# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 94

**[Docket No. APHIS–2007–0142]**

### Addition of Armenia to the List of Regions Where African Swine Fever Exists

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the regulations concerning the importation of animals and animal products by adding Armenia to the list of regions where African swine fever exists. We took that action because outbreaks of African swine fever had been confirmed in various locations in the northern portion of Armenia. The interim rule was necessary to prevent the introduction of African swine fever into the United States.

**DATES:** Effective on March 27, 2008, we are adopting as a final rule the interim rule published at 73 FR 1043–1044 on January 7, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mr. Javier Vargas, Animal Scientist, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–0756.

**SUPPLEMENTARY INFORMATION:**

#### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including rinderpest, foot-and-mouth disease, bovine spongiform encephalopathy, swine vesicular disease, classical swine fever, and African swine fever (ASF). These are dangerous and destructive diseases of ruminants and swine.

Section 94.8 of the regulations lists regions of the world where ASF exists or is reasonably believed to exist and imposes restrictions on the importation of pork and pork products into the United States from those regions.

In an interim rule [1] effective and published in the **Federal Register** on January 7, 2008 (73 FR 1043–1044, Docket No. APHIS–2007–0142), we amended the regulations by adding Armenia to the list in § 94.8 of regions where ASF exists or is reasonably believed to exist. As a result of that action, the importation into the United States of pork and pork products from Armenia is restricted.

Comments on the interim rule were required to be received on or before March 7, 2008. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act. Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 73 FR 1043–1044 on January 7, 2008.

Done in Washington, DC, this 21st day of March 2008.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8–6242 Filed 3–26–08; 8:45 am]

**BILLING CODE 3410–34–P**

[1] To view the interim rule, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0142.*

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 240 and 249

**[Release No. 34–57526; File No. S7–06–07]**

**RIN 3235–AJ80**

### Proposed Rule Changes of Self-Regulatory Organizations

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (''Commission'') is adopting rule amendments to require Self-Regulatory Organizations (''SROs'') that submit proposed rule changes pursuant to Section 19(b)(7)(A) of the Securities Exchange Act of 1934 (''Act'') to file these rule changes electronically. In addition, the Commission is adopting rule amendments to require SROs to post all such proposed rule changes on their Web sites. Together, the amendments are designed to expand the electronic filing by SROs of proposed rule changes, making it more efficient and cost effective, and to harmonize the process of filings made under Section 19(b)(7)(A) with that for filings made by SROs under Section 19(b)(1) of the Act.

**DATES:** Effective Date: April 28, 2008.

**FOR FURTHER INFORMATION CONTACT:** John Roeser, Assistant Director, at (202) 551–5630, Michou Nguyen, Special Counsel, at (202) 551–5634, or Sherry Moore, Paralegal, at (202) 551–5549, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

**SUPPLEMENTARY INFORMATION:**

#### I. Introduction

On February 23, 2007, the Commission proposed to require SROs that submit proposed rule changes pursuant to Section 19(b)(7)(A) of the

Act[1] to file these rule changes electronically.[2] The Commission proposed amending Rule 19b–7 and Form 19b–7 to: (1) Require SROs to file proposed rule changes submitted pursuant to Section 19(b)(7)(A) of the Act electronically, rather than in paper format; and (2) require SROs to post all such proposed rule changes on their Web sites. The Commission also proposed making certain conforming changes to Rule 19b–4 and Form 19b–4.

Under Section 19(b)(7) of the Act and Rule 19b–7 thereunder, securities futures exchanges registered with the Commission under Section 6(g) of the Act and associations registered with the Commission under Section 15A(k) of the Act[3] for the limited purpose of regulating activities of members who are registered as broker-dealers in security futures products[4] are required to file certain categories of proposed rule changes with the Commission.[5] These proposed rule changes are published for comment and may take effect: (1) When a written certification has been filed with the Commodity Futures Trading Commission (''CFTC'') under Section 5c(c) of the Commodity Exchange Act; (2) when the CFTC determines that review of the proposed rule change is not necessary; or (3) when the CFTC approves the proposed rule change.[6] Rule 19b–7 and Form 19b–7 under the Act set forth the process for SROs to file proposed rule changes under Section 19(b)(7) of the Act.

Currently, SROs are required to electronically file proposed rule changes submitted to the Commission under Section 19(b)(1) of the Act.[7] SROs are also required to post such proposed rule changes on their Web sites.[8]

Proposed rule changes submitted by SROs under Section 19(b)(7) of the Act, in contrast, are submitted to the Commission in paper.[9] In addition, SROs are not currently required to post proposed rule changes filed under Section 19(b)(7) on their Web sites. The Commission proposed to amend Rule 19b–7 and Form 19b–7 to require electronic filing and Web posting of proposed rule changes filed under Section 19(b)(7) of the Act. These proposals were designed to conform to the requirements already in place for proposed rule changes filed pursuant to Rule 19b–4 and Form 19b–4.

The Commission received two comment letters in response to its request for comments.[10] The commenters were generally supportive of the proposed amendments but offered a few suggestions for refinements to the proposal. In addition, commenters commended the Commission's efforts to improve the rule filing process and make it less costly and more efficient. One commenter also offered suggestions relating to matters outside the scope of this rulemaking.[11] The Commission has determined to adopt the amendments substantially as proposed, with modifications to address the comments of the NFA and with some clarifications.

## II. Amendments

### *A. Electronic Filing*

The Commission proposed to amend Rule 19b–7 and Form 19b–7 to require that Form 19b–7, and any amendments thereto, be submitted electronically to the Commission. The Commission is adopting these amendments as proposed.

Based on the Commission's experience receiving electronic Rule 19b–4 filings from SROs, the Commission believes that requiring SROs to file proposed rule changes on Form 19b–7 electronically will have many benefits. First, the Commission believes electronic filing will reduce the amount of time required by SROs to submit SRO rule filings by eliminating paper delivery, photocopying, and distribution. Under the current system, SROs send paper copies of proposed rule changes on Form 19b–7 to the Commission via messenger, overnight delivery, or U.S. mail. Electronic filing will reduce costs for the SROs[12] because the SROs will no longer incur costs for delivery of paper filings or for the SRO staff time currently devoted to preparing filing packages. The Commission also will benefit from reducing the personnel time currently associated with manually processing paper filings.

Second, electronic filing will allow for a more efficient use of Commission resources by integrating the SRO electronic filing technology with SRO Rule Tracking System (''SRTS''), the internal Commission database that tracks these filings, enabling Commission staff to more easily monitor and process proposed rule changes. Pertinent information regarding proposed rule changes, as well as amendments, will be captured automatically by SRTS. As a result, Commission staff will be able to monitor electronically the progress of proposed rule changes filed on Form 19b–7 from initial receipt through final disposition and thereby enhance its management of the rule filing process.

As of 5:30 p.m. Eastern Daylight Saving Time on April 25, 2008, the Commission will no longer accept SRO proposed rule changes in paper format. Beginning at 9 a.m. Eastern Daylight Saving Time on April 28, 2008, SROs will be required to file all Forms 19b–7 and any amendments to Forms 19b–7 electronically, according to the procedures and in the format described in Rule 19b–7 and Form 19b–7, as amended. SROs will gain access to a secure Web site known as the EFFS, which enables authorized individuals at the SRO to file proposed rule changes with the Commission electronically.[13] Proposed rule changes will be deemed filed on the business day the Commission receives the proposed rule change electronically, provided the Commission receives the filing before 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is in effect at the time of filing, and it is filed in accordance with Rule 19b–7 and Form 19b–7, as amended. The Commission has eliminated the requirement that SROs submit multiple, paper copies of proposed rule changes.[14]

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[1] 15 U.S.C. 78s(b)(7)(A).

[2] Securities Exchange Act Release No. 55341 (February 23, 2007), 72 FR 9412 (March 1, 2007) (''Electronic 19b–7 Proposing Release'').

[3] 15 U.S.C. 78*o*–1(k).

[4] *See* Section 15(b)(11) of the Act. 15 U.S.C. 78*o*(b)(11).

[5] Section 19(b)(7) of the Act. 15 U.S.C. 78s(b)(7). Specifically, under Section 19(b)(7), these SROs submit those proposed rule changes that relate to higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who effect transactions in security futures products, or rules effectuating the SRO's obligation to enforce the securities laws.

[6] Section 19(b)(7)(B) of the Act. 15 U.S.C. 78s(b)(7)(B). Proposed rule changes that relate to margin, except for those that result in higher margin levels, must be filed pursuant to Sections 19(b)(1) of the Act. 15 U.S.C. 78s(b)(1).

