to the foregoing and the terms of any such loan, the obligation of NSCC to return any items of pledged collateral to its members or to permit substitutions and withdrawals thereof remains unaffected.

**III. Discussion**

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.[6] By adding language, as requested by its lenders, to its rules to make clear the rights of NSCC, lenders, and members with respect to pledged deposits, the proposed rule change will help NSCC maintain adequate liquidity resources and therefore should help assure NSCC's ability to safeguard securities and funds.

**IV. Conclusion**

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–2003–08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–17711 Filed 7–11–03; 8:45 am]

**BILLING CODE 8010–01–P**

such secured Lender (or its collateral agent), so long as any loans made by such Lender to the Corporation or other obligations, secured by such collateral, are unpaid and outstanding.''

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–48133; File No. SR–NYSE–98–14]**

## Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 1, 2, and 3 to a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Margin Requirements

July 7, 2003.

On April 28, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend NYSE Rule 431, ''Margin Requirements.'' The proposed rule change was published for comment in the **Federal Register** on August 5, 1998.[3] The Commission received one comment regarding the proposal.[4] The NYSE filed Amendment Nos. 1, 2, and 3 to the proposal on January 5, 1999, November 6, 2002, and May 12, 2003, respectively. In addition, on March 6, 2000, the NYSE filed an Information Memo (''NYSE Information Memo'') that sets forth the general requirements for the written risk analysis methodology that members would be required to maintain in connection with good faith securities transactions in exempt accounts (which are discussed more fully below). The Commission is publishing this notice of Amendment Nos. 1 and 2 and the NYSE Information Memo to solicit comments on the proposed rule change, as amended, from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Consolidated changes made to the proposed rule text as a result of Amendment Nos. 1, 2, and 3 appear below. The base text is taken from the proposal that the Commission published for comment in 1998. Additional language proposed by the NYSE in Amendment Nos. 1, 2, and 3 is italicized; language deleted by Amendment Nos. 1, 2, and 3 is in brackets.

**Rule 431**

**Margin Requirements**

Rule 431(a)(1) through (a)(2) unchanged.

(a)(3) The term ''designated account'' means the account of (i) a bank (as defined in section 3(a)(6) of the Securities Exchange Act of 1934), (ii) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), the deposits of which are insured by the Federal Deposit Insurance Corporation, (iii) an insurance company (as defined in section 2(a)(17) of the Investment Company Act of 1940, (iv) an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, (v) a sate or a political subdivision thereof, or (vi) a pension or profit sharing plan subject to ERISA or of an agency of the United States or of a state or a political subdivision thereof.

(a)(4) through (a)(8) unchanged.

(a)(9) The term ''highly rated foreign sovereign debt securities'' means any debt securities (including major foreign sovereign debt securities) issued or guaranteed by the government of a foreign country, its provinces, states or cities, or a supranational entity, if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in one of the top two rating categories by at least one nationally recognized statistical rating organization.

(a)(10) The term ''investment grade debt securities'' means any debt securities (including those issued by the government of a foreign country, its provinces, states or cities, or a supranational entity), if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in one of the top four rating categories by at least one nationally recognized statistical rating organization.

(a)(11) The term ''major foreign sovereign debt securities'' means any debt securities issued or guaranteed by the government of a foreign country or a supranational entity, if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in the top rating category by at least one nationally recognized statistical rating organization.

(a)(12) The term ''mortgage related securities'' means securities falling within the definition in section 3(a)(41) of the Securities Exchange Act of 1934.

(a)(13) The term ''exempt account'' means

*(A)* A member organization, non-member broker-dealer *registered as a broker or dealer pursuant to the Securities Exchange Act of 1934, a* ''designated account'' or

(B) Any person *that*

*(i) Has net worth of at least forty-five million dollars and financial assets of at*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 40278 (July 29, 1998), 63 FR 41882 (''1998 Notice'').

[4] *See* letter from Paul Saltzman, Senior Vice President and General Counsel, The Bond Market Association (''TBMA'') and Patricia Brigantic, Vice President and Senior Associate General Counsel, TBMA, to Jonathan Katz, Secretary, Commission, dated August 26, 1998 (''TBMA Letter'').

