

general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

*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 either solicited or received.

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

Within 35 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 90 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 organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-BSE-99-1 and should be submitted by July 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-14684 Filed 6-9-99; 8:45 am]

BILLING CODE 8010-01-M

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-41473; File No. SR-NASD-99-23]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Locked and Crossed Markets that Occur at or Prior to the Market's Open**

June 2, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 3, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.<sup>3</sup> 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**

Nasdaq is proposing to amend the portion of NASD Rule 4613(e) regarding locked and crossed market conditions<sup>4</sup> that occur prior to the market's opening. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

4613. Character of Quotations.

(a)-(d) No changes.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> On May 14, 1999, Nasdaq amended its proposal to require a market participants that sends a Trade-or-Move Message (as defined below) to place a modifier on the message indicating the message is a Trade-or-Move Message. See letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, date May 14, 1999 ("Amendment No. 1").

<sup>4</sup> A locked market occurs when the quoted bid price is the same as the quoted ask price. A crossed market occurs when the quoted bid price is greater than the quoted ask price.

(e) Locked and Crossed Markets.

(1) A market shall not, except under extraordinary circumstances, enter or maintain quotations in Nasdaq during normal business hours if:

(A) the bid quotation entered is equal to ("lock") or greater than ("cross") the asked quotation of another market maker entering quotations in the same security; or

(B) the asked quotation is equal to ("lock") or less than ("cross") the bid quotation of another market maker entering quotations in the same security.

[The prohibitions of this rule include the entry of a locking or crossing quotation at or after 9:25:00 a.m. Eastern Time if such quotation continues to lock or cross the market at the market's opening, and requires a market maker or ECN that enters a locking or crossing quotation at or after 9:25:00 a.m. Eastern Time to take action to avoid the lock or cross at the market's open or immediately thereafter, but in no case more than 30 seconds after 9:30:00 a.m.]

(C) *Obligations Regarding Locked/Crossed Market Conditions Prior to Market Opening.*

(i) *Locked/Crossed Market Prior to 9:20 a.m.—For locks/crosses that occur prior to 9:20 a.m. Eastern Time, a market maker that is a party to a lock/cross because the market maker either has entered a bid (ask) quotation that locks/crosses another market maker's quotation(s) or has had its quotation(s) locked/crossed by another market maker ("party to a lock/cross") may, beginning at 9:20 a.m. Eastern Time, send through Nasdaq's SelectNet system (or its successor system) a message of any size that it at the receiving market maker's quoted price ("Trade-or-Move Message"). Any market maker that receives a Trade-or-Move Message at or after 9:20 a.m. Eastern Time, and that is a party to a lock/cross, must within 30 seconds of receiving such message either: fill the incoming Trade-or-Move Message for the full size of the message; or move its bid down (offer up) by a quotation increment that unlocks/uncrosses the market.*

(ii) *Locked/Crossed Market Between 9:20 and 9:29:59 a.m.—If a market maker locks or crosses the market between 9:20 and 9:29:59 a.m. Eastern Time, the market maker must immediately send through SelectNet to the market maker whose quotes it is locking or crossing a Trade-or-Move Message that is at the receiving market maker's quoted price and that is for at least 5,000 shares (in instances where there are multiple market makers to lock/cross, the locking/crossing market maker must send a message to each party to the lock/cross and the aggregate*

size of all such messages must be at least 5,000 shares). A market maker that receives a Trade-or-Move Message during this period and that is party to a lock/cross, must within 30 seconds of receiving such message either: fill the incoming Trade-or-Move Message for the full size of the message; or move its bid down (offer up) by a quotation increment that unlocks/uncrosses the market.

(iii) A market maker that sends a Trade-or-Move Message pursuant to subparagraphs (e)(1)(C)(i) or (e)(1)(C)(ii) of this rule must append to the message a Nasdaq-provided symbol indicating that it is a Trade-or-Move Message.

(2)–(3) No Change.

