under which 225,000 shares of applicant's common stock remain for issuance, representing 0.2% of shares of applicant's common stock outstanding as of December 31, 2006. The 320,000 shares of applicant's common stock that may be issued to Non-employee Directors under the Plan represent 0.2% of shares of applicant's common stock outstanding as of December 31, 2006. Therefore, the maximum number of applicant's voting securities that would result from the exercise of all outstanding options issued and all options issuable to directors, officers, and employees under the Other Plans and the Plan would be 17,535, 212 shares of applicant's common stock, or approximately 11.9% of shares of applicant's common stock outstanding as of December 31, 2006. Applicant has no outstanding warrants, options, or rights to purchase its voting securities, other than the options granted or to be granted to its directors, officers, and employees under the Other Plans and the Plan.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3). Section 61(a)(3)(B) provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) The options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying securities at the date of the issuance of the options, or if no market exists, the current net asset value of the voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(a)(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (b)(1) or (b)(2) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3) provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to an executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of the BDC.

3. Applicant represents that its proposal to grant certain stock options to Non-employee Directors under the Plan meets all the requirements of section 61(a)(3)(B). Applicant states that the Board is actively involved in the oversight of applicant's affairs and that it relies extensively on the judgment and experience of its Board. In addition to their duties as Board members generally, applicant states that the Non-employee Directors provide guidance and advice on operational issues, underwriting policies, credit policies, asset valuation and strategic direction, as well as serving on committees. Applicant believes that the availability of options under the Plan will provide significant at-risk incentives to Non-employee Directors to remain on the Board and devote their best efforts to ensure applicant's success. Applicant states that the options will provide a means for the Non-employee Directors to increase their ownership interests in applicant, thereby ensuring close identification of their interests with those of applicant and its stockholders. Applicant asserts that by providing incentives such as options, applicant will be better able to maintain continuity in the Board's membership and to attract and retain the highly experienced, successful and dedicated business and professional people who are critical to applicant's success as a BDC.

4. Applicant states that the maximum amount of voting securities that would result from the exercise of all outstanding options issued to the directors, officers, and employees under the Other Plans and the Plan would be 14,258,728 shares of applicant's common stock, or approximately 9.7% of applicant's shares of common stock outstanding as of December 31, 2006, which is below the percentage limitations in the Act. Applicant asserts that, given the relatively small amount of common stock issuable to Non-employee Directors upon their exercise of options under the Plan, the exercise of such options would not, absent extraordinary circumstances, have a substantial dilutive effect on the net asset value of applicant's common stock.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1228 Filed 1–25–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55145; File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing of Amendment to the Plan for the Allocation of Regulatory Responsibilities Among the American Stock Exchange, LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, LLC, the National Association of Securities Dealers, Inc., the New York Stock Exchange, LLC, the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc.

January 22, 2007.

Pursuant to Sections 17(d)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 17d–2 thereunder,[2] notice is hereby given that on December 5, 2006, the American Stock Exchange, LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Board Options Exchange, Inc. (''CBOE''), the International Securities Exchange, LLC (''ISE''), the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, LLC (''NYSE''), the NYSE Arca, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (collectively the ''SRO participants'') filed with the Securities and Exchange Commission (''Commission'') an amendment to their January 14, 2004 plan for the allocation of regulatory responsibility.

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every national securities exchange and registered securities association (''SRO'') to examine for, and enforce, compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or 19(g)(2)[4] of the Act.

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78s(g)(2).

Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[5] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[6] Rule 17d–1, adopted on April 20, 1976,[7] authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker-dealers' compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted Rule 17d–2 under the Act.[8] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On September 8, 1983, the Commission approved the SRO participants' plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[9] On May 23, 2000, the Commission approved an amendment to the plan that added the ISE as a participant.[10] On November 8, 2002, the Commission approved another amendment that replaced the original plan in its entirety and, among other things, allocated regulatory responsibilities among all the participants in a more equitable manner.[11] On February 5, 2004, the parties submitted an amendment to the plan, primarily to include the BSE, which was establishing a new options trading facility to be known as the Boston Options Exchange (''BOX''), as an SRO participant.[12]

The plan reduces regulatory duplication for a large number of firms currently members of two or more of the SRO participants by allocating regulatory responsibility for certain options-related sales practice matters to one of the SRO participants. Generally, under the current plan, the SRO participant responsible for conducting options-related sales practice examinations of a firm, and investigating options-related customer complaints and terminations for cause of associated persons of that firm, is known as the firm's ''Designated Options Examining Authority'' (''DOEA''). Pursuant to the current plan, any other SRO of which the firm is a member is relieved of these responsibilities during the period the firm is assigned to a DOEA.

III. Proposed Amendment to the Plan

On December 5, 2006, the parties submitted a proposed amendment to the plan. The purpose of the amendment is to: (i) Provide that NASD and NYSE will be DOEAs under the plan, (ii) provide that the Designated Examination Authority pursuant to Commission Rule 17d–1 under the Act for a broker-dealer that is a member of more than one SRO participant (but not a member of the NASD or the NYSE) shall perform the regulatory responsibility under the agreement as if such DEA were the DOEA, (iii) to incorporate a more formal procedure for updating the list of common rules, and (iv) make certain other changes to the plan. The amended agreement replaces the previous agreement in its entirety. The text of the proposed amended 17d–2 plan is as follows (additions are italicized; deletions are bracketed):[13]

* * * * *

Agreement *by and* among the American Stock Exchange*,* LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, [Inc.] *LLC*, the National Association of Securities Dealers, Inc., the New York Stock Exchange, [Inc.] *LLC*, the [Pacific Exchange] *NYSE Arca* Inc., and the Philadelphia Stock Exchange, Inc., Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.

This *agreement (''*Agreement*'')*, *by and* among the American Stock Exchange*,* LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, [Inc.] *LLC*, the National Association of Securities Dealers, Inc. *(''NASD'')*, the New York Stock Exchange, [Inc.]*LLC (''NYSE'')*, the [Pacific Exchange] *NYSE Arca* Inc., and the Philadelphia Stock Exchange, Inc., hereinafter collectively referred to as the Participants, is made this [14th] *1st* day of [January, 2004] *December, 2006,* pursuant to the provisions of Rule 17d–2 under the Securities Exchange Act of 1934 (the ''*Exchange* Act''), which allows for plans among self-regulatory organizations to allocate regulatory responsibility. *This Agreement shall be administered by a committee known as the Options Self-Regulatory Council (the ''Council'').*

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[5] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[6] 17 CFR 240.17d–1 and 17 CFR 240.17d–2.

[7] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18809 (May 3, 1976).

[8] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49093 (November 8, 1976).

[9] *See* Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983).

[10] *See* Securities Exchange Act Release No. 42816 (May 23, 2000), 65 FR 24759 (May 31, 2000). This Amendment also updated the corporate names of the Amex, the Midwest Stock Exchange (now known as the Chicago Stock Exchange, Inc.), and the Pacific Stock Exchange Incorporated (now known as the NYSE Arca, Inc.).

[11] *See* Securities Exchange Act Release No. 46800 (November 8, 2002), 67 FR 69774 (November 19, 2002).

[12] *See* Securities Exchange Act Release No. 49197 (February 5, 2004), 69 FR 7046. (February 12, 2004).

[13] Changes are marked from the most recent plan approved by the Commission on February 5, 2004. *See supra* note 12.

