

Item 2: The Commission will consider whether to propose a new rule regarding risk management controls and supervisory procedures to manage financial, regulatory and other risks for brokers or dealers that provide market access.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: January 5, 2010.

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61273; File No. SR-NYSE-2009-134]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Deleting NYSE Rule 445 and Adopting New Rule 3310 To Correspond With Rule Changes Filed by the Financial Industry Regulatory Authority, Inc.

December 31, 2009.

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 December 31, 2009, 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 and II below, which Items have been substantially prepared by the Exchange. 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 delete NYSE Rule 445 and adopt new Rule 3310 to correspond with rule changes filed by the Financial Industry Regulatory Authority, Inc. ("FINRA")

and approved by the Commission.⁴ The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and www.nyse.com.

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 Exchange included 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 Statutory Basis for, the Proposed Rule Changes

1. Purpose

The purpose of the proposed rule changes is to delete NYSE Rule 445 (Anti-Money Laundering Compliance Program) and adopt new Rule 3310 (Anti-Money Laundering Compliance Program) to correspond with rule changes filed by FINRA and approved by the Commission.

Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. ("NASD"), and NYSE Regulation, Inc. ("NYSER") consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d-2 under the Act, NYSE, NYSER and FINRA entered into an agreement (the "Agreement") to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations ("FINRA Incorporated NYSE Rules"). NYSE Amex LLC ("NYSE Amex") became a party to the Agreement effective December 15, 2008.⁵

⁴ See Securities Exchange Act Release No. 60645 (September 10, 2009), 74 FR 47630 (September 16, 2009) (order approving SR-FINRA-2009-039).

⁵ See Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR-NASD-2007-054) (order approving the incorporation of certain NYSE Rules as "Common Rules") and 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE Amex LLC as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE and NYSE Amex of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.⁶

Proposed Conforming Amendments to NYSE Rules

FINRA adopted, subject to certain amendments, NASD Rule 3011 (Anti-Money Laundering Compliance Program) and related Interpretive Material NASD IM-3011-1 and 3011-2 as consolidated FINRA Rule 3310 (Anti-Money Laundering Compliance Program), and deleted FINRA Incorporated NYSE Rule 445 (Anti-Money Laundering Compliance Program) as duplicative of the new Rule.⁷

Because it is substantially similar to the provisions of FINRA Rule 3310, FINRA deleted FINRA Incorporated NYSE Rule 445. In particular, FINRA Incorporated NYSE Rule 445(1)-(5) are substantially the same as consolidated FINRA Rule 3310(a)-(e). In addition, Supplementary Material .10 and .20 to FINRA Incorporated NYSE Rule 445 are substantially the same as Supplementary Material .01 to consolidated FINRA Rule 3310. Finally, read together, part (4) and Supplementary Material .30 to FINRA Incorporated NYSE Rule 445 are substantially the same as Supplementary Material .02 to consolidated FINRA Rule 3310 with respect to the notification of AML compliance person designations.⁸

To harmonize the NYSE Rules with the approved consolidated FINRA Rules, the Exchange correspondingly proposes to delete NYSE Rule 445 and replace it with proposed NYSE Rule 3310, which is substantially similar to the new FINRA Rule.⁹ As proposed,

proposed changes by FINRA, NYSE or NYSE Amex to the substance of any of the Common Rules.

⁶ FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, see FINRA Information Notice, March 12, 2008.

⁷ See Securities Exchange Act Release No. 60645 (September 10, 2009), 74 FR 47630 (September 16, 2009).

⁸ *Id.*

⁹ NYSE Amex has submitted a companion rule filing amending its rules in accordance with

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¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

NYSE Rule 3310 adopts the same language as FINRA Rule 3310, except for substituting for or adding to, as needed, the term “member organization” for the term “member,” and making corresponding technical changes that reflect the difference between NYSE’s and FINRA’s membership structures. In addition, in Supplementary Material .02 to proposed Rule 3310, the Exchange added a cross-reference to NYSE Rule 416A to ensure that those Exchange members and member organizations that are not FINRA members are required to update the contact information for anti-money laundering compliance personnel in accordance with NYSE Rules.

