review Letter of Caution/Admonition/Fine Referred to Legal/Enforcement Referred to SEC/SRO Merged Other		
Total		

5. Pending Reviews. In addition to the above reports, the Chief Regulatory Officer (CRO) (or his or her designee) of any Participating Organization that is also a listing market (including CHX) may inquire about pending reviews involving stocks listed on that Participating Organization's market. NYSE Regulation and FINRA, respectively, will respond to such inquiries from a CRO; provided, however, that (a) the CRO must hold any information provided by NYSE Regulation and FINRA in confidence and (b) NYSE Regulation and FINRA will not be compelled to provide information in contradiction of any mandate, directive or order from the SEC, U.S. Attorney's Office, the Office of any State Attorney General or court of competent jurisdiction.

* * * * *

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 4–566 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–566. 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 plan that are filed with the Commission, and all written communications relating to the proposed plan 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 Web site 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 a.m. and 3 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of Amex, BATS, BX, CBOE, CHX, EDGA, EDGX, FINRA, ISE, NASDAQ, NSX, NYSE, NYSE Arca, NYSE Regulation, and Phlx. 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 4–566 and should be submitted on or before May 13, 2010.

V. Discussion

The Commission finds that the Plan, as proposed to be amended, is consistent with the factors set forth in Section 17(d) of the Act [15] and Rule 17d–2 [16] thereunder in that it is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. The Commission continues to believe that the Plan, as proposed to be amended, should reduce unnecessary regulatory duplication by allocating regulatory responsibility for the surveillance, investigation, and enforcement of Common Rules over Common NYSE Members, with respect to NYSE-listed stocks and NYSE Arca listed stocks, to NYSE and over Common FINRA Members, with respect to NASDAQ-listed stocks, Amex-listed stocks, and any CHX solely-listed stock, to FINRA. Accordingly, the proposed amendment to the Plan promotes efficiency by consolidating these regulatory functions in a single SRO based on the listing market for a stock, with regard to Common NYSE Members and Common FINRA Members. Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed

[15] 15 U.S.C. 78q(d).

[16] 17 CFR 240.17d–2.

amendment is effective. The purpose of the amendment is to add EDGA and EDGX as SRO participants to the Plan. By declaring effective the amended Plan today, EDGA and EDGX can be included in the Plan prior to beginning operations as a national securities exchange and the amended Plan can become effective and be implemented without undue delay. In addition, the Commission notes that the prior version of this Plan was published for comment, and the Commission did not receive any comments thereon.[17] Finally, the Commission does not believe that the amendment to the Plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the amended Plan submitted to the Commission that is contained in File No. 4–566.

It is therefore ordered, pursuant to Section 17(d) of the Act,[18] that the Plan, as amended, is hereby approved and declared effective.

It is further ordered that the Participating Organizations are relieved of those regulatory responsibilities allocated to NYSE and FINRA under the amended Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9277 Filed 4–21–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61903; File No. SR–CHX–2010–07]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend Certain Incorrect or Inaccurate Cross-References

April 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 [2] thereunder, notice is hereby given that on April 7, 2010, the Chicago Stock Exchange, Inc. ("CHX" or the "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 CHX. CHX has filed this proposal pursuant to Exchange Act Rule 19b–4(f)(6) [3] which is 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

CHX proposes to amend to correct a number of incorrect or obsolete cross-references. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com,* on the Commission's Web site at *http://www.sec.gov,* 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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 Changes

1. Purpose

The Exchange proposes to amend its rules to alter or delete references to incorrect rule citations or concepts which are no longer applicable to the manner in which the Exchange now transacts business. For the most part, these changes arise out of the transformation of the Exchange in 2006 and 2007 from a traditional floor-based auction marketplace to an electronic exchange.[4] In connection with this change, the Exchange made substantial revisions to its rules in which all of its rules were renumbered and many of them were altered or eliminated. This filing would correct cross-references to rule citations which were altered or eliminated during that process. As noted above, the Exchange also fundamentally altered its trading facilities from a floor-based exchange to a fully automated limit-order matching system. This filing would alter or eliminate references within CHX rules to obsolete roles or functions, such as the "floor," "floor brokers," and "specialists." This filing would also correct certain other errors or omissions of a grammatical nature.

In Article 1, Rule 1 (Definitions), the Exchange proposes to delete obsolete references to the CHX Floor, floor brokers, co-specialists and market makers and replace them with references to Exchange-registered Market Maker Traders ("MMTs") and Institutional Broker Representatives ("IBRs"). As defined in Articles 16 and 17, respectively, MMTs and IBRs are designations for individuals with specific rights and obligations when acting through the Exchange's facilities. IBRs replaced the now-defunct floor broker role and MMTs replaced the old market maker role, which had been defined under the now-repealed Article XXXIV.

In Article 2, Rule 5 (Committee on Exchange Procedure), the CHX proposes to replace an obsolete cross-reference to former Article VIII, Rule 23 with its replacement, Article 14, Rule 1. This cross-reference is to Exchange's provisions for the arbitration of controversies arising out of Exchange business which were renumbered, but not changed in substance. We also propose to delete a cross-reference to determinations by a subcommittee of the Committee on Exchange Procedure in certain disciplinary actions under former Article XII, Rule 3, since that grant of authority to the Committee on Exchange Procedure no longer exists under our rules.[5] In Article 3, Rule 1 (Qualifications), we are adding a missing subparagraph number under section (c) and removing the reference to Article XVI, which was repealed as unnecessary in 2006 as part of the New Trading Model rule changes. Former Article XVI required Participants which engaged in the sale of insurance products as an ancillary activity to file certain reports with the Exchange and

[17] *See supra* note 11.

[18] 15 U.S.C. 78q(d).

[19] 17 CFR 200.30–3(a)(34).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* SR–CHX–2006–05 (Sept. 26, 2006) (approving rule changes in connection with adoption of Exchange's New Trading Model).

[5] Former Article XII, Rule 3 authorized the Committee on Exchange Procedure (or appropriately designated subcommittee thereof) to issue summary fines of up to $2,500 against Participants for violations of Exchange's former decorum rules, such as fighting or profanity on Exchange premises, smoking on the Trading Floor and dress code violations. The power of the Committee on Exchange Procedure to issue fines was eliminated in 2006 as part of our transition to the new trading model and elimination of the Trading Floor (*See* SR–CHX–2006–05). Certain decorum-type rules have been retained in Article 8, Rule 16; however, charges based on violations of those provisions are authorized by the Exchange's Chief Regulatory Officer as part of the standard disciplinary process.