[7] 17 CFR 240.19b–4. *See* Securities Exchange Act Release No. 50486 (October 4, 2004), 69 FR 60287 (October 8, 2004) (File No. S7–18–04) (''Electronic 19b–4 Adopting Release'').

[8] 17 CFR 240.19b–4(*l*).

[9] *See* Securities Exchange Act Release No. 44692 (August 13, 2001), 66 FR 43721 (August 20, 2001) (Paper Form 19b–7 Adopting Release).

[10] *See* letters to Nancy M. Morris, Secretary, Commission, from: Thomas W. Sexton, Vice President and General Counsel, National Futures Association (''NFA''), dated April 23, 2007 (''NFA Letter'') and James J. Angel, PhD, CFA, Associate Professor of Finance, McDonough School of Business, Georgetown University, dated April 30, 2007 (''Angel Letter'').

[11] *See* Angel Letter, *supra* note 10 at 1–2.

[12] *See infra* notes 65–69 and accompanying text.

[13] The SRO will determine which individuals would be supplied with User IDs and passwords to access the secure Web site. *See infra* note 17 and accompanying text.

[14] Occasionally, an SRO may find it necessary to file documents that cannot be submitted electronically, such as comment letters submitted to the Exchange before filing, or other exhibits. In

As had been proposed, the adopted amendment to Form 19b–7 requires SROs to file their proposed rule changes with an electronic signature.[15] Form 19b–7 requires that a filing be signed on the SRO's behalf by a person ''duly authorized'' to sign a proposed rule change.[16] Each duly authorized signatory will be required to obtain a ''digital ID,'' which provides both the Commission and the SRO with assurances of the authenticity and integrity of the electronically-submitted Form 19b–7.[17] In addition, each signatory will be required to manually sign a hard copy of the Form 19b–7, authenticating, acknowledging, or otherwise adopting his or her electronic signature that is attached to or logically associated with the filing. In accordance with Rule 17a–1 under the Act,[18] the SRO is required to retain that manual signature page of the rule filing, authenticating the signatory's electronic signature, for not less than five years after the Form 19b–7 is filed with the Commission and, upon request, furnish a copy of it to the Commission or its staff.[19]

One commenter suggested that the Commission use its exemptive authority to eliminate the requirement that SROs file proposed rule changes with the Commission pursuant to Section 19(b)(7) of the Act.[20] The Commission believes that this comment is outside the scope of the proposed amendments and therefore is not making any changes to the proposal in this regard.

*B. Posting of Rule 19b–7 Proposed Rule Changes on SRO Web Sites*

The Commission also proposed to amend Rule 19b–7 to require each SRO to post proposed rule changes filed pursuant to that Rule, and any amendments thereto, on its public Web site no later than two business days after filing with the Commission. The Commission also proposed to require SROs to continue to post such proposed rule changes until 60 days after the SRO files a written certification with the CFTC, the CFTC determines that review of the proposed rule change is not necessary, or the CFTC approves the proposed rule change. The Commission is adopting these amendments as proposed.

The Commission believes the Web site posting requirement provides interested persons with easy access to proposed rule changes, while at the same time providing SROs with sufficient time to comply with the posting requirement.[21] Based on the Commission's experience with respect to SROs' obligation to post proposed rule changes under Rule 19b–4, the Commission believes that the two business day timeframe strikes an appropriate balance between promoting the public interest of having proposed rule changes posted quickly and the need for the SROs to have adequate time to perform the technological tasks necessary to post the proposed rule change.[22] The Commission believes all market participants, investors, and other interested parties should have access to SRO proposed rule changes filed with the Commission, and any amendments, as soon as practicable. Moreover, the Commission believes that Web site accessibility of SRO proposed rule changes filed under Section 19(b)(7) of the Act will: (1) Provide interested persons with faster access to proposed rule changes; (2) facilitate the ability of interested persons to comment on the proposals; (3) save SRO resources currently used to monitor the Commission's Public Reference Room for competitors' proposed rule changes; and (4) enhance the transparency of the rule filing process by providing ready access to proposed rule changes and facilitating public comment on them.

The Commission is also adopting as proposed amendments requiring SROs to remove proposed rule changes filed under Section 19(b)(7) of the Act that are deemed not properly filed and returned to SROs or withdrawn by SROs from their Web sites within two business days from the Commission's notification to the SRO that such proposed rule change was not properly filed,[23] or of the SRO's withdrawal of the proposed rule change.

The NFA requested clarification on whether it could keep proposed rule changes on its Web site for longer than the 60-day period provided in the proposed rule, and whether it could maintain on its Web site the letter submitted to the CFTC in connection with a proposed rule change that it withdraws from filing with the Commission or is notified was not properly filed. NFA also noted that leaving the letter submitted to the CFTC on the NFA Web site may provide useful historical information regarding NFA rule changes or other matters.[24] In this regard, the Commission notes that the amended rule only establishes minimum periods for which an SRO must post its proposed rule changes. An SRO may maintain a Form 19b–7 filing on its Web site after the 60-day period has ended. In addition, Rule 19b–7 does not apply to any filing other than those made under Section 19(b)(7)(A). Thus, an SRO may post on its Web site submissions to the CFTC or other materials, as it chooses.

Finally, Dr. Angel, suggested that all SROs be required to describe the status of rule filings (*e.g.*, ''effective,'' ''under review at the Commission,'' ''rejected,'' ''superseded by a new proposal,'' etc.) on their Web sites.[25] In addition, Dr. Angel suggested that the Commission require SROs to post all filings submitted to the Commission, including Form 1 and Form PILOT, and that the Commission require alternative trading systems to post their Forms ATS on their respective Web sites.[26] The Commission believes these suggestions are outside the scope of the proposed amendments, which relate exclusively to electronic filing by securities futures exchanges under Section 19(b)(7) of the

addition, it may not be appropriate to require proprietary and other information subject to a request for confidential treatment to be filed electronically. Accordingly, the amendments to Rule 19b–7 and Form 19b–7 will retain the flexibility to permit portions of a rule filing to be made in paper form under limited circumstances. For example, the Commission will permit SROs to file materials for which confidential treatment is requested in paper format.

[15] The Commission notes that the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, *et seq.* does not apply in this regard.

[16] The Commission is clarifying on amended Form 19b–7 that this individual must be an officer of the SRO, who has been authorized by the SRO's governing body to sign proposed rule changes on behalf of the SRO. *See* Instruction E to Form 19b–7.

[17] A digital ID, sometimes called a ''digital certificate,'' is a file on the computer that identifies the user. Computers can use a digital ID to create a digital signature that verifies both that the message originated from a specific person and that the message has not been altered either intentionally or accidentally. The user obtains a digital ID from a ''Certificate Authority'' (''CA'') for a modest sum (currently approximately $20 per year). When the SRO electronically sends the Form 19b–7 to the Commission, the digital ID will encrypt the data through a system that uses ''key pairs.'' With key pairs, the SRO's software application uses one key to encrypt the document. When the Commission receives the SRO's electronic document, the Commission's software will use a matching key to decrypt the document.

[18] 17 CFR 240.17a–1.

[19] *See* Rule 19b–7(d). These requirements are substantially consistent with the requirements for Form 19b–4 filings, which were adapted from Section 232.302 of Regulation S–T, 17 CFR 232.302 for EDGAR filers.

[20] *See* Angel Letter, *supra* note 10 at 1.

[21] The complete proposed rule change will also be available electronically in the Commission's Public Reference Room.

[22] An SRO controls the timing of filing proposed rule changes and amendments and can assure that its technology staff is prepared to post the proposed rule change on the SRO's public Web site within two business days of filing with the Commission.

[23] A screen within EFFS will indicate that a rule filing has not been properly filed and has been returned to the SRO.

[24] *See* NFA Letter, *supra* note 10 at 2.

[25] *See* Angel Letter, *supra* note 10 at 1.

[26] *See* Angel Letter, *supra* note 10 at 2.

Act, and therefore is not modifying the proposal in response to these comments.[27]

*C. Requirement To Update Rule Text on SRO Web Sites*

Currently, Rule 19b–4(m) under the Act[28] requires all SROs to post and maintain on their Web sites a complete and accurate copy of their rules. In addition, an SRO must update its Web site to reflect rule changes within two business days after being notified of the Commission's approval of a proposed rule change filed pursuant to Section 19(b)(2) of the Act or of the Commission's notice of a proposed rule change filed pursuant to 19(b)(3)(A) or 19(b)(7) of the Act. As adopted, all SROs will continue to be required to post and maintain a complete and accurate copy of their rules and to update their Web sites to reflect their proposed rule changes.