*least forty million dollars for purposes of paragraphs (e)(2)(F) and (e)(2)(G), and (ii) either:*

*(1) Has securities registered pursuant to section 12 of the Securities Exchange Act of 1934, has been subject to the reporting requirements of section 13 of the Exchange Act for a period of at least 90 days and has filed all the reports required to be filed thereunder during the preceding 12 months (or such shorter period as it was required to file such reports), or*

*(2) Has securities registered pursuant to the Securities Act of 1933, has been subject to the reporting requirements of section 15(d) of the Securities Exchange Act of 1934 for a period of at least 90 days and has filed all the reports required to be filed thereunder during the preceding 12 months (or such shorter period as it was required to file such reports), or*

*(3) If such person is not subject to section 13 or 15(d) of the Securities Exchange Act of 1934, is person with respect to which there is publicly available the information specified in paragraphs (a)(5)(i) to (xiv), inclusive, of Rule 15c2–11 under that Act, or*

*(4) Furnishes information to the Securities and Exchange Commission as required by Rule 12g3–2(b) of the Securities Exchange Act of 1934, or*

*(5) Makes available to the member organization such current information regarding such person's ownership, business operations and financial condition (including such person's current audited statement of financial condition, statement of income and statement of changes in stockholder's equity or comparable financial reports) as reasonably believed by the member organization to be accurate, sufficient for the purposes of performing a risk analysis in respect of such person.*

(a)(14) The term ''non-equity securities'' means any securities other than equity securities as defined in section 3(a)(11) of the Securities Exchange Act of 1934.

(a)(15) The term ''listed non-equity securities'' means any non-equity securities that:

(i) are listed on a national securities exchange; or (ii) have unlisted trading privileges on a national securities exchange.

(a)(16) The term ''other marginable non-equity securities'' means:

(1) Any debt securities not traded on a national securities exchange meeting all of the following requirements:

(i) At the time of the original issue, a principal amount of not less than $25,000,000 of the issue was outstanding;

(ii) The issue was registered under section 5 of the Securities Act of 1933 and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 or is an insurance company which meets all of the conditions specified in section 12(g)(2)(G) of the Securities Exchange Act of 1934; and

(iii) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments; or

(2) Any private pass-through securities (not guaranteed by an agency of the U.S. government) meeting all of the following requirements:

(i) An aggregate principal amount of not less than $25,000,000 (which may be issued in series) was issued pursuant to a registration statement filed with the Securities and Exchange Commission under Section 5 of the Securities Act of 1933.

(ii) Current reports relating to the issue have been filed with the Securities and Exchange Commission; and

(iii) At the time of the credit extension, the creditor has a reasonable basis for believing that mortgage interest, principal payments and other distributions are being passed through as required and that the servicing agent is meeting its material obligations under the terms of the offering.

(b)(1) through (e)(1) unchanged.

(e)(2) Exempted Securities, Non-equity Securities and Baskets

(A) Obligations of the United States and Highly Rated Foreign Sovereign Debt Securities

On net ''long'' or net ''short'' positions in obligations (including zero coupon bonds, *i.e.*, bonds with coupons detached or non-interest bearing bonds) issued or guaranteed as to principal or interest by the United States Government or by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury, or in obligations that are highly rated foreign sovereign debt securities, the margin to be maintained shall be the percentage of the current market value of such obligations as specified in the applicable category below:

(i) Less than one year to maturity, 1%

(ii) One year but less than three years to maturity, 2%

(iii) Three years but less than five years to maturity, 3%

(iv) Five years but less than ten years to maturity, 4%

(v) Ten years but less than twenty years to maturity, or 5%

(vi) Twenty years or more to maturity. 6%

Notwithstanding the above, on zero coupon bonds with five years or more to maturity the margin to be maintained shall not be less than 3% of the principal amount of the obligation.

When such obligations other than United States Treasury bills are due to mature in thirty calendar days or less, a member organization, at its discretion, may permit the customer to substitute another such obligation for the maturing obligation and use the margin held on the maturing obligation to reduce the margin required on the new obligation, provided the customer has given the member organization irrevocable instructions to redeem the maturing obligation.