Whereas, the Participants are desirous of allocating regulatory responsibilities with respect to [their common members (members of two or more of the Participants)] *broker-dealers, and persons associated therewith, that are members*[FN1] *of more than one Participant (the ''Common Members'') and conduct a public business* for compliance with [common rules] *Common Rules (as hereinafter defined)* relating to the conduct by broker-dealers of accounts for listed options [or], index warrants, *currency index warrants and currency warrants* (collectively, ''Covered Securities''); and

Whereas, the Participants are desirous of executing a plan for this purpose pursuant to the provisions of Rule 17d–2 and filing such plan with the Securities and Exchange Commission (''SEC'' or the ''Commission'') for its approval;

Now, therefore, in consideration of the mutual covenants contained hereafter, the Participants agree as follows:

I. [Except as otherwise provided herein,]*As used herein the term Designated Options Examining Authority (''DOEA'') shall mean the NASD and NYSE insofar as* each [Participant] shall [assume] *perform* Regulatory Responsibility (as hereinafter defined) for its *broker-dealer* members that *also* are [both (i)] members of [more than one] *another* Participant [(hereinafter the ''Common Members'') and (ii)*],and* allocated to it in accordance with the terms hereof. [For purposes of this Agreement, a Participant shall be considered to be the Designated Options Examining Authority (''DOEA'') of each Common Member allocated to it.] *The Designated Examination Authority (''DEA'') pursuant to SEC Rule 17d–1 under the Securities Exchange Act (''Rule 17d–1'') for a broker-dealer that is a member of more than one Participant (but not a member of a DOEA) shall perform the Regulatory Responsibility under the Agreement as if such DEA were the DOEA.*

II. As used herein, the term ''Regulatory Responsibility'' shall mean the [inspection,] examination and enforcement responsibilities relating to compliance by [the] *broker-dealers that are members of more than one Participant (the ''*Common Members [and persons associated therewith]*'')* with the rules of the applicable Participant that are substantially similar to the rules of the other Participants (the ''Common Rules'') [and the provisions of the Act and the rules and regulations thereunder], insofar as they apply to the conduct of accounts for Covered Securities. [In discharging its Regulatory Responsibility, a DOEA may act directly and perform such responsibilities itself or may make arrangements for the performance of such responsibilities on its behalf by The Options Clearing Corporation, a national securities exchange registered with the SEC under Section 6(a) of the Act or a national securities association registered with the SEC under Section 15A of the Act, but excluding an association registered for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products. Without limiting the foregoing, a non-exhaustive list of the current,] *A list of the current* Common Rules of each Participant applicable to the conduct of accounts for Covered Securities is attached hereto as Exhibit A. *Each year within 30 days of the anniversary date of the commencement of operation of this Agreement, each Participant shall submit in writing to each DOEA and DEA performing as a DOEA for any members of such Participant any revisions to Exhibit A reflecting changes in the rules of the Participant or DOEAs, and confirm that all other rules of the Participant listed in Exhibit A continue to meet the definition of Common Rules as defined in this Agreement. Within 30 days from the date that each DOEA has received revisions and/or confirmation that no change has been made to Exhibit A from all Participants, the DOEAs shall confirm in writing to each Participant whether the rules listed in any updated Exhibit A are Common Rules as defined in this Agreement.* Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibility'' does not include, and each of the Participants shall (unless allocated pursuant to Rule 17d–2 otherwise than under this Agreement) retain full responsibility for, *each of the following:*

(a) [s]*S*urveillance and enforcement with respect to trading activities or practices involving its own marketplace, including without limitation its rules relating to the rights and obligations of specialists and other market makers;

(b) [r]*R*egistration pursuant to its applicable rules of associated persons;

(c) [d]*D*ischarge of its duties and obligations as a [Designated Examining Authority pursuant to Rule 17d–1 under the Act]*DEA; and*;

(d) [e]*E*valuation of advertising, responsibility for which shall remain with the Participant to which a Common Member submits same for approval[; and

(e) any rules of a Participant that are not substantially similar to the rules of all of the other Participants].

III. Apparent violations of another Participant's rules discovered by a DOEA, but which rules are not within the scope of the discovering DOEA's Regulatory Responsibility, shall be referred to the relevant Participant for such action as the Participant to which such matter has been referred deems appropriate. Notwithstanding the foregoing, nothing contained herein shall preclude a DOEA in its discretion from requesting that another Participant conduct an enforcement proceeding on a matter for which the requesting DOEA has Regulatory Responsibility. If such other Participant*s* agree[s], the Regulatory Responsibility in such case shall be deemed transferred to the accepting Participant. Each Participant agrees, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another Participant in an investigation or enforcement proceeding.

