

paragraph (d) of this section or to a selected arbitrator under paragraph (e) of this section. *Copies of the request, objections to the request and response to the objections, if any, must accompany the request to the Director of Arbitration.*

(c) through (g) No Changes

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Voluntary Supplemental Procedures for Selecting Arbitrators

(a) No changes.

(b) Random List Selection

1. The Number and Type of Arbitrators

(i) Claims up to \$[10]25,000. One public arbitrator will decide claims up to \$[10]25,000 (not including costs and interest).

(ii) Claims above \$[10]25,000 or where no dollar amount is claimed or disclosed. Three arbitrators will decide claims above \$[10]25,000 (not including costs and interest) or where no dollar amount is claimed or disclosed. The arbitration panel shall consist of a majority of public arbitrators, unless the customer or non-member requests a majority from the securities industry.

(iii) No changes.

2. through 5. No changes.

(c) No changes.

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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 NYSE 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 NYSE 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

1. Purpose

The NYSE represents that the proposed rule change is intended to:

- Provide greater transparency with respect to challenges for cause by including the cause standard in the rules (NYSE Rule 609).

- Emphasize that all arbitrator disclosures are mandatory (NYSE Rule 610).

- Reduce paperwork by eliminating the requirement that parties in arbitration file with the Director of

Arbitration copies of all requests for information, objections to requests and responses to objections until such time as a party requests a pre-hearing conference (NYSE Rule 619).

- Conform the Voluntary Supplemental Procedures for Selecting Arbitrators Pilot Program to the recently approved change in Simplified Arbitration (NYSE Rule 601) by increasing the ceiling from \$10,000 to \$25,000 for a single arbitrator to be selected to decide an arbitration claim.

The NYSE represents that the proposed amendments to NYSE Rules 609 and 610 are consistent with the recommendations of Professor Michael A. Perino as contained in his Report to the Securities and Exchange Commission Regarding Arbitrator Conflict Disclosure Requirements in NASD and NYSE Securities Arbitrations ("Perino Report"). Commissioned by the then-Chairman of the Commission to assess the adequacy of current NASD and NYSE disclosure requirements, the Perino Report concluded that current SRO conflict disclosure rules are adequate. However, in order to provide additional assurance to investors that arbitrators are in fact neutral and impartial the Perino Report proposed four recommendations. The proposed amendments to NYSE Rules 609 and 610 are consistent with two of the Perino Report's recommendations that have been approved by the Securities Industry Conference on Arbitration ("SICA"). The other two recommendations are currently under consideration by SICA. The proposed amendment to NYSE Rule 609 codifies existing policy and provides greater transparency with respect to challenges for cause by including the cause standard in the rules. The proposed amendment to NYSE Rule 610 emphasizes that all arbitrator disclosures are mandatory and the NYSE represents that it is consistent with current self-regulatory organization interpretation of the rule.

NYSE represents that the proposed amendment to NYSE Rule 619 is intended to reduce the volume of paperwork the Exchange receives from parties by eliminating the requirement that all information requests, objections to the requests and responses be filed with the Director of Arbitration. Under the proposed amended rule, the parties will only be required to file the aforementioned documents at the time they request a pre-hearing conference to resolve a discovery dispute. NYSE represents that the proposed amendment is consistent with an amendment to the Uniform Code of Arbitration adopted by SICA.

The proposed amendment to the Voluntary Supplemental Procedures for Selecting Arbitrators will increase the ceiling from \$10,000 to \$25,000 for a single arbitrator to be selected to decide an arbitration claim. This amendment is consistent with the amendment to Simplified Arbitration (NYSE Rule 601) recently approved by the Commission.⁵

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,⁶ in general, and furthers the objectives of section 6(b)(5),⁷ in particular, in that it promotes just and equitable principles of trade by ensuring that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

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

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

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-894(f)(6) thereunder.⁹ In addition, the NYSE requests that the proposed

⁵ See Securities Exchange Act Release No. 47089 (December 23, 2002), 68 FR 139 (January 2, 2003) (SR-NYSE-2002-43).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).