(B) All Other Exempted Securities

On any positions in exempted securities other than obligations of the United States, the margin to be maintained shall be 7% of the current market value.

(C) Non-Equity Securities

On any positions in non-equity securities the margin to be maintained (except where a lesser requirement is imposed by other provisions of this Rule) shall be:

(i) 10% of the current market value in the case of investment grade debt securities; and

(ii) 20% of the current market value or 7% of the principal amount, whichever amount is greater, in the case of all other listed non-equity securities, and all other marginable non-equity securities as defined in paragraph (a)(16) of this Rule.

431(e)(2)(D) through (E) unchanged.

(F) Transactions With Exempt Accounts Involving Certain ''Good Faith'' Securities

On any position resulting from a transaction involving exempted securities, mortgage related securities, or major foreign sovereign debt securities made for or with an ''exempt account'', no margin need be required and any marked to the market loss on such position need not be collected. However, the amount of any uncollected marked to the market loss shall be deducted in computing the Net Capital of the member organization under the Exchange's Capital Requirements, subject to the limits in paragraph (e)(2)(H) below.

(G) Transactions With Exempt Accounts Involving Highly Rated Foreign Sovereign Debt Securities and Investment Grade Debt Securities

On any position resulting from a transaction made for or with an ''exempt account'' (other than a position subject to paragraph (e)(2)(F)), the margin to be maintained on highly rated foreign sovereign debt and investment grade debt securities shall be, in lieu of any greater requirements imposed under this Rule, (i) 0.5% of current market value in the case of highly rated foreign sovereign debt securities and (ii) 3% of current market value in the case of all other investment grade debt securities. The member organization need not collect any such margin; provided the amount equal to the margin required shall be deducted in computing the Net Capital of the member organization under the Exchange's Capital Requirements. In computing the margin required, any marked to market losses included as a deduction to Net Capital shall be subject to the provisions in paragraph (e)(2)(H) below.

(H) Limits on Net Capital Deductions for Exempt Accounts

*(i) Member organizations shall maintain a written risk analysis methodology for assessing the amount of credit extended to exempt accounts pursuant to paragraphs (e)(2)(F) and (e)(2)(G) which shall be made available to the Exchange upon request.*

*(ii)* In the event that the Net Capital deductions taken by a member organization as a result of marked to the market losses incurred under paragraphs (e)(2)(F) and (e)(2)(G) (exclusive of the percentage requirements established thereunder) exceed:

[(i)] *(1)* On any one account or group of commonly controlled accounts, 5% of the member organization's Tentative Net Capital (Net Capital before deductions on securities); or

[(ii)] *(2)* On all accounts combined, 25% of the member organization's Tentative Net Capital (Net Capital before deductions on securities); then, unless such excess no longer exists on the fifth business day after it was incurred, the member organization (1) shall give prompt written notice to the Exchange and (2) shall not enter into any new transaction(s) subject to the provisions of paragraphs (e)(2)(F) or (e)(2)(G) that would result in an increase in the amount of such excess under, as applicable, subparagraph (i) or (ii) above.

**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

*Background*

NYSE Rule 431 prescribes minimum margin requirements for customer accounts held by member organizations. In April 1996, the NYSE established a Rule 431 Committee (the ''Committee'') to asses the adequacy of NYSE Rule 431 on an ongoing basis, review margin requirements, and make recommendations for change. A number of proposed amendments resulting from the Committee's recommendations have been approved by the NYSE's Board of Directors since the Committee was established.

Rule 15c3–1 under the Exchange Act (the ''Net Capital Rule'')[5] provides, in part, that at all times every broker or dealer shall maintain net capital of no less than the minimum required by the Net Capital Rule. Further, it requires brokers or dealers to take certain prescribed haircuts from proprietary positions to reflect actual economic and market risk inherent in maintaining such positions. These haircuts are generally lower than the margin required for comparable securities. Accordingly, the Committee recommended that margin requirements for transactions in certain non-equity securities in the most creditworthy accounts be amended to reflect the actual economic risk inherent in those securities. The proposed amendments discussed below have been recommended by the Committee.