1. New Paragraph (g) of Rule 19b–7

The Commission proposed to add paragraph (g) to Rule 19b–7 to move the requirement that an SRO filing a proposed rule change under Section 19(b)(7): (1) Post and maintain a current and complete version of its rules on its Web site; and (2) update the rules posted on its Web site within two days after a rule change becomes effective.[29] The Commission is adopting new paragraph (g) to Rule 19b–7 as proposed, with certain minor changes to reflect comments from the NFA.[30]

The NFA asked the Commission to modify the proposed language in Rule 19b–7(g) so that an SRO's obligation to update its rules on its Web site would apply no sooner than two days after the SRO's *receipt* of notice from the CFTC that it had determined that review of the proposal was not necessary or that it had approved the proposal.[31] The NFA states that the CFTC does not have an electronic filing system and, therefore, the NFA does not always receive immediate notification of CFTC action.

In response to the NFA's comment, the Commission is amending Rule 19b–7(g) to require an SRO to update its Web site to reflect rule changes filed under Section 19(b)(7) within two business days of the later of: (1) The Commission's notice of the proposed rule change; or (2) the filing by the SRO of a certification with the CFTC under Section 5c(c) of the Commodities Exchange Act, receipt of notice from the CFTC that it has determined that review of such proposed rule change is not necessary, or receipt of notice from the CFTC that it has approved such proposed rule change. The Commission believes these changes are appropriate because they do not impose an obligation on an SRO to update its Web site until the SRO has notice of the CFTC action and no sooner than SROs are obligated to update their rule text for proposals submitted pursuant to Section 19(b)(3)(A) of the Act, which are effective upon filing with the Commission.

2. Amendments to Paragraph (m) of Rule 19b–4

The Commission also proposed to make a conforming change to Rule 19b–4 to remove the requirement in paragraph (m) that SROs update their Web sites to reflect proposed rule changes filed pursuant to Section 19(b)(7) of the Act. As discussed above, the Commission has moved this requirement to Rule 19b–7. The Commission is adopting the conforming changes to Rule 19b–4 as proposed.[32]

In addition, in response to comments from the NFA, the Commission is modifying Rule 19b–4(m) as it applies to an exchange registered with the Commission under Section 6(g) or a limited purpose national securities association registered under Section 15A(k) with regard to the period within which it must update its rule text on its Web site. An Exchange registered with the Commission under Section 6(g) of the Act[33] or a limited purpose national securities association registered under Section 15A(k) of the Act,[34] may be required to file certain proposed rule changes under Section 19(b)(2) of the Act. Such proposed rule changes do not become effective until: (1) The Commission approved the proposal; and (2) the SRO filed with the CFTC a written certification, the CFTC determined that review of the proposed rule change is not necessary, or the CFTC approved the proposed rule change. Accordingly, the final rule the Commission is adopting provides that an exchange that is registered with the Commission under Section 6(g) of the Act or a limited purpose national securities association registered under Section 15A(k) of the Act, is required to update its rule text on its Web site to reflect rule changes filed under Section 19(b)(2) of the Act within two business days of the later of: (1) The Commission's approval of the proposed rule change; or (2) the SRO's filing of a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act, notice from the CFTC that it has determined that review of the proposed rule change is not necessary, or notice from the CFTC that it has approved the proposed rule change.[35]

The Commission believes these modifications to the proposal are appropriate because they reflect the practical effect of the fact that exchanges registered under Section 6(g) of the Act and national securities association registered under Section 15A(k) of the Act are also regulated by the CFTC. Under this dual regulatory scheme, proposed rule changes must become effective under both the Act and the CEA. The final rule makes clear that such an SRO's obligation to update its Web site to reflect rule changes arises only after such rule changes have become effective under both the Act and the CEA.

*D. Form 19b–7 Amendments*

1. Form 19b–7 Amendments

The Commission proposed to amend the instructions to Form 19b–7 to eliminate the requirement to submit nine paper copies and instead to require electronic filing of Form 19b–7. The Commission is adopting this amendment as proposed. To access the secure Internet site for Web-based filing of the Form 19b–7, an SRO will submit to the Commission an External Application User Authentication Form (''EAUF'') to register each individual at the SRO who will be submitting Forms 19b–7 on behalf of the SRO. Upon receipt and verification of the information in the EAUF process, the Commission will issue each such person a User ID and Password to permit access to the Commission's secure Web site. As

[27] The Commission notes that it proposed to require SROs to post amendments to their Form 1s on their Web sites. *See* Securities Release Act No. 50699 (November 18, 2004), 69 FR 71126 (December 8, 2004). The Commission has not taken action on this proposal.

[28] 17 CFR 240.19b–4(m).

[29] Section 19(b)(7)(B) of the Act requires a proposed rule change filed with the Commission under Section 19(b)(7) of the Act to be filed concurrently with the CFTC. Such proposed rule change is effective upon filing of a written certification with the CFTC, upon a determination by the CFTC that review of the proposed rule change is not necessary, or upon approval of the proposed rule change by the CFTC. 15 U.S.C. 78s(b)(7)(B).

[30] Dr. Angel suggested that the Commission require SROs to post their rulebooks on their Web site in one Adobe pdf file for ease of searching. See Angel Letter, *supra* note 10 at 1. While the Commission encourages the SROs to employ technology on their Web sites which facilitates research of their rules, the Commission does not believe it is necessary or appropriate to require SROs to use a particular application to publish their rules.

[31] *See* NFA Letter, *supra* note 10 at 2–3.

[32] *See* Rule 19b–4(m)(2). The final rule also clarifies that the two-day time period is *business* days.

[33] 15 U.S.C. 78f(g).

[34] 15 U.S.C. 78*o*–1(k).

[35] *See* Rule 19b–4(m)(3).

Form 19b–7 will be electronic, initially the authorized user at an SRO will access a screen containing a filing template, referenced as Page 1, in which it can identify the SRO, enter a brief description of the proposed rule change, and enter a brief description of the SRO governing body action approval.[36] The SRO will provide contact information and place the electronic signature of a duly authorized officer on this Page 1 initial screen.[37] The second screen of the electronic Form 19b–7 will provide the SRO with a means to attach the proposed rule change and related exhibits in Microsoft Word format.[38] EAUF users will have electronic access to a mechanism to fulfill the requirements of the Form, as adapted for electronic filing.[39] Finally, the SRO will use the electronic Form 19b–7 to amend or withdraw a rule filing pending with the Commission.

The Commission also proposed a number of changes to Form 19b–7, unrelated to electronic filing, that are modeled after certain provisions in Form 19b–4, which the Commission believed would facilitate an SRO's proper filing of Form 19b–7. The Commission is adopting the changes to Form 19b–7 substantially as proposed. For example, the format of the Instructions to Form 19b–7 will be organized according to the sections currently used for Form 19b–4 Instructions, instead of the combination of questions and titles that serve as subject heads in the existing Instructions to Form 19b–7 currently. The amended Form 19b–7 will require the SRO to describe the purpose of the proposed rule change in sufficient detail to enable the public to provide meaningful public comment.[40] The Form 19b–7 will direct the SRO to relevant sections of the Act that are appropriate for discussion in the Statutory Basis section of the Form 19b–7 and will clarify that a mere assertion that the proposed rule change is consistent with the Act is not sufficient to describe why the proposed rule change is consistent with the Act. The amended Form 19b–7 will also provide updated instructions related to the solicitation of comments from interested persons regarding the proposed rule change. These updated instructions will include the new address where interested parties may direct comments to Form 19b–7 filings in hard copy and describe the manner in which comments may be submitted on the Commission Web site.

The changes to Form 19b–7 will alter the way that the Exhibits are organized and the Instructions to such Exhibits are presented. For example, the amended Instructions will direct an SRO to include the completed notice of the proposed rule change (''Form 19b–7 Notice'' or ''Notice'') as Exhibit 1, whereas such notice is not assigned to an Exhibit in the existing Form 19b–7. The instructions for the Form 19b–7 Notice will be amended to include more detailed guidance on the current requirement that the Notice must be formatted to comply with the requirements for **Federal Register** publication. For example, the amended Instructions will provide guidance regarding **Federal Register** requirements relating to margin spacing, page numbering, and line spacing.