\* \* \* \* \*

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

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq is proposing amendments to NASD Rule 4613(e) that would alter the obligations regarding locked and crossed markets that occur prior to the market's open.

#### Background

Nasdaq has observed a number of locked/crossed markets on the open. This often occurs because a member will enter a quote prior to the open that will lock/cross the market on the open. Nasdaq's current role regarding locked/crossed markets has alleviated some, but not all, of the locked/crossed market situations. Specifically, current NASD Rule 4613(e) provides that if a market participant enters a quote at or after 9:25 a.m. that would lock/cross the market on the open, the locking/crossing market participant must take action when the market opens, but in no case later than 9:30:30 a.m., to unlock/uncross the market by (for example) sending a SelectNet message to the market participant(s) it is locking/crossing. Under the current rule, however, locks/crosses still occur at the

open because the passively locked/crossed market participant may not respond immediately to the incoming SelectNet message. To address ongoing concerns with locked and crossed markets, Nasdaq is proposing the following amendments to NASD Rule 4613(e).

Generally, the proposed amendments provide that if a market participant is a party to a locked/crossed market prior to the open, beginning at 9:20 a.m. the market participant has the *right* to send the other parties to the lock/cross a SelectNet message ("Trade-or-Move Message"), to which the receiving market participant(s) must respond in one of two ways. Specifically, the receiving market participant(s) must respond to the Trade-or-Move Message within 30 seconds by either: (1) Trading with the message for the full size of the message; or (2) moving its quotation to a price level that unlocks or uncrosses the market. Thus, the receiving market participant has the choice of either trading in full or moving its quote out of the way.<sup>5</sup> Under the proposal, a market participant's *obligations* would vary slightly depending on whether the lock/cross occurs prior to or after 9:20 a.m., as specified below.

#### Locks/Crosses Occurring At or After 9:20 and Before 9:30 a.m.

If a market participant locks/crosses the market between 9:20 a.m. and 9:29:59 a.m. Eastern Time, the market participant would be required to send—prior to or immediately after entering a locking/crossing quotation—a Trade-or-Move message(s) that was for at least an aggregate size of 5,000 shares to the party or parties that he or she is locking/crossing. (If there are multiple market participants being locked/crossed, the proposed rule will require the "initiating" or "active" locker to send Trade-or-Move Messages—whose aggregate size was at least 5,000 shares—to all parties to the lock/cross.)<sup>6</sup> The receiving market participant will then be required to trade in full with the incoming message within 30 seconds or move its quote out of the way within 30 seconds.<sup>7</sup> Prior to sending a Trade-or-

Move Message, a market participant must append to the SelectNet message a symbol indicating that such message has been designated as "Trade-or-Move." Nasdaq is requiring market participants to append such a symbol so that the receiving market participant knows that it owes some obligation to the incoming message.<sup>8</sup> Of course, a market participant could accept a portion of the incoming Trade-or-Move Message, but would be required to move its quote within the 30 second time period.

In addition, if the receiving market participant trades in full with the message (*i.e.*, up to the full amount of the incoming Trade-or-Move Message), the market participant may maintain its locked/crossed quotes and not move if it wishes to trade more shares. Thereafter, any party to the lock/cross would have the right, but not the obligation, to send a Trade-or-Move Message to any other party to the lock/cross, and any party to the lock/cross that receives a Trade-or-Move Message would then have the obligation to trade or move within 30 seconds.