In December 1997, the Board of Governors of the Federal Reserve System amended Regulation T,[6] which establishes initial margin requirements, to provide that transactions in non-equity securities are subject to ''good faith'' requirements when transacted in a ''good faith'' account, in lieu of a margin or cash account. The term ''good faith'' within this context means generally that such transactions are subject to the requirements of the self-regulatory organization with regulatory authority over the transactions and such requirements shall be applicable for initial and maintenance purposes. Accordingly, the maintenance margin requirements of NYSE Rule 431 provide ongoing safety and soundness levels for such positions maintained in customer accounts.

*Initial Filing*

As noted above, in April 1998 the NYSE filed with the Commission proposed amendments to NYSE Rule 431 which, among other things, would revise the margin requirements for investment grade non-equity securities and expand the types of such securities eligible for exempt account treatment. The proposed amendments recognized that in certain instances, margin requirements should be adjusted to reflect both the quality of the securities as well as the creditworthiness of the customer.

The proposed amendments to NYSE Rule 431 would provide for margin requirements on non-equity securities that the Exchange believes are commensurate with the risks associated with positions in such securities held by customers. For example, margin percentages for investment grade debt securities and municipal securities would as proposed be calculated by taking the highest haircut percentages under the Net Capital Rule for proprietary positions in similar securities, instead of the current 20% and 15% respective margin requirements. For other listed non-convertible debt securities, the margin requirement would remain at 20%.

Proposed amendments to NYSE Rule 431(a)(3) also would narrow the definition of ''designated account'' to include specifically designated institutions such as banks, other broker-dealers, savings associations, insurance companies, investment companies, states or political subdivisions thereof, and ERISA pension and profit sharing plans.

Further, proposed NYSE Rule 431(a)(13) would create a new definition of ''exempt account,'' to include the designated accounts noted above and the following: a member organization, non-member broker-dealer and any person having net worth of at least $40 million. The proposed amendments increased the financial threshold for a customer to be considered an exempt account from $16 to $40 million in net

[5] 17 CFR 240.15c3–1.

[6] 12 CFR 220 *et seq.*

worth. In addition, the proposed amendments would provide lower margin requirements for exempt account transactions in investment grade foreign sovereign debt and other investment grade non-equity securities. For transactions in these types of securities, member organizations would be required to take either a net capital charge equal to marked to market losses or collect margin equal to the percentage requirements under the Rule. In this instance, the NYSE believes that the enhanced creditworthiness of both the customer and the security transacted would justify the imposition of lower margin requirements.

Amendment No. 1

In January 1999, the NYSE filed Amendment No. 1 to the Initial Filing. Amendment No. 1 sought to clarify and amend the following with regard to the original filing: (1) Amend NYSE Rule 431(a)(13) to clarify that non-member brokers or dealers that are considered exempt accounts must be registered with the Commission; (2) amend NYSE Rule 431(a)(13) to require that for a person to be considered an exempt account, at least $45 million of net worth and at least $40 million of financial assets are required; and (3) amend NYSE Rule 431(e)(2)(H)(i) to require member organizations to maintain written risk analysis procedures for assessing the amount of credit extended to exempt accounts. The NYSE believes that increasing the net worth requirement from $40 to $45 million, and including indicia of a person's liquidity ($40 in financial assets) in that total, provides a better indicator of a person's creditworthiness when extending credit for transactions in non-equity securities in exempt accounts.

In addition, the NYSE states that Amendment No. 1 would require that, as a good business practice and for safety and soundness considerations, member organizations maintain written procedures for assessing credit extended to exempt accounts. Although the requirement for member organizations can be found in interpretations to NYSE Rule 401, ''Business Conduct,'' it is proposed to be codified in NYSE Rule 431.