The subject of existing Exhibit 1, relating to communications with third parties on the subject of the proposed rule change, will move to Exhibit 2. The guidance in the existing Instructions to Exhibit 2 will be replaced, in Exhibit 3, with more detailed guidance as to how the SRO should present forms, reports, and questionnaires that the SRO proposes to use to implement the terms of the proposed rule change. The requirement to include the text of the proposed rule change will remain in Exhibit 4, but the requirement for the SRO to describe the anticipated effect of the proposed rule change would have on the application of other rules of the SRO will move to Section II(A)(1)(b) of the Form 19b–7 Notice.

The Commission is adopting as proposed, a requirement that an SRO submitting a Form 19b–7 attach, in Exhibit 5, a document reflecting the certificate of effectiveness of a proposed rule change, an SRO's request or the CFTC's determination that review of the proposed rule change is not necessary, or an SRO's request for CFTC approval or an indication from the CFTC that the proposed rule change has been approved. Page 1 of Form 19b–7 will provide a space for SROs to indicate which of these actions, noted in the preceding sentence, has been taken by the SRO or the CFTC. After further consideration of the issue, the Commission is modifying Page 1 to provide greater specificity as to the status of the effectiveness of the proposed rule change. Accordingly, Page 1 will have separate boxes for the SRO to mark indicating whether it is attaching a copy of its request that the CFTC determine that review of the proposed rule change is not necessary or a copy of the CFTC's determination that review of the proposed rule change is not necessary. Similarly, an SRO will be able to mark separate boxes indicating whether the SRO is attaching a document reflecting the SRO's request that the CFTC approve the proposed rule change or to indicate that the SRO is attaching the CFTC's approval of the proposed rule change. Page 1 will also indicate that the SRO may submit more than one document in Exhibit 5.

As amended, the Instructions to Form 19b–7 describe circumstances under which an SRO must file an amendment to a proposed rule change and the procedures an SRO must follow when submitting an amendment electronically. The Instructions for Form 19b–7 state, in relevant part, that if ''any information on this form or exhibit thereto is or becomes inaccurate before the proposed rule change becomes effective, the [SRO] shall file amendments correcting any such inaccuracy.'' This instruction, for example, will require an SRO to file an amended Exhibit 5 when the SRO receives notice from the CFTC that review of the proposed rule change is not necessary or that the CFTC has approved the proposed rule change, if the SRO receives such notice following the submission of the original proposed rule change.

The Commission believes that the changes to Form 19b–7, which are designed generally to conform to the updated Form 19b–4, will promote uniformity among SRO proposed rule change filings. This uniformity should facilitate SROs' compliance with the rule filing requirements under section 19(b) and the Commission's review of proposed rule changes. The changes are also expected to facilitate a speedy migration to electronic filing for SROs submitting proposed rule changes under section 19(b)(7).

As noted above, the Commission recognizes that in rare circumstances SROs may be unable to file certain documents electronically with the

[36] The authorized user also will be able to indicate if there will be a separate filing of any hard copy exhibits that are unable to be submitted electronically.

[37] As noted *supra* notes 15–17, and accompanying text, a person that is a ''duly authorized officer'' at the SRO will be required to place his or her ''electronic signature'' on the Form 19b–7 before it is transmitted electronically to the Commission.

[38] An SRO may also submit Exhibits 2, 3, and 5 in another acceptable electronic format, including Microsoft Excel, Microsoft PowerPoint, Adobe Acrobat, or Corel WordPerfect, if Microsoft Word is not available to the SRO or the document is not compatible with Microsoft Word.

[39] For example, the SRO will click separate boxes on the second screen to attach documents containing the various exhibits; notices, written comments, transcripts, other communications; form, report, or questionnaire; proposed rule text; CFTC certification; the completed notice of the proposed rule change for publication in the **Federal Register**; and, marked copies of amendments if applicable.

[40] *See also* General Instructions for Form 19b–4, which establish a similar requirement for Form 19b–4.

Commission. Therefore, under these limited circumstances, the Commission would consider whether to allow SROs to file documents in paper format within five days of the electronic filing of all other required documents.[41] In the Electronic 19b–7 Proposing Release, the Commission solicited comment on whether there would be a need for an exception to the electronic filing requirement of Exhibit 5 to Form 19b–7. In response, the NFA suggested that while an explicit exception from the electronic filing requirement of Exhibit 5 was not necessary, the Commission should reserve the general exemptive authority to allow paper filings for all or part of a rule filing in unusual situations.[42] The Commission believes that the proposed rule changes filed pursuant to Section 19(b)(7) of the Act are usually not so time-sensitive that failure to file them with the Commission on a particular date will result in negative consequences to SROs, their members, or investors. In the rare situation where an SRO can demonstrate to the Commission that its inability to file a proposed rule change electronically on that particular date will cause harm to the SRO, its members, or investors, the Commission would consider appropriate relief. In such emergency situations, the Commission could consider an SRO's exemption request from the electronic rule filing requirements of Section 19(b) of the Act pursuant to Rule 0–12 of the Act[43] and Section 36(a)(1) of the Act[44] ''to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.'' In making such findings, the Commission generally would consider important the existence of factors such as: (1) An extended electronic outage at the SRO facility or at the Commission; (2) a pressing need for implementation of the proposed rule change; and (3) a failure of back-up facilities. The Commission notes that SROs, in their business continuity planning, should ensure that they have appropriate back-up facilities to accommodate electronic filing of proposed rule changes. Accordingly, the Commission is adopting the rule as originally proposed, without a specific exception to permit SROs to file Exhibit 5 on paper.

2. Accurate, Consistent, and Complete Forms 19b–7

The Commission firmly believes that, to provide the public with a meaningful opportunity to comment, a proposed rule change must be accurate, consistent, and complete. Form 19b–7 states that the form, including the exhibits, is intended to elicit information necessary for the public to provide meaningful comment on the proposed rule change and for the Commission to determine whether abrogation of the proposal is appropriate because it unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and protection of investors.[45] The SRO must provide all the information called for by the form, including the exhibits, and must present the information in a clear and comprehensible manner.

Currently, Commission staff devotes significant time to processing proposed rule changes, reviewing them for accuracy and completeness, and preparing them for publication. SRO staff must ensure that the filings: (1) Contain a properly completed Form 19b–7; (2) contain a clear and accurate statement of the authority for, and basis and purpose of, such rule change, including the impact on competition; (3) contain a summary of any written comments received by the SRO; (4) contain the proper certification submitted to the CFTC, any other appropriate determination made by the CFTC that a review of the proposed rule change is not necessary, or an indication that the CFTC has approved the proposed rule change; and (5) describe the impact of the proposed rule change on the existing rules of the SRO, including any other rules proposed to be amended. As described in the current Form 19b–7, filings that do not comply with the foregoing are deemed not filed and returned to the SRO. Under these amendments the Commission is adopting, electronically filed proposed rule changes that do not comply with the foregoing will continue to be returned to the SRO, but in electronic format, and, consistent with current practice, will be deemed not filed with the Commission until all required information has been provided.

*E. Amendments to Form 19b–4*

The Commission proposed to clarify on Form 19b–4 that an individual who signs the Form 19b–4 digitally must be an officer authorized by the SRO's governing body to sign proposed rule changes on behalf of the SRO. Accordingly, the Commission proposed to amend Page 1 of Form 19b–4 to add the word ''officer'' to follow the phrase ''duly authorized'' in the Signature Box appearing on that page.[46] The Commission notes that this change does not create any new obligation. Section F of the Instructions to Form 19b–4 provides that a ''duly authorized officer'' sign Form 19b–4 submissions, but the word ''officer'' was inadvertently omitted from the signature box when the electronic Form 19b–4 was adopted.[47] The Commission is adopting this amendment as proposed.

*F. Date of Effectiveness of the Proposal*

One commenter requested a 30 day delay before implementation of the proposed amendments.[48] The Commission believes that the SROs will benefit from an effective date that provides them with time to familiarize themselves with the EFFS and to make the technological changes to the procedures for updating their Web sites necessary to comply with the new obligations under this proposal. Accordingly, these amendments will become effective on April 28, 2008, 30 days following publication in the **Federal Register**.

**III. Paperwork Reduction Act**

Certain provisions of the amendments to Rule 19b–7 and Form 19b–7 and Rule 19b–4 and Form 19b–4 contain ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995.[49] Accordingly, the Commission submitted the information to the Office of Management and Budget (''OMB'') for review revisions to the current collection of information titled ''Rule 19b–7 Under the Securities Exchange Act of 1934'' (OMB Control No. 3235–0553). The Commission also submitted revisions to the current collection of information titled ''Form 19b–7 Under the Securities Exchange Act of 1934'' (OMB Control No. 3235–0553). In addition, the Commission has submitted

[41] This exception from electronic filing would not apply to Page 1 to Form 19b–7 or Exhibits 1 and 4 thereto but would only be applicable to Exhibits 2 and 3, and any documents filed pursuant to a request for confidential treatment pursuant to the Freedom of Information Act, 5 U.S.C. 552.