#### Locks/Crosses Prior to 9:20 a.m.

For locks/crosses that occur prior to 9:20 a.m. Eastern Time, any party to a lock/cross would have the right but not the obligation *beginning at 9:20 a.m.*, to send a Trade-or-Move Message of any size to any party to the lock/cross. Similar to the above, any party to the lock/cross that receives a Trade-or-Move Message would have the obligation, beginning at 9:20 a.m., to trade or move within 30 seconds. Unlike locks/crosses that occur at or after 9:20 a.m., there is no requirement that the "actively" locking/crossing market participant send a specific number of shares to the parties to the lock/cross. The rationale for this distinction is that it is often difficult to determine which party actively locked/crossed the market in the period prior to 9:20 a.m. because market participants often do not actively

Trade-or-Move Message prior to the open would have no liability under NASD Rule 4613(b) ("NASD's Firm Quote Rule"). In addition, Nasdaq believes that a market maker receiving a Trade-or-Move Message prior to the open would owe no liability to the message under SEC Rule 11Ac1-1 ("SEC Firm Quote Rule"). Thus, a market maker would be permitted to move its quote without trading upon the receipt of what, during market hours, would be a SelectNet "liability" order.

<sup>8</sup> See Amendment No. 1, *supra* note 3.

Specifically, Nasdaq plans to change its system so that a Trade-or-Move SelectNet message may be encoded with the following message: "trad or mov." This change will allow market participants to distinguish a Trade-or-Move Message (to which the recipient has an obligation to respond under the proposed rule) from other pre-opening messages that a market participant may receive.

<sup>5</sup> As discussed more fully below, the receiving market participant also may trade with a portion of the incoming Trade-or-Move Message, and move its quote. A market participant that trades in full with the incoming Trade-or-Move Message is not required to move its quote.

<sup>6</sup> Thus, a market participant would be prohibited from locking/crossing the market in the 10-minute period prior to the open unless the actively locking/crossing market participant is willing to trade at least 5,000 shares.

<sup>7</sup> Nasdaq states that because the proposed rule will apply to quotations entered prior to the market's open, the market participant receiving a

monitor their quotes prior to that time. This is also the reason why, under the proposed rule, the obligations and rights of the parties to the lock/cross do not start until 9:20 a.m.

Nasdaq believes that the 9:20 a.m. benchmark establishes a reasonable point in time for when market participants should be actively monitoring their quotes, responding to incoming Trade-or-Move Messages, and monitoring prospectively for whether they are the actively locking/crossing market participants in the market and thus required to send out a Trade-or-Move Message for at least an aggregate of 5,000 shares. It is Nasdaq's view that if a party receives a Trade-or-Move Message at or after 9:20 a.m. and stays at its quote without trading at all or trading in full, this generally would be considered a violation of the locked/crossed market rule, as amended by this proposal, and would not be considered a violation of NASD's Firm Quote Rule.<sup>9</sup>

The following are examples of how the proposed rule would work.

At 9:21 a.m., MMA locks four market participants—MMB, MMC, MMD and MME—each quoting 1,000 shares. Since the lock has occurred after 9:20 a.m., MMA is required to send a Trade-or-Move Message for at least 5,000 shares to each of these four market makers. Accordingly, MMA sends a Trade-or-Move Message for 1,100 shares to MMB, who declines and moves. MMC receives a 1,500 share order, fills it partially (1,000 shares), and, as required, moves its quote out of the way. MMD receives a message for 400 shares, fills the message in full, and then moves down  $\frac{1}{8}$  to unlock the market.<sup>10</sup> MME receives a 2,000 share message, and fills it completely; MME is permitted to remain at her quote, but is not required to do so. MME also may send a Trade-or-Move Message to MMA, who must trade or move, or MMA may send another Trade-or-Move Message to

MME, who then would have to trade or move.

As a second example, assume that at 9:18 a.m., MMW and MMX are bidding 74, and MMY and MMX enter offer prices of 73, thus crossing the market. Since it is before 9:20 a.m., no Trade-or-Move Messages may be sent yet. At 9:20 a.m., all four market participants would have the right to send Trade-or-Move Messages of any size to either of the two market participants crossing them. Any party not filling such an order in full within 30 seconds would have to move its quote out of the cross.

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)<sup>11</sup> and Section 11A<sup>12</sup> of the Act. Section 15A(b)(6) requires that the rules of a registered national securities association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. An association's rules may not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 11A(a)(1)(C) provides that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) Economically efficient execution of securities transactions; (2) fair competition among brokers and dealers; (3) the availability to brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors' orders in the best market; and (5) an opportunity for investors' orders to be executed without the participation of a dealer.