Finally, in order to ensure that both proposed NYSE Rule 3310 and FINRA Rule 3310 are fully harmonized, the Exchange also proposes to add Supplementary Material .03 to NYSE Rule 3310 to provide that, for the purposes of the rule, the term “associated person of the member or member organization” shall have the same meaning as the terms “person associated with a member” or “associated person of a member” as defined in Article I (rr) of the FINRA By-Laws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between NYSE Rules and FINRA Rules (including Common Rules) of similar purpose, resulting in less burdensome and more efficient regulatory compliance for Dual Members. To the extent the Exchange’s proposal differs from FINRA’s version of the Rules, such differences are technical in nature and do not change the substance of the proposed NYSE Rules.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³ Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) becomes operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁵ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that the proposed rule change is substantially identical to a rule change proposed by FINRA and approved by the Commission after an opportunity for public comment, and does not raise any new substantive issues.¹⁶ For these

reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it will promote greater harmonization between NYSE Rules and FINRA Rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for joint members and greater harmonization between NYSE Rules and FINRA Rules. Therefore, the Commission designates the proposed rule change effective and operative upon filing.¹⁷

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2009-134 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 SR-NYSE-2009-134. 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 rule change that are filed with the Commission, and all written communications relating to the

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

FINRA’s rule changes. See SR-NYSE-Amex-2009-99.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ See *supra* note 7.

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 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 filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at <http://www.nyse.com>. 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 SR-NYSE-2009-134 and should be submitted on or before January 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Florence E. Harmon,
Deputy Secretary.

[FR Doc. 2010-80 Filed 1-7-10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61254; File No. SR-OCC-2009-20]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares

December 29, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ notice is hereby given that on December 14, 2009, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. 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 the Substance of the Proposed Rule Change

The proposed rule change would clarify that the term "fund share" includes any option or any futures

contracts on ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares.

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

In its filing with the Commission, OCC included 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Change

The purpose of the proposed rule change is to clarify the jurisdictional status of options or security futures on ETFS Physical Swiss Gold Shares or ETFS Physical Silver Shares. OCC proposes to amend the interpretation following the definition of "fund share" in Article I, Section 1, of OCC's By-Laws.² Under this proposed rule change, OCC would (i) clear and treat as securities options any option contracts on ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares that are traded on securities exchanges and (ii) clear and treat as security futures any futures contracts on ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares.

In its capacity as a "derivatives clearing organization" registered as such with the Commodities Futures Trading Commission ("CFTC"), OCC is filing this proposed rule change for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act ("CEA") in order to foreclose any potential liability under the CEA based on an argument that OCC's clearing of such options as securities options or the

clearing of such futures as security futures constitutes a violation of the CEA. The products for which approval is requested are essentially the same as the options and security futures on SPDR Gold Shares, iShares COMEX Gold Shares, and iShares Silver Shares that OCC currently clears pursuant to the rule changes referred to above and exemptions issued by the CFTC.³ OCC believes that this filing raises no new regulatory or policy issues.

OCC believes that the proposed interpretation of OCC's By-Laws is consistent with the purposes and requirements of Section 17A of the Act⁴ because it is designed to promote the prompt and accurate clearance and settlement of transactions in securities options and security futures, to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. It accomplishes these purposes by reducing the likelihood of a dispute as to the Commission's jurisdiction or shared jurisdiction in the case of security futures over derivatives based on ETFS Physical Swiss Gold Shares or ETFS Physical Silver Shares. OCC also states that the proposed rule change is not inconsistent with OCC's By-Laws and Rules.

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

OCC does not believe that the proposed rule change would impose any burden on competition.

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

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory

² Securities Exchange Act Release No. 57895 (May 30, 2008), 73 FR 32066 (June 5, 2008), and CFTC Order Exempting the Trading and Clearing of Certain Products Related to SPDR Gold Trust Shares, 73 FR 31981 (June 5, 2008) (orders approving a proposed rule change clarifying that options and securities futures on SPDR Gold Shares are included in the definition of "fund share" in OCC's rules); Securities Exchange Act Release No. 59054 (Dec. 4, 2008), 73 FR 75159 (Dec. 10, 2008) and CFTC Order Exempting the Trading and Clearing of Certain Products Related to iShares COMEX Gold Trust Shares and iShares Silver Trust Shares, 73 FR 79830 (Dec. 3, 2008) (orders approving proposed rule change adding options and security futures on iShares COMEX Gold Shares and iShares Silver Shares to OCC's interpretation of "fund share").

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

³ *Supra* note 2.

⁴ 15 U.S.C. 78q-1.