

Minor Rule Violation Fine System**Part 1****General Rule Violations**

Rule 590. (a) through (f)—No change.

(g) The following is a list of the rule violations and applicable fines that may be imposed by the Exchange's Enforcement Department pursuant to Part 1 of this Rule.

1.–13. No change.

14. *Failure to attend mandatory continuing education as required by Rule 359.*

(h) No change.

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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 Amex 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 Exchange 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

In order to protect public customers and maintain its competitive position, the Exchange believes that it needs to ensure that all individuals active in the transaction of business on the Amex trading floor demonstrate a basic understanding of the auction market. While an examination is required before an Exchange member may conduct business on the Floor of the Exchange, no such initial requirement currently exists for those members' clerks who perform a critical role in the conduct of that business. For these same reasons, and particularly in this age of rapid and continuous change and diversity in innovative securities products, the Exchange states that it needs to ensure that individuals on the Amex trading floor continue to possess this basic understanding of the auction market, as well as an understanding of the critical regulatory and operational issues affecting the Exchange in particular, and the securities industry in general.

The continuing education needs of the securities industry were studied in 1993 by the Securities Industry Task Force on Continuing Education. The Task Force released a report

recommending mandatory continuing education for registered representatives. In 1999, the New York Stock Exchange (the "NYSE") instituted a semiannual program of continuing education for its floor members. That same year, with SEC approval, the NYSE amended its Rule 35 implementing training and qualification requirements for floor employees of members or member organizations, including a new Trading Assistant Qualification Examination (Series 25). The NYSE also required that Front Line Specialist Clerk candidates submit to a six-month, specialist-supervised, on-the-job training period and, thereafter, pass the Series 21 examination, before being permitted to function as a Front Line Specialist Clerk. Most recently, in June 2000, the SEC approved amendments to NYSE Rule 103A making mandatory the periodic (*i.e.*, semiannual "and at such other times as may be necessary") training of all NYSE floor members.

The Exchange believes that mandatory continuing education should be an integral part of an efficient trading floor operation. Consequently, we are proposing that newly hired floor clerks (other than those performing strictly ministerial functions) with no previous floor experience, be tested within a three-month on-the-job training period to ensure that they can properly perform their functions on the trading floor. The training period should be sufficient for an individual to learn the basic systems and regulations needed to function effectively as a member firm clerk.

The Exchange further proposes that an additional level of training and testing be required for newly-hired specialist clerks, with no previous experience as specialists or specialist clerks. In order to qualify as a specialist clerk, a candidate must, first, have either floor experience or be subject to the training and exam requirement of a floor clerk. In addition, a specialist clerk candidate will be required to have on-the-job and classroom training specifically related to the job of specialist clerk. The specialist clerk training would not exceed three months, which could be concurrent with or consecutive to any floor clerk training required by the candidate.

Continuing education for members and their floor employees is both necessary and beneficial. The needs of the Amex, however, are, in some ways, unique. Accordingly, the Exchange is proposing an annual, mandatory continuing education program for members and their employees. However, Exchange staff would be authorized to schedule additional mandatory educational sessions at such

other times as it deems necessary and/or appropriate. These additional mandatory sessions could be of a general nature for all members and member firm personnel, or they could be tailored to address the needs of a specific group, *e.g.*, as with the introduction of a new product or in a specific situation where only certain members could effect transactions and for which particular expertise is required.

The Exchange proposes to include the failure to attend a mandatory continuing education session in the General Rule Violations section of the Exchange's Minor Rule Violation Fine Systems, under which a fine may be imposed by the Exchange's Enforcement Department for failure to attend a mandatory continuing education session.

In order to finance the development and implementation of an effective continuing education and testing program, the Exchange proposes to levy an annual fee for each participant (members and clerks) in any of the programs. On approval of Amex Rule 359, the fee will be set at \$50. This fee will be incorporated in the Amex Fee Schedule (Price List) and may be changed from time to time in the same manner as other Amex fees are revised.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act⁴ in general and furthers the objectives of sections 6(b)(4) and (5) in particular,⁵ in that it is designed to (i) provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and (ii) 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 proposed rule change is designed to ensure that Floor members are regularly apprised of critical regulatory and operational issues affecting the Exchange and that all other individuals affiliated with members and member organizations, and necessary for the transaction of business on the Exchange trading floor, demonstrate a basic understanding of the auction market as well as the critical regulatory and operational issues affecting the Exchange in particular, and the securities industry in general.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4) and (5).