IV. [This Agreement shall be administered by a committee known as the Options Self-Regulatory Council (the ''Council'').] The Council shall be composed of one representative designated by each of the Participants. Each Participant shall also designate one or more persons as its alternate representative(s). In the absence of the representative of a Participant, such alternate representative shall have the same powers, duties and responsibilities as the representative. Each Participant may, at any time, by notice to the then Chair of the Council, replace its representative and/or its alternate representative on such Council. A majority of the Council shall constitute a quorum and, unless specifically otherwise required, the affirmative vote of a majority of the Council members present (in person, by telephone or by written consent) shall be necessary to constitute action by the Council. From time to time, the Council shall elect one member [of the Council] *from the DOEAs* to serve as Chair and another *from the Council* to serve as Vice Chair (to substitute for the Chair in the event of his or her unavailability *at a meeting of the Council*) [for such term as shall be designated and until his or her successor is duly elected, provided that in the event a Participant replaces a representative who is acting as Chair or Vice Chair, such representative shall also assume the position of Chair or Vice Chair, as applicable]. All notices and other communications for the

[FN1] *In the case of the Boston Stock Exchange, Inc., members are those persons who are options participants (as defined in BOX Rules).*

Council shall be sent to it in care of the Chair or to each of the representatives.

V. The Council shall determine the times and locations of Council meetings, provided that the Chair, acting alone, may also call a meeting of the Council in the event the Chair determines that there is good cause to do so. To the extent reasonably possible, notice of any meeting shall be given at least ten business days prior thereto. Notwithstanding anything herein to the contrary, representatives shall always be given the option of participating in any meeting telephonically at their own expense rather than in person.

VI. For the purpose of fulfilling the Participants' [DOEA] Regulatory Responsibilities, the [Council] *DOEAs* shall allocate Common Members that conduct a public [options] business *in Covered Securities* among [Participants] *DOEAs* from time to time in such manner as the [Council] *DOEAs* deem[s] appropriate, provided that any such allocation shall be based on the following principles except to the extent affected [Participants] *DOEAs* consent:

(a) The [Council] *DOEAs* may not allocate a member to a [Participant] *DOEA* unless the member is a member of that [Participant] *DOEA*, *nor shall any member be allocated to a Participant that is not a DOEA or DEA acting as a DOEA*.

(b) To the extent practical *and desired by the DOEAs*, Common Members that conduct a public [options] business *in Covered Securities* shall be allocated among the [Participants] *DOEAs* of which they are members in such manner as to equalize as nearly as possible the allocation [among such Participants. For example, if sixteen Common Members that conduct a public options business are members only of three Participants, such members shall be allocated among such Participants such that no Participant is allocated more than six such members and no Participant is allocated less than five such members] *of such Common Members among such DOEAs*.

(c) To the extent practical *and desired by the DOEAs*, the allocation of Common Members shall take into account the amount of customer activity conducted by each member in Covered Securities such that Common Members shall be allocated among the [Participants] *DOEAs* of which they are members in such manner as most evenly divides the Common Members with the largest amount of customer activity among such [Participants] *DOEAs*.

(d) [Insofar as practical, it is intended that allocation of Common Members to Participants will be rotated among the applicable Participants and, more specifically, that Common Members shall not be allocated to a Participant as to which such member was allocated within the previous two years.

(e)] The [Council] *DOEAs* shall make general reallocations of Common Members from time to time, as it deems appropriate.

([f]*e*) *All Participants shall promptly notify the DOEAs no later than the next scheduled meeting of any change in membership of Common Members*. Whenever a Common Member ceases to be a member of its DOEA, [the] *that* DOEA shall promptly inform the [Council] *other DOEAs*, which [shall] *will* promptly review the matter and *re*allocate the Common Member to [another Participant] *the extent practical*.