[42] *See* NFA Letter at 2.

[43] 17 CFR 240.0–12.

[44] 15 U.S.C. 78mm(a)(1).

[45] Section 19(b)(7)(C) of the Act grants to the Commission, after consultation with the CFTC, the authority to summarily abrogate a proposed rule change that has taken effect pursuant to Section 19(b)(7)(B) of the Act if it appears to the Commission that such a rule change unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of investors.

[46] The proposed amendment to Form 19b–4 is attached as Appendix B.

[47] *See* Electronic 19b–4 Adopting Release, *supra* note 7.

[48] *See* NFA Letter at 3.

[49] 44 U.S.C. 3501 *et seq.*

revisions to the current collection of information titled ''Rule 19b–4 Under the Securities Exchange Act of 1934'' (OMB Control No. 3235–0045). Finally, the Commission submitted revisions to the current collection of information titled ''Form 19b–4 Under the Securities Exchange Act of 1934'' (OMB Control No. 3235–0045). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. In the Electronic 19b–7 Proposing Release, the Commission solicited comments on the collection of information requirements, but received no response to the solicitation. Accordingly, the Commission is making no adjustments to the burden estimates provided in the Electronic 19b–7 Proposing Release.[50]

*A. Summary of Collection of Information*

Prior to these amendments, Rule 19b–7 required an SRO that proposes to add, delete, or amend its rules relating to certain subjects[51] to submit such proposed rule change to the Commission on Form 19b–7. Form 19b–7 required the respondent: (1) To state the purpose of the proposed rule change; (2) to state the authority and statutory basis for the proposed rule change; (3) to describe the proposal's impact on competition; (4) to provide a summary of any written comments on the proposed rule change received by the SRO; and (5) to describe the date upon which the proposed rule change becomes effective and provide supporting documentation relevant to the effectiveness date. The amendments add a requirement to Form 19b–7 that an SRO provide on Page 1 of Form 19b–7 more information about a staff member prepared to answer questions about the filing, such as the SRO staff member's title, e-mail address and fax number. The amendments also require Web site posting of all proposed rule changes, and any amendments thereto. In addition, the amendments codify in Rule 19b–7 the requirement previously located in Rule 19b–4(m) that SROs submitting Form 19b–7 post a current and complete set of their rules on their Web sites. In response to a commenter's concerns, the Commission modified the amendment so that a security futures exchange or a limited purpose national securities association will be required to update its Web site within two business days after it files a written certification with the CFTC under Section 5c(c) of the Commodities Exchange Act, within two business days after the SRO's receipt of notice from the CFTC that it has determined that review of the proposed rule change is not necessary, or within two business days after the SRO receives an indication from the CFTC that it has approved the proposed rule change, or within two business days of the Commission's notice of the proposed rule change, if such notice occurs after the CFTC certification, determination, or approval. The amendments also clarify that a mere assertion that the proposed rule change is consistent with the Act is not sufficient to describe why the proposed rule change is consistent with the Act. Rule 19b–4(m) will continue to require SROs to update their rules on their Web sites to reflect proposed rule changes filed pursuant to Section 19(b)(2) and 19(b)(3)(A) of the Act. Proposed Rule 19b–7(g) will require SROs to update their rule texts on their Web sites to reflect rule changes filed pursuant to Section 19(b)(7) of the Act following the Commission's notice of such proposed rule change, within two business days after such rule change takes effect. All SROs that file Form 19b–4 and Form 19b–7 currently post this information on their Web sites. Therefore, SROs will not be required to provide additional information to comply with proposed Rule 19b–7(g) and current Rule 19b–4(m).

*B. Use of Information*

The information provided via EAUF, as required by the amendments to Form 19b–7, will be used by the Commission to verify the identity of the individual representing the SRO and provide such individual access to a secure Commission Web site for filing of the Form 19b–7. The amendment will require that SROs post their proposed rule changes filed pursuant to Section 19(b)(7) of the Act on their Web sites, so that these proposals could be viewed by the general public, SRO members, competing SROs, other market participants, and Commission staff. The information will enable interested parties to more easily access SRO rules and rule filings, which will facilitate public comment on proposed SRO rules. In addition, SRO staff, members, industry participants, and Commission staff will utilize the accurate and current version of SRO rules that are posted on the SRO Web site to facilitate compliance with such rules.

*C. Respondents*

There are currently five SROs[52] registered with the Commission as national securities exchanges under Section 6(g) of the Act or as a national securities association registered with the Commission under Section 15A(k) of the Act subject to the collection of information for Rule 19b–7, though that number may vary owing to the consolidation of SROs or the introduction of new entities. In a fiscal year, these respondents filed an average of 12 rule change proposals and 3 amendments to those proposed rule change proposals, for an average of 15 filings per fiscal year that are subject to the current collection of information.[53] Of the 12 proposed rule changes filed by SROs, all 12 ultimately became effective because the SROs did not withdraw any proposed rule changes.

*D. Total Annual Reporting and Recordkeeping Burden*

1. Background

The amendments to Rule 19b–7 and Form 19b–7 are designed to modernize the SRO rule filing process and to make the process more efficient by conserving both SRO and Commission resources. Rule 19b–7 and Form 19b–7 are amended to require SROs to electronically file their proposed rule changes. Form 19b–7 is revised to accommodate electronic submission. In addition, SROs will be required to post on their Web sites proposed rule changes submitted on Form 19b–7 to the Commission and amendments thereto. A conforming amendment codifies in Rule 19b–7 the current requirement in Rule 19b–4(m) for SROs to maintain a current and complete set of their rules on their Web site.

2. Rule 19b–7 and Form 19b–7

The Commission does not expect that the amendments to Rule 19b–7 and Form 19b–7 relating to electronic filing of proposed rule changes and amendments will impose any material upfront cost on SROs. The technology for electronic filing will be Web-based; therefore, the SROs are not expected to have any material upfront technology expenditures for electronic filing because all SROs currently have access to the Internet.

[50] *See supra* note 2, 72 FR 9412, 9418.

[51] *See* 15 U.S.C. 78f(g)(4)(B)(i) and 78*o*–3(k)(3)(A).

[52] The Board of Trade of the City of Chicago, Inc. (''CBOT''), Chicago Mercantile Exchange, Inc. (''CME''), CBOE Futures Exchange LLC (''CFE''), NFA, and OneChicago LLC (''OC'').

[53] Since the implementation of the CFMA in 2001 to September 30, 2006, SROs have filed 62 proposed rule changes pursuant to Section 19(b)(7) of the Act and 13 amendments.

However, each SRO will be required to obtain a digital ID from a certificating authority. The Commission estimates the annual cost of the ID to be approximately $20 for each SRO.[54] The Commission estimates that each SRO will purchase five such digital IDs for its staff. Thus, the annual cost of the ID for all SROs is expected to be approximately $500 (5 SROs × $20 × 5). The Commission included these estimates in its proposal and received no comments on them.

In addition, the Commission believes that SROs may incur some costs associated with training their personnel about the procedures for submitting proposed rule changes electronically via EFFS. However, the Commission believes that such costs will be one-time costs and relatively insubstantial since the SROs are already familiar with the information required in filing a proposed rule change with the Commission and will be required to submit the same information they currently submit in electronic form under these amendments. Based on the experience of the Commission staff in training SROs for the implementation of electronic Form 19b–4 filings, the Commission estimates that each SRO will spend approximately two hours training each staff member who will use the EFFS to submit the proposed rule changes electronically. Accordingly, the Commission estimates that the upfront cost of training SRO staff members to use EFFS will be 50 hours (5 SROs × 2 hours × 5 staff members). The Commission included these estimates in its proposal and received no comments on them.

An SRO rule change proposal is generally filed with the Commission after an SRO's staff has obtained approval from its Board. The time required to complete a filing varies significantly and is difficult to separate from the time an SRO spends in developing internally the proposed rule change. However, the Commission estimates that 15.5 hours is the amount of time required to complete an average rule filing using present Form 19b–7.[55] This figure includes an estimated 11.5 hours of in-house legal work and four hours of clerical work. The amount of time required to prepare amendments varies because some amendments are comprehensive, while other amendments are submitted in the form of a one-page letter. The Commission estimates that, under current rules, seven hours is the amount of time required to prepare an amendment to the rule proposal. This figure includes an estimated two hours of in-house legal work and five hours of clerical work. The Commission included these estimates in its proposal and received no comments on them.