Nasdaq believes that the proposed amendments to NASD rule 4613(e) are consistent with sections 15A(b)(6) and 11A(a)(1)(C) of the Act. By attempting to resolve locks and crosses on the market's opening, the proposed amendments foster cooperation and coordination with members. In addition, Nasdaq believes that the proposal also will ensure the fair and orderly operation of Nasdaq and the protection of investors, as its purpose is to limit

disruptions to the Nasdaq market and the potential for harm to investors.

#### *B. Self-Regulation Organization's Statement on Burden on Competition*

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

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

Written comments were neither solicited nor received.

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

Within 35 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 90 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 Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-99-23 and should be submitted by July 1, 1999.

<sup>9</sup> If a market maker receives a Trade-or-Move Message within the last 30 seconds before the opening (i.e., at or after 9:29:30 a.m.), the market maker still has the obligation to trade or move within 30 seconds, even if the end of that 30 seconds occurs after the market's open. Unlike today, a market that actively locked the market prior to the open would not be required to resend to the parties to the lock/cross a SelectNet message at or after (9:30:00 a.m., in an attempt to unlock/cross the market on the open.

However, a market maker that wishes to enter a locking/crossing quote at or after 9:30:00 a.m. would be required to use reasonable means to avoid locking/crossing the market by, for example, sending a SelectNet message to the party (or parties) it will lock/cross. See *NASD Notice to Members* 97-49.

<sup>10</sup> Because MMD has filled the message in full, he is not required to move his quote.

<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

<sup>12</sup> 15 U.S.C. 78k-1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-14681 Filed 6-9-99; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41469; File No. SR-NYSE-97-25]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change to Amend its Rule 382 Relating to Carrying Agreements

June 2, 1999

#### I. Introduction

On September 16, 1997, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend NYSE Rule 382 to monitor the activities of introducing firms that are parties to carrying agreements.

The proposed rule change was published for comment in the **Federal Register** on October 14, 1997.<sup>3</sup> Seven comment letters were received on the proposal.<sup>4</sup> On November 12, 1998, the NYSE submitted to the Commission a letter responding to the issues raised in the comment letters received by the Commission.<sup>5</sup> On November 25, 1998, the NYSE submitted Amendment No. 1

to the proposed rule change.<sup>6</sup> This order approves the proposed rule change and approves Amendment No. 1 on an accelerated basis.

#### II. Description of the Proposal

The NYSE proposes to revise NYSE Rule 382 to enhance the ability of the Exchange and other securities self-regulatory organizations ("SROs") to monitor the activities of introducing firms that are parties to carrying agreements. NYSE Rule 382 governs the contractual agreements, known as "carrying agreements. NYSE Rule 382 governs the contractual agreements, known as "carrying agreements," between a carrying firm and an introducing firm, that allocate certain functions and responsibilities associated with the carrying of, and transactions in, customer accounts. Generally, the proposed amendments to NYSE Rule 382 would provide for increased monitoring of customer complaints regarding introducing firms, require specific procedures for introducing firms requesting reports offered by carrying firms, and address procedures and responsibilities of introducing firms that are permitted to issue negotiable instruments of the carrying firms.

Specifically, the proposal, as amended, would require a carrying firm to provide promptly any written customer complaint it receives regarding the introducing firm to the introducing firm and the introducing firm's Designated Examining Authority ("DEA"). In addition, the proposal would require that the carrying firm notify the customer who submitted the written complaint in writing that the complaint was received and that it was provided to the introducing firm and the DEA. As initially proposed, the carrying firm would also have been required, in response to customer complaints, to inform customers of their right to transfer their accounts to another broker-dealer. As discussed further below, this provision was subsequently deleted from the proposal in response to comment letters received by the Commission.<sup>7</sup>

