

a security, *i.e.*, market making, unless it has specified current information in its possession, such as a copy of a prospectus included in a registration statement filed under the Exchange Act, or a copy of an issuer's most recent annual report filed pursuant to Section 13 or 15(d) of the Exchange Act.

If a person seeking exempt account status is not subject to reporting requirements under the Act, the proposal would require that person to furnish to the member organization information similar to that mandated by these regulations. The financial requirements already proposed coupled with the new reporting requirements the Exchange seeks to impose are consistent with the purpose of NYSE Rule 431, which is to provide for extension of credit to financially sound customers and to minimize systemic risk to member organizations of the Exchange in that regard.

Further, the NYSE is proposing non-substantive amendments to NYSE Rule 431(e)(2)(H)(ii) to correct the paragraph notations.

Comment Received

As noted above, the Commission received one comment letter regarding the proposal, from TBMA. The commenter generally supported the proposed rule change but sought clarification concerning: (1) Whether the proposal's definition of "exempt account" supersedes the definition of "exempt account" currently contained in NYSE Rule 431(f)(2)(D)(iv), which defines "exempt accounts" for purposes of margin requirements for options on U.S. government securities; and (2) whether extensions of credit to accounts that met the \$16 million threshold for "designated" or "exempt" account status under the NYSE's existing rules at the time of the extension of credit would be "grandfathered" when the increased threshold for exempt account status becomes effective.¹⁷

The NYSE submitted a letter in response to TBMA Letter.¹⁸ The NYSE

stated that: (1) The current proposal's definition of "exempt account" will not supersede the definition of "exempt account" in NYSE Rule 431(f)(2)(D)(iv); and (2) an account that met the \$16 million financial threshold for designated or exempt account status at the time of the initial extension of credit would retain its status with regard to existing credit transactions, although the proposal's increased financial threshold would apply to new credit transactions or roll-overs of existing credit extensions.

(2) Statutory Basis

The NYSE believes that the proposed rule change, as amended, is consistent with the requirements of section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles 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. Further, the NYSE believes that the proposed rule change is also consistent with the rules and regulations of the Board of Governors of the Federal Reserve System for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, pursuant to section 7(a) of the Act.¹⁹

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 Exchange 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

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 by order approve such proposed rule change, or 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 Amendment Nos. 1 and 2 and the Information Memo are 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 NYSE. All submissions should refer to file number SR-NYSE-98-14 and should be submitted by August 4, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁰

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 4400]

Determination Related to Colombian Armed Forces Under Section 564(a)(1) of Foreign Operations, Export Financing, and Related Programs Appropriations Act, Division E, Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7)

Pursuant to the authority vested in me as Secretary of State, including under section 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Division E, Consolidated Appropriations

¹⁷ Currently, NYSE Rule 431(e)(2)(C) provides a margin requirement of 5% of current market value for mortgage-related securities held in an "exempt account." For purposes of current NYSE Rule 431(e)(2)(C), an "exempt account" is defined as a member, non-member broker-dealer, "designated account," or any person having net tangible assets of at least \$16 million. In addition, NYSE Rule 431(e)(2)(F) permits a broker-dealer to collect no margin or marked to the market losses for transaction in exempted securities made with or for designated accounts. For purposes of current NYSE Rule 431(e)(2)(F), a "designated account" includes persons with net tangible assets of \$16 million or more. See NYSE Handbook, Rule 431(e)(2)(F)/01.

¹⁸ See James E. Buck, Senior Vice President and Secretary, NYSE, to Michael Walinkas, Deputy Associate Director, Division of Market Regulation, Commission, dated April 5, 1999.

¹⁹ 15 U.S.C. 78g(a).

²⁰ 17 CFR 200.30-3(a)(12).