([g]*f*) A DOEA may request that a Common Member that is allocated to it be reallocated to another [Participant] *DOEA* by giving thirty days written notice thereof. The [Council] *DOEAs*, in [its] *their* discretion[,] may approve such request and reallocate such Common Member to another [Participant] *DOEA*.

([h]*g*) All determinations by the [Council] *DOEAs* with respect to allocations*, if there are more than two DOEAs*, shall be by the affirmative vote of a majority of the *DOEAs of which such firm is a Common Member, otherwise by negotiation and consensus*. [Participants that, at the time of such determination, share the applicable Common Member being allocated; a Participant shall not be entitled to vote on any allocation relating to a Common Member unless the Common Member is a member of such Participant.

(i) Allocations for calendar years 2004 and 2005 shall also be subject to the provisions set forth at Appendix A hereof, which provisions shall control in the event of any conflict between them and the provisions set forth above.]

VII. Each DOEA shall conduct [a routine inspection and] *an* examination of each Common Member allocated to it on a cycle not less frequently than [determined by the Council] *agreed upon by all DOEAs*. The other Participants agree that, upon request, relevant information in their respective files relative to a Common Member will be made available to the applicable DOEA. At each meeting of the Council, each [Participant] *DOEA* shall be prepared to report on the status of its examination program for the previous quarter and any period prior thereto that has not previously been reported to the Council. In the event a DOEA believes it will not be able to complete the examination cycle for its allocated firms, it will so advise the Council. The [Council will] *DOEAs may* undertake to remedy this situation by *re*allocating selected firms [and, if necessary,] *or* lengthening the cycles for selected firms*, with the approval of all other DOEAs*.

VIII. Each [Participant] *DOEA* will[, upon request,] promptly furnish a copy of the *Examination* report[, or applicable portions thereof] relating to Covered Securities, of any examination made pursuant to the provisions of this Agreement to each other Participant of which the Common Member examined is a member.

IX. [Each Participant will routinely forward to each other Participant of which a Common Member is a member, copies of all communications regarding deficiencies relating to Covered Securities noted in a report of examination conducted by each Participant. If an examination relating to Covered Securities conducted by a Participant reveals no deficiencies, such fact will also, upon request, be communicated to each other Participant of which the Common Member concerned is a member.

X.] Each DOEA's Regulatory Responsibility shall *for each Common Member allocated to it* include investigations into terminations ''for cause'' of associated persons relating to Covered Securities, unless such termination is related solely to another Participant's market. In the latter instance, that Participant to whose market the termination for cause relates shall discharge Regulatory Responsibility with respect to such termination for cause. In connection with a DOEA's examination, investigation and/or enforcement proceeding regarding a Covered Security-related termination for cause, the other Participants of which the Common Member is a member shall furnish, upon request, copies of all pertinent materials related thereto in their possession. As used in this Section, ''for cause'' shall include, without limitation, terminations characterized on Form U5 under the label ''Permitted to Resign,'' ''Discharge'' or ''Other.''

X[I]. Each DOEA shall discharge the Regulatory Responsibility *for each Common Member allocated to it* relative to a Covered Securities-related customer complaint[FN2] [or Form U4 filing] unless such complaint [or filing] is uniquely related to another Participant's market. In the latter instance, the DOEA shall

[FN2] *For purposes of complaints, they can be reported pursuant to Form U4, Form U5 or RE–3 and any amendments thereto.*

forward the matter to that Participant to whose market the matter relates, and the latter shall discharge Regulatory Responsibility with respect thereto. If a Participant receives a customer complaint for a Common Member related to a Covered Security for which the Participant is not the DOEA, the Participant shall promptly forward a copy of such complaint to the DOEA.

XI[I]. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, *or by a comparable means of electronic communication* to each Participant entitled to receipt thereof, to the attention of the Participant's representative on the Council at the Participant's then principal office or by e-mail at such address as the representative shall have filed in writing with the Chair.

[XIII. The costs incurred by each Participant in discharging its Regulatory Responsibility under this Agreement are not reimbursable. However, any Participants may agree that one or more will compensate the other(s) for costs.]