The proposal also would require a carrying firm to provide to each of its

introducing firms, at the beginning of the agreement and annually thereafter, a list of all exception and other reports that it offers to assist its introducing firms in supervising and monitoring their customer accounts. The proposal would require each introducing firm to notify the carrying firm of those specific reports offered that should be provided to the firm.<sup>8</sup>

In addition, the proposal would require the carrying firm to provide written notice, on an annual basis within 30 days of July 1 of each year (i.e., between June 1 and July 31), to the introducing firm's Chief Executive Officer, Compliance Officer, and DEA, of the list of reports offered to the introducing firm and to specify those reports actually requested or supplied as of the report date.

The Exchange also proposes to amend its original filing to conform its rule language to the amended proposal submitted by the National Association of Securities Dealers, Inc. ("NASD").<sup>9</sup> The proposal, as amended, would grant the NYSE the discretion, upon a showing of good cause, to grant exemptions from the requirements relating to the handling of customer complaints and the provision of exception reports in instances where the introducing firm is an affiliated entity of the carrying firm.<sup>10</sup>

Finally, the proposal addresses those agreements that allow introducing firms to issue negotiable instruments (e.g., checks) to their customers, for which the carrying firm is the maker or drawer. The proposed rule provides that the introducing firm must represent to the carrying firm that it has supervisory procedures in place, which it enforces and which are satisfactory to the carrying firm, with respect to the issuance of such instruments.

#### III. Summary of Comments

The Commission received seven comment letters on the proposed rule change.<sup>11</sup> As discussed further below, all of the commenters, except one,<sup>12</sup> generally opposed the proposal: four expressed concerns that the proposal was unnecessarily broad,<sup>13</sup> while two stated that the proposal was inadequate

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4

<sup>3</sup> See Securities Exchange Act Release No. 39200 (October 3, 1997), 62 FR 53369.

<sup>4</sup> See Letters to Jonathan Katz, Secretary, Commission, from Mark R. Grewe, Schroder & Co. Inc., dated October 14, 1997 ("Schroder"); Jonathan Kord Lagemann, Esq., dated October 30, 1997; Olga Monetti, dated October 29, 1997; Stephen Tenison, Senior Vice President-Compliance, Global Financial Services, L.L.C., dated October 29, 1997 ("Global"); J. David Coker, Coker & Palmer, Inc., dated October 29, 1997 ("Coker & Palmer"); Erich Sokolower, Managing Director, Repex & Co., Inc., dated October 31, 1997 ("Repex"); and Thomas J. Berthel, Chairman, Local Firms Committee, Edward Schlitzer, Chairman, Clearing Firms Committee, and Thomas A. Franko, Ad Hoc Clearing Subcommittee, Securities Industry Association, dated November 3, 1997 ("SIA").

<sup>5</sup> See Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 11, 1998 ("NYSE Response Letter").

<sup>6</sup> See Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Richard C. Strasser, Assistant Director, Division, Commission, dated November 24, 1998 ("Amendment No. 1"). In Amendment No. 1, NYSE proposes to amend its filing to: (1) delete the proposed requirement that, in response to customer complaints, the carrying firm must notify the customers of their right to transfer their accounts; and (2) add a good cause exclusion from certain provisions of the proposed rule when the introducing firm is an affiliated entity of the carrying firm.

<sup>7</sup> See Amendment No. 1, *supra* note 6.

<sup>8</sup> In addition, the carrying firm will be required to retain and preserve copies of the specific reports requested by, or supplied to, the introducing firm or have the capability to: (1) recreate copies of reports provided, or (2) make available the report format and data elements provided in the original reports necessary to recreate the original reports.

<sup>9</sup> See Amendment No. 1, *supra* note 6.

<sup>10</sup> *Id.*

<sup>11</sup> See note 4, *supra*.

<sup>12</sup> See SIA Letter, *supra* note 4.

<sup>13</sup> See Letters from Schroder, Global, Coker & Palmer, and Repex, *supra* note 4.