*Information Memo*

As noted above, the NYSE has submitted to the Commission a draft Information Memo that it would circulate to its members upon approval of the proposed rule change. The Information Memo would provide guidelines for members to satisfy the requirement to maintain written risk analysis procedures under proposed NYSE Rule 431(e)(2)(H)(i). Specifically, the Information Memo would provide that a member's written risk methodology for assessing credit extended to exempt accounts should include the following:

- Procedures for obtaining and reviewing the appropriate customer account documentation and the customer financial information necessary to determine exempt account status for the extension of credit under the rule.
- Procedures and guidelines for the determination, review and approval of credit limits to customers and across all customers who qualify as exempt accounts under the rule.
- Procedures and guidelines for monitoring credit risk exposure to the organization relating to exempt account customers.
- Procedures and guidelines for the use of stress testing of exempt accounts in order to monitor market risk exposure from exempt accounts individually and in the aggregate.
- Procedures providing for the regular review and testing of these risk management procedures by an independent unit such as internal audit, risk management, or other comparable group.

*Amendment Nos. 2 and 3*

In Amendment Nos. 2 and 3, the NYSE proposes to require that persons qualifying for exempt account status satisfy requirements in addition to the net worth and financial assets standards described above. In this regard, the NYSE proposes to require that persons qualifying for exempt account status meet specific registration and reporting requirements under the federal securities laws, specifically the Securities Act of 1933 [7] (''Securities Act'') and the Exchange Act, or make available to the member or member organization certain current information regarding the person's ownership, business, operations, and financial condition.

Specifically, in addition to meeting the $45/$40 million thresholds, persons qualifying for ''exempt account'' status also would have to satisfy one of the following requirements: (1) The person must have securities registered pursuant to section 12 of the Exchange Act [8] and must have been subject to the reporting requirements of section 13 of the Exchange Act; [9] (2) the person must have securities registered pursuant to the Securities Act and must have been subject to the reporting requirements of section 15(d) of the Exchange Act; [10] (3) if the person is not subject to section 13 or 15(d) of the Exchange Act, that person must make information available that is required pursuant to Rule 15c2–11 under the Exchange Act; [11] or (4) the person must make available to the member organization such current information regarding the person's ownership, business, operations, and financial condition, including such person's audited statement of financial condition, statement of income, and statement of changes in stockholder's equity or comparable financial reports. In addition, a person that meets the financial threshold also could qualify for exempt account status if the person is eligible for an exemption from the Exchange Act reporting requirements because the person furnishes the Commission with information as required under Exchange Act Rule 12g3–2(b).[12]

Sections 13 and 15(d) of the Exchange Act require publicly held companies to furnish to the public on a continuous and ongoing basis certain information regarding their operations and financial condition. Companies subject to this obligation, among others, include: (1) Companies that have registered a class of securities under section 12(b) of the Exchange Act [13] for listing and trading on a national securities exchange; and (2) an issuer that has filed a registration statement pursuant to the Securities Act that has been declared effective.

Pursuant to Commission rules promulgated under Sections 13 and 15(d) of the Exchange Act, companies are required to make the disclosures noted above on a quarterly (Form 10–Q),[14] annual (Form 10–K),[15] and interim basis (Form 8–K).[16] Requiring persons qualifying for ''exempt account'' status to meet the disclosure requirements mandated by these sections and rules of the Exchange Act should provide adequate and sufficient information for a member organization to perform a risk analysis of such persons.

Further, Rule 15c2–11 under the Exchange Act precludes a broker-dealer from entering bid or asked quotations in

[7] 15 U.S.C. 77a.

[8] 15 U.S.C. 78l.

[9] 15 U.S.C 78m(a).

[10] 15 U.S.C. 78o(d).

[11] 17 CFR 240.15c2–11.

[12] 17 CFR 240.12g3–2(b). Amendment No. 3 revises proposed NYSE Rule 431(a)(13)(B)(ii)(4) to clarify that a person seeking exempt account status under that provision must furnish to the Commission the information required by Rule 12g3–2(b) under the Exchange Act.

[13] 15 U.S.C. 78l(b).

[14] 17 CFR 249.308b.

[15] 17 CFR 249.310b.

[16] 17 CFR 249.308.

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.*

[FR Doc. 03–17667 Filed 7–11–03; 8:45 am]

**BILLING CODE 8010–01–P**

[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 Walinskas, 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).

## 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