[XIV]*XII.* The Participants shall notify the Common Members of this Agreement by means of a uniform joint notice approved by the Council.

[XV]*XIII.* This Agreement may be amended in writing duly approved by each Participant.

[XVI]*XIV.* Any of the Participants may manifest its intention to cancel its participation in this Agreement at any time [upon the] *by* giving [to] the Council [of] written notice thereof at least 90 days prior to *the effective date of* such cancellation. Upon receipt of such notice the Council shall allocate, in accordance with the provisions of this Agreement, [those] any Common Members for which the petitioning party was the DOEA. Until such time as the Council has completed the reallocation described above, the petitioning Participant shall retain all its rights, privileges, duties and obligations hereunder.

XV[II]. The cancellation of its participation in this Agreement by any Participant shall not terminate this Agreement as to the remaining Participants. This Agreement will only terminate following notice to the Commission, in writing, by the then Participants that they intend to terminate the Agreement and the expiration of the applicable notice period. Such notice shall be given at least six months prior to the intended date of termination, provided that in the event a notice of cancellation is received from a Participant that, assuming the effectiveness thereof, would result in there being just one remaining member of the Council, notice to the Commission of termination of this Agreement shall be given promptly upon the receipt of such notice of cancellation, which termination shall be effective upon the effectiveness of the cancellation that triggered the notice of termination to the Commission.

Limitation of Liability

No Participant nor the Council nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other Participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the Participants and caused by the willful misconduct of one or more of the other participants or their respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by any or all of the Participants or the Council with respect to any Regulatory Responsibility to be performed by each of them hereunder.

Relief From Responsibility

Pursuant to Section 17(d)(1)(A) of the Securities Exchange Act of 1934 and Rule 17d–2 promulgated pursuant thereto, the Participants join in requesting the Securities and Exchange Commission, upon its approval of this Agreement or any part thereof, to relieve those Participants which are from time to time participants in this Agreement which are not the DOEA as to a Common Member of any and all Regulatory Responsibility with respect to the matters allocated to the DOEA.

In Witness Whereof, the Participants hereto have executed this Agreement as of the date and year first above written.

[Appendix A—Allocation Provisions for Calendar Years 2004 and 2005

The allocation for calendar year 2004 shall be performed in accordance with the provisions of Section VI, provided that there shall be a partial allocation to the Boston Stock Exchange, Inc. whereby the Boston Stock Exchange, Inc. is allocated one-half of its share of the total number of Common Members. For calendar year 2005, there shall be a reallocation whereby the Boston Stock Exchange, Inc. shall receive from the other DOEAs a number of Common Members to make the allocation equitable.]

Exhibit A [14]—Participant Rules Applicable to the Conduct of Covered Securities: Rules Enforced Under 17d-2 Agreement

Opening Of Accounts

AMEX—Rules 411 [and], 921 *and 1101*
CBOE—Rule 9.7
ISE—Rule 608
NASD—Rule*s* 2860(b)(16)[;], IM–2860–2 *& 2843*
NYSE—Rule[s] 721 [and 405]
PHLX—Rule 1024(b)
[PCX] *NYSE Arca*—Rule 9.2(a) and Rule 9.18(b)
BSE/BOX Supervision—Chapter XI, Section 9

AMEX—Rules 411 [and], 922 *and 1104*
CBOE—Rule 9.8
ISE—Rule 609
NASD—Rule*s* 2860(b)(20), *2860(b)(17)(B), 2846 & 2849*
NYSE—Rule[s] 722[, 342 and 343]
PHLX—Rule 1025
[PCX] *NYSE Arca*—Rule 9.2(b)
BSE/BOX Suitability—Chapter XI, Section 10

AMEX—Rule*s* 923 *& 1102*
CBOE—Rule 9.9
ISE—Rule 610
NASD—Rule 2860(b)(19) *& 2844*
NYSE—Rule 723
PHLX—Rule 1026
[PCX] *NYSE Arca*—Rule 9.18(c)
BSE/BOX—Chapter XI, Section 11

* * * * *

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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–966 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–966. This file number should be included on the subject line if e-mail is used. To help the

[14] This is a partial list of the rules provided to the Commission. The full list of rules provided to the Commission is available at the principal offices of each of the SROs and at the Commission's Public Reference Room.