Based upon the experience of electronic filing of proposed rule changes on Form 19b–4, the Commission expects that an electronic Form 19b–7 and new requirements to Form 19b–7 will reduce by three hours the amount of SRO clerical time required to prepare the average proposed rule change and by four hours for an amendment thereto. The Commission does not believe that the new instruction specifying that an SRO describe the purpose of the proposed rule change in sufficient detail to enable the Commission to determine whether abrogation is appropriate will add any additional burden to the Form 19b–7 filing process because the existing Instructions to Form 19b–7 already required that all information in the Form must be presented in a manner which will enable the Commission to make such a determination. The Commission does not believe that the additional contact information of an SRO staff member on Page 1 of the Form will add any measurable burden to an SRO submitting a Form 19b–7, because the information is so readily accessible to the party submitting the filing. The Commission does not believe that requiring the SROs to indicate on Page 1 of Form 19b–7 whether the CFTC has determined that review of the proposed rule change is not necessary or that the CFTC has approved the proposed rule change, as proposed herein, will create any addition burden to the SROs because the SROs are already required to indicate such information in Exhibit 1 to Form 19b–7. With the proposed electronic filing, the Commission staff estimates that 12.5 hours is the amount of time that will be required to complete an average rule filing and that three hours is the amount of time required to complete an average amendment. These figures reflect the three hours in savings in clerical hours that would result from the use of an electronic form for rule filings and four hours for amendments.[56] The Commission estimates that the reporting burden for filing rule change proposals and amendments with the Commission under the proposed amendments will be 159 hours (12 rule change proposals × 12.5 hours + 3 amendments × 3 hours). The Commission included these estimates in its proposal and received no comments on them.

3. Posting of Proposed Rule Changes Filed Under Rule 19b–7 on SRO Web Sites

The amendments also require SROs to post proposed rule changes filed under Rule 19b–7, and any amendments thereto, on their Web sites. The Commission estimates that 30 minutes is the amount of time that will be required to post a proposed rule on an SRO's Web site and that 30 minutes is the amount of time that will be required to post an amendment on an SRO's Web site.[57] The Commission estimates that the reporting burden for posting rule change proposals and amendments on the SRO Web sites will be approximately eight hours (12 rule change proposals × 0.5 hours + 3 amendments × 0.5 hours). The Commission included these estimates in its proposal and received no comments on them.

4. SRO Rule Text

Currently, all SROs are required to post their current rules on their Web sites pursuant to Rule 19b–4(m). The Commission estimates, based upon its analysis in the Electronic 19b–4 Adopting Release, that the amount of the time required to update an SRO's rule text on its Web site after a proposed rule change becomes effective to be four hours. Proposed rule changes submitted under Section 19(b)(7)(A) become effective an average of 12 times a year. Therefore, the Commission estimates that the reporting burden for updating the posted SRO rules on the SRO Web site will be 48 hours (12 proposed rule changes submitted pursuant to Section 19(b)(7)(A) × 4 hours). The Commission included these estimates in its proposal and received no comments on them.

The amendment will move the burden associated with complying with this provision from Rule 19b–4(m) to Rule 19b–7(g). Based upon the Commission's reporting burden estimate described above, the Commission estimates that the amendments will reduce the burden associated with SROs' compliance with the requirement provided in Rule 19b–4 that SROs post current and complete rule text on their Web sites and update that rule text after it changes following the effectiveness of a proposed rule

[54] This estimate is based upon the $19.95 price displayed for the ID on VeriSign's Web site as of October 2, 2007.

[55] *See* Electronic 19b–7 Proposing Release, *supra* note 2.

[56] The SROs' four hour time savings would result from the elimination of tasks, such as making multiple copies of the Form 19b–7 and amendments, arranging for couriers, and making follow-up telephone calls to ensure Commission receipt.

[57] This estimate is based on information from the Commission's Office of Information Technology.

change by 48 hours annually and increase the corresponding burden for compliance with Rule 19b–7 by 48 hours. The Commission anticipates that the amendments to Rule 19b–7(g) proposed herein, relating to the timing of updates to SRO rules do not impact the compliance burden for this rule. The Commission included these estimates in its proposal and received no comments on them.

In addition, in response to comments from the NFA, the Commission is also modifying Rule 19b–4(m) as it applies to an exchange registered with the Commission under Section 6(g) or a limited purpose national securities association registered under Section 15A(k). In its comment letter, the NFA noted that receipt of notification of CFTC action is not always immediate and requested that the Commission change the period within which an exchange registered with the Commission under Section 6(g) or a limited purpose national securities association registered under Section 15A(k) is required to update its Web site to be based on receipt of CFTC action and not the date the CFTC action occurs.[58] In response to this comment, Rule 19b–7(g) will now require that an exchange registered with the Commission under Section 6(g) or a limited purpose national securities association registered under Section 15A(k) to update its rule text on its Web site to reflect rule changes filed under Section 19(b)(2) of the Act within two business day of the later of: (1) Commission approval of the proposed rule change; or (2) the SRO's filing of a written certification with the CFTC under Section 5c(c) of the Commodities Exchange Act, notice from the CFTC that it has determined that review of the proposed rule change is not necessary, or notice from the CFTC that it has approved the proposed rule change. The Commission does not believe this amendment will create any additional burden to SROs because the SROs are already required to update their Web sites following the Commission's approval of rule changes submitted to the Commission pursuant to Section 19(b)(2) of the Act.

5. Total Annual Reporting Burden

The Commission estimates that the total annual reporting burden under the proposed rule will be 167 hours (159 hours for filing proposed rule changes and amendments + 8 hours for posting proposed rule changes and amendments on the SROs' Web sites + 48 hours for posting and updating complete sets of SRO rule text pursuant to Rule 19b–7—48 hours for posting and updating complete sets of SRO rule text pursuant to Rule 19b–4).

In addition to the 167 hour annual burden, the Commission believes that SROs may incur some costs associated with training their personnel about the procedures for submitting proposed rule changes electronically and submission of the information via EFFS. However, the Commission believes that such costs will be one-time costs and relatively insubstantial since the SROs are already familiar with the information required in filing a proposed rule change with the Commission and will be required to submit the information (already required to be submitted) electronically under this proposal. The Commission estimates that each SRO will spend approximately two hours training each staff member who will use the EFFS to submit the proposed rule changes electronically. Accordingly, the Commission estimates that the upfront cost of training SRO staff members to use EFFS will be 50 hours (5 SROs × 2 hours × 5 staff members).

The Commission does not expect that the amendments with regard to electronic filing will impose any material additional costs on SROs. Instead, the Commission believes that the amendments to Rule 19b–7 and Form 19b–7, on balance, will reduce paperwork costs related to the submission of SRO proposed rule changes. The technology for electronic filing will be Web-based; therefore, the SROs are not expected to have any technology expenditures for electronic filing because all SROs currently have access to the Internet.

As previously stated, the SROs may incur costs of eight hours annually to post on their Web site their proposed rules, and amendments thereto, no later than two business days after filing with by the Commission. With regard to posting of and updating of accurate and complete text of SRO final rules, the Commission believes that the amendments will increase the burden associated with complying Rule 19b–7 by 48 hours and reduce the burden associated with complying with Rule 19b–4 by 48 hours. In addition, the Commission does not anticipate that SROs will incur any additional costs in complying with the change to Form 19b–4, which adds the word ''officer'' to the Signature Box because the addition of the word simply provides transparency to an obligation that already exists.[59] Accordingly, the Commission does not believe that SROs will incur any additional costs in posting this information on their Web sites.

*E. Retention Period of Recordkeeping Requirements*

The SROs will be required to retain records of the collection of information (the manually signed signature page of the Form 19b–7) for a period of not less than five years, the first two years in an easily accessible place, according to the current recordkeeping requirements set forth in Rule 17a–1 under the Act.[60] The SROs will be required to retain proposed rule changes, and any amendments, on their Web sites until 60 days after effectiveness of the proposed rule that is filed with both the Commission and the CFTC or within two business days of withdrawal of the proposed rule change or notification that it is improperly filed.[61] The SRO will be required at all times to maintain an accurate and up-to-date copy of all of its rules on its Web site.[62]

*F. Collection of Information Is Mandatory*

Any collection of information pursuant to the amendments to Rule 19b–7 and Form 19b–7 to require electronic filing with the Commission of SRO proposed rule changes will be a mandatory collection of information filed with the Commission as a means for the Commission to review, and, as required, take action with respect to SRO proposed rule changes. Any collection of information pursuant to amendments to require Web site posting by the SROs of their proposed and final rules will also be a mandatory collection of information.