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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 also will be available for inspection and copying at the principal office of each of the SROs. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number S7–966 and should be submitted on or before February 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1220 Filed 1–25–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 29, 2007:

Open Meetings will be held on Wednesday, January 31, 2007 at 10 a.m. and 2 p.m. in the Auditorium, Room LL–002, and Closed Meetings will be held on Wednesday, January 31, 2007 at 11 a.m. and Thursday, February 1, 2007 at 2 p.m.

Commissioners, Counsels to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a) (3), (5), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Casey, as duty officer, voted to consider the items listed for the closed meetings in closed session.

The subject matter of the Open Meeting scheduled for Wednesday, January 31, 2007 at 10 a.m. will be:

The Commission will hear oral argument on an appeal by Phlo Corporation, a beverage manufacturer and an issuer of publicly traded securities that also acts as transfer agent for its own securities, its president and chief executive officer James B. Hovis (''J. Hovis''), and its executive vice president and secretary, Anne P. Hovis (''A. Hovis''), who also served as Phlo's general counsel, (together, ''Respondents'') from the decision of an administrative law judge. The law judge found that Phlo willfully violated provisions requiring transfer agents to turnaround at least ninety percent of all routine items received in a month within three business days and willfully failed to make records available for examination by Commission staff. The law judge concluded that A. Hovis willfully aided and abetted and was a cause of Phlo's failure to complete transfers in a timely manner and failure to make records available for examination.

The law judge further found that Phlo failed to make timely filings of annual and quarterly reports with the Commission between March 2003 and November 2005. The law judge found that J. Hovis willfully aided and abetted and was a cause of Phlo's violations of the periodic reporting requirements.

The law judge assessed civil money penalties of $100,000 against Phlo, $25,000 against J. Hovis, and $50,000 against A. Hovis, revoked Phlo's registration as a transfer agent, barred A. Hovis from associating with any transfer agent, and imposed cease-and-desist orders as to all Respondents.

Among the issues likely to be argued are whether Respondents violated the provisions charged, and, if so, whether and to what extent sanctions should be imposed.

The subject matter of the Closed Meeting scheduled for January 31, 2007 at 11 a.m. will be:

Post-argument discussion.

The subject matter of the Open Meeting scheduled for January 31, 2007 at 2 p.m. will be:

1. The Commission will consider whether to propose amendments to extend its interactive data voluntary reporting program to permit mutual funds to submit as exhibits to their registration statements supplemental tagged information contained in the risk/return summary section of their prospectuses. The risk/return summary section contains key mutual fund information, including investment objectives and strategies, risks, and costs.

2. The Commission will consider whether to propose rules to implement provisions of the Credit Rating Agency Reform Act of 2006.

The subject matter of the Closed Meeting scheduled for Thursday, February 1, 2007 will be:

Formal orders of investigation;
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature;
Resolution of litigation claims;
An adjudicatory matter; and
Other matters relating to enforcement proceedings

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: January 24, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. 07–372 Filed 1–24–07; 3:57 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55136; File No. SR–FICC–2006–17]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change Relating to Clearing Fund Deficiency Calls

January 19, 2007.

I. Introduction

October 16, 2006, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] to adjust the deadline for satisfying a clearing fund deficiency call from 10:30 a.m. to 9:30 a.m. in the Schedule of Timeframes in FICC's Government Securities Division (''GSD'') rulebook. The proposed rule change was published for comment in the **Federal Register** on December 6, 2006.[2] No comment letters were received on the proposal. This order approves the proposal.

[15] 17 CFR 200.30–3(a)(34).

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

[2] Securities Exchange Act Release No. 54819 (Nov. 27, 2006), 71 FR 70817.