*G. Responses to Collection of Information Will Not Be Kept Confidential*

Other than information for which an SRO requests and obtains confidential treatment in accordance with the provisions of 5 U.S.C. 522, the collection of information pursuant to amendments to Rule 19b–7 and Form 19b–7 under the Act will not be confidential and will be publicly available.[63]

[58] *See* NFA Letter, *supra* note 10 at 2–3.

[59] *See* Section F of the Instructions to Form 19b–4.

[60] SROs may also destroy or otherwise dispose of such records at the end of five years according to Rule 17a–5 under the Act. 17 CFR 240.17a–5.

[61] *See* Rule 19b–7(f).

[62] *See* Rule 19b–7(g).

[63] Consistent with applicable law, proposed SRO rule changes containing proprietary or otherwise sensitive information may be accorded confidential treatment, including requests submitted pursuant to the protection afforded for such information in the Freedom of Information Act, 5 U.S.C. 552.

## IV. Costs and Benefits of the Rulemaking

In the Electronic 19b–7 Proposing Release, the Commission identified certain costs and benefits of the amendments to Rule 19b–7 and Form 19b–7.[64] As noted, the Commission estimates that the total annual paperwork reporting burden under the proposed rule will be 167 hours. The Commission, however, believes that there will be an overall reduction of costs based on the amendments.[65] The Commission received one comment letter relating to the cost and benefits of the proposed amendments.[66] The commenter expressed its belief that the amendment will reduce the costs and burdens associated with compliance with Rule 19b–7 and Form 19b–7. Thus, after careful consideration, the Commission is not modifying its costs and benefits analysis from that presented in the Electronic 19b–7 Proposing Release[67] and believes that the benefits of the amendments justify the costs that they will impose.

### *A. Benefits*

The amendments are designed to modernize the filing, receipt, and processing of SRO proposed rule changes and to make the SRO rule filing process more efficient by conserving both SRO and Commission resources. The Commission believes that the changes to Rule 19b–7 and Form 19b–7 will permit SROs to file proposed rule changes with the Commission more quickly and economically. For example, SROs are currently required to pay for delivery costs of multiple paper copies to the Commission and incur costs associated with monitoring the Commission's Public Reference Room for competitors' rule filings. Requiring SROs to electronically file proposed rule changes under Rule 19b–7 is expected to reduce expenses associated with clerical time, postage, and copying and to increase the speed, accuracy, and availability of information beneficial to investors, other SROs, and financial markets.

The Commission does not expect that the amendments will impose additional costs on SROs. Instead, the Commission believes that the amendments to Rule 19b–7 and Form 19b–7, on balance, will reduce costs related to the submission of SRO proposed rule changes. The technology for electronic filing will be Web-based; therefore, the SRO is not expected to have any material increase in technology expenditures for electronic filing because all SROs currently have access to the Internet. Accordingly, the Commission believes that the amendments to Rule 19b–7 and Form 19b–7, by requiring the SROs to submit proposed rule changes electronically, will reduce their costs.

Because Commission staff will no longer manually process the receipt and distribution of SRO rule filings submitted on Form 19b–7, electronic filing will also expedite the Commission's receipt of SRO proposed rule changes filed under Rule 19b–7 and provide the SROs with the certainty that the Commission has received the proposed rule changes and has captured pertinent information about the rule changes in SRTS. Based on the Commission's experience with electronic filing of Form 19b–4, the Commission believes that integrating this electronic filing technology with SRTS will also enhance the Commission's ability to monitor and process SRO proposed rule changes filed on Form 19b–7.

Moreover, requiring SROs to post proposed rule changes filed under Rule 19b–7 on their Web sites no later than two business days after filing with the Commission is designed to increase availability of SRO proposed rules and thereby facilitate the ability of interested parties to comment on proposed rule changes. For instance, the posting of these proposed rule changes will provide the public with access to the filings on the SROs' Web sites and thereby reduce the burden on SRO and Commission staff related to providing information about proposed rule changes to interested parties. The Commission believes that the posting of the proposed rule changes submitted on Form 19b–7 will also save SRO resources that are currently being used to monitor the Commission's Public Reference Room for competitors' proposed rule changes.

### *B. Costs*

As previously noted, the Commission estimates that the annual paperwork reporting costs will be 167 hours under the proposed rule. The Commission believes that SROs may incur some costs associated with training their personnel about the procedures for submitting proposed rule changes electronically and submission of the information via EFFS. However, the Commission believes that such costs will be one-time costs and insubstantial since the SROs are already familiar with the information required in filing a proposed rule change with the Commission and will be required to submit the same information electronically under these amendments. In the Electronic 19b–7 Proposing Release, the Commission estimated that the total amount of one-time costs that SROs will incur in training personnel how to use EFFS is 50 hours and received no comments on this estimate. The Commission believes that the SROs may also incur some minimal costs (currently $20 per year) associated with purchasing digital IDs for each duly authorized officer electronic signatories.[68] The Commission also believes that the SROs will have to make temporary adjustments to their recordkeeping procedures since the SROs will be required to print out the Form 19b–7 signature block, manually sign proposed rule changes, and retain the manual signature for not less than five years. However, there are not expected to be additional costs associated with such recordkeeping as SROs are currently required to retain the Form 19b–7 for not less than five years.

Moreover, the Commission believes that the requirement that SROs post proposed rule changes on their Web sites will impose some but not substantial costs on most SROs. The Commission notes that no new costs will be associated with posting a current and complete version of their rules on their Web site because currently all SROs promptly post this information on their Web sites pursuant to Rule 19b–4(m). In addition, the Commission does not anticipate that SROs will incur any material additional costs in complying with the change to Form 19b–4, which adds the word ''officer'' to the Signature Box because the addition of the word simply provides transparency to an obligation that already exists.[69] Therefore, at all times, each SRO must maintain a current and complete set of its rules to facilitate compliance with this requirement. Accordingly, the Commission does not believe that SROs will incur substantial costs in simply posting this information on their Web

[64] *See supra* note 2, 72 FR 9412, 9418.

[65] As noted in the Paperwork Reduction Act analysis, the Commission staff based this total reporting burden of 159 hours for filing proposed rule changes and amendments + 8 hours for posting proposed rule changes and amendments on the SROs' Web sites + 48 hours for posting and updating complete sets of SRO rule text pursuant to Rule 19b–7—48 hours for posting and updating complete sets of SRO rule text pursuant to Rule 19b–4.

[66] *See* NFA Letter, *supra* note 10.

[67] *See* Proposing Release, *supra* note 2 at 27–30.

[68] In the Electronic 19b–7 Proposing Release, the Commission estimated that each SRO will purchase five of their staff such digital IDs. Thus, the annual cost of the digital ID for all SROs will be $500 (5 SROs × $20 × 5). The Commission received no comments on this estimate.

[69] *See* Section F of the Instructions to Form 19b–4.

sites because they are already required to do so.

## V. Consideration of the Burden on Competition, Promotion of Efficiency, and Capital Formation

Section 3(f) of the Act[70] requires the Commission, whenever it engages in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Act[71] requires the Commission, when promulgating rules under the Act, to consider the impact any such rules would have on competition. Section 23(a)(2) further provides that the Commission may not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

In the Electronic 19b–7 Proposing Release, the Commission considered how the proposed amendments to Rule 19b–7 and Form 19b–7 would impact competition among SROs, and whether they would promote efficiency and capital formation.[72] The Commission requested comment on the competitive or anticompetitive effects of the amendments to Rule 19b–7 and Form 19b–7 on any market participants if adopted as proposed. The Commission also requested comment on what impact the amendments, if adopted, would have on efficiency and capital formation. The Commission requested commenters to provide empirical data to support their views. The NFA and Dr. Angel both commented that they believed that the proposal would increase the efficiency of the 19b–7 rule filing process.[73]

The amendments are intended to modernize the receipt and review of SRO proposed rule changes and to make the SRO rule filing process more efficient by conserving both SRO and Commission resources. As a result of the new requirement to file proposed rule changes electronically, the Commission anticipates that SROs will save time and resources currently devoted to corresponding under a paper-based system. As discussed in further detail in Section IV (''Costs and Benefits of the Rulemaking''), the Commission anticipates that SROs will save staff time in the preparation and transmission of Form 19b–7 as well as associated preparation and delivery costs.

The amendments also are intended to improve the transparency of the SRO rule filing process and facilitate access to current and complete sets of SRO rules. The Commission believes that the Web site posting of rule filings submitted on Form 19b–7 will promote competition among SROs because they will be able to determine the proposed rules of their competitors more easily. Further, because the proposal does not impact a significant number of businesses or investors, the Commission believes it will have minimal impact on capital formation.

## VI. Regulatory Flexibility Act Certifications

The Commission has certified, pursuant to Section 605(b) of the Regulatory Flexibility Act,[74] that the amendments to Rule 19b–7 and Form 19b–7 and Rule 19b–4 and Form 19b–4 will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons supporting the certification, was incorporated into the Electronic 19b–7 Proposing Release.[75] The Commission solicited comments as to the nature of any impact on small entities. No comments were received.

## VII. Statutory Basis and Text of Proposed Amendments

The amendments to Rule 19b–7 and Form 19b–7 under the Act are being adopted pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 3(b), 6, 15A, 19(b), and 23(a) of the Act.

## List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Securities.

■ In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 1. The authority citation for part 240 continues to read in part as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 2. Section 240.19b–4 is amended by revising paragraph (m) to read as follows:

### § 240.19b–4 Filings with respect to proposed rule changes by self-regulatory organizations.

* * * * *

(m) (1) Each self-regulatory organization shall post and maintain a current and complete version of its rules on its Web site.

(2) A self-regulatory organization, other than a self-regulatory organization that is registered with the Commission under section 6(g) of the Act (15 U.S.C. 78f(g)) or pursuant to section 15A(k) of the Act (15 U.S.C. 78*o*–1(k)), shall update its Web site to reflect rule changes filed pursuant to section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)) within two business days after it has been notified of the Commission's approval of a proposed rule change, and to reflect rule changes filed pursuant to section 19(b)(3)(A) of the Act (15 U.S.C. 78s(b)(3)(A)) within two business days of the Commission's notice of such proposed rule change.

(3) A self-regulatory organization that is registered with the Commission under section 6(g) of the Act (15 U.S.C. 78f(g)) or pursuant to section 15A(k) of the Act (15 U.S.C. 78*o*–1(k)), shall update its Web site to reflect rule changes filed pursuant to section 19(b)(2) of the Act by two business days after the later of:

(A) Notification that the Commission has approved a proposed rule change; and

(B) (i) The filing of a written certification with the Commodity Futures Trading Commission under section 5c(c) of the Commodity Exchange Act (7 U.S.C. 7a–2(c));

(ii) Receipt of notice from the Commodity Futures Trading Commission that it has determined that review of the proposed rule change is not necessary; or

(iii) Receipt of notice from the Commodity Futures Trading Commission that it has approved the proposed rule change.

(4) If a rule change is not effective for a certain period, the self-regulatory organization shall clearly indicate the effective date in the relevant rule text.

* * * * *

■ 3. Section 240.19b–7 is amended by:

■ a. Adding a preliminary note;

■ b. Revising paragraphs (a) and (b)(1); and

■ c. Adding paragraphs (d), (e), (f) and (g).

The additions and revisions read as follows:

[70] 15 U.S.C. 78c(f).

[71] 15 U.S.C. 78w(a)(2).

[72] *See supra* note 1, 72 FR 9412, 9419.

[73] *See* Angel Letter and NFA Letter, *supra* note 10.

[74] 5 U.S.C. 605(b).

[75] *See supra* note 2, 72 FR 9412, 9419–20.

**§ 240.19b–7 Filings with respect to proposed rule changes submitted pursuant to Section 19(b)(7) of the Act.**

**Preliminary Note:** A self-regulatory organization also must refer to Form 19b–7 (17 CFR 249.822) for further requirements with respect to the filing of proposed rule changes.

(a) Filings with respect to proposed rule changes by a self-regulatory organization submitted pursuant to section 19(b)(7) of the Act (15 U.S.C. 78s(b)(7)) shall be made electronically on Form 19b–7 (17 CFR 249.822).

(b) * * *

(1) A completed Form 19b–7 (17 CFR 249.822) is submitted electronically; and

* * * * *

(d) Filings with respect to proposed rule changes by a self-regulatory organization submitted on Form 19b–7 (17 CFR 249.822) electronically shall contain an electronic signature. For the purposes of this section, the term electronic signature means an electronic entry in the form of a magnetic impulse or other form of computer data compilation of any letter or series of letters or characters comprising a name, executed, adopted or authorized as a signature. The signatory to an electronically submitted rule filing shall manually sign a signature page or other document, in the manner prescribed by Form 19b–7, authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing. Such document shall be executed before or at the time the rule filing is electronically submitted and shall be retained by the filer in accordance with 17 CFR 240.17a–1.

(e) If the conditions of this section and Form 19b–7 (17 CFR 249.822) are otherwise satisfied, all filings submitted electronically on or before 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, on a business day, shall be deemed filed on that business day, and all filings submitted after 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, shall be deemed filed on the next business day.

(f) The self-regulatory organization shall post the proposed rule change, and any amendments thereto, submitted on Form 19b–7 (17 CFR 249.822), on its Web site within two business days after the filing of the proposed rule change, and any amendments thereto, with the Commission. Unless the self-regulatory organization withdraws the proposed rule change or is notified that the proposed rule change is not properly filed, such proposed rule change and amendments shall be maintained on the self-regulatory organization's Web site until 60 days after:

(1) The filing of a written certification with the Commodity Futures Trading Commission under section 5c(c) of the Commodity Exchange Act (7 U.S.C. 7a–2(c));

(2) The Commodity Futures Trading Commission determines that review of the proposed rule change is not necessary; or

(3) The Commodity Futures Trading Commission approves the proposed rule change; and

(4) In the case of a proposed rule change, or any amendment thereto, that has been withdrawn or not properly filed, the self-regulatory organization shall remove the proposed rule change, or any amendment, from its Web site within two business days of notification of improper filing or withdrawal by the self-regulatory organization of the proposed rule change.

(g)(1) Each self-regulatory organization shall post and maintain a current and complete version of its rules on its Web site.

(2) The self-regulatory organization shall update its Web site to reflect rule changes filed pursuant to section 19(b)(7) of the Act (15 U.S.C. 78s(b)(7)), by two business days after the later of:

(A) The Commission's notice of such proposed rule change; and

(B)(i) The filing of a written certification with the Commodity Futures Trading Commission under section 5c(c) of the Commodity Exchange Act (7 U.S.C. 7a–2(c));

(ii) Receipt of notice from the Commodity Futures Trading Commission that it has determined that review of the proposed rule change is not necessary; or

(iii) Receipt of notice from the Commodity Futures Trading Commission that it has approved the proposed rule change.

(3) If a rule change is not effective for a certain period, the self-regulatory organization shall clearly indicate the effective date in the relevant rule text.

## PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 4. The authority citation for part 249 continues to read in part as follows:

**Authority:** 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

■ 5. Section 249.822 is revised to read as follows:

**§ 249.822 Form 19b–7, for electronic filing with respect to proposed rule changes by self-regulatory organizations under Section 19(b)(7)(A) of the Securities Exchange Act of 1934.**

This form shall be used by self-regulatory organizations, as defined in section 3(a)(25) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(25)), to file electronically proposed rule changes with the Commission pursuant to section 19(b)(7) of the Act (15 U.S.C. 78s(b)(7)) and § 240.19b–7 of this chapter.

■ 6. Form 19b–7 (referenced in § 249.822) is revised to read as follows:

**Note:** Form 19b–7 is attached as Appendix A to this document.

**Note:** The text of Form 19b–7 will not appear in the Code of Federal Regulations.

By the Commission.

Dated: March 19, 2008.

**Florence E. Harmon,**

*Deputy Secretary.*

## Appendix A

**General Instructions for Form 19b–7**

*A. Use of the Form*

All self-regulatory organization proposed rule changes submitted pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''), shall be filed electronically through the Electronic Form Filing System (''EFFS''), a secure Web site operated by the Commission. This form shall be used for filings of proposed rule changes by all self-regulatory organizations pursuant to Section 19(b)(7) of the Act. National securities exchanges registered pursuant to Section 6(g) of the Act and limited purpose national securities associations registered pursuant to Section 15A(k) of the Act are self-regulatory organizations for purposes of this form.

*B. Need for Careful Preparation of the Completed Form, Including Exhibits*

This form, including the exhibits, is intended to elicit information necessary for the public to provide meaningful comment on the proposed rule change and for the Commission to determine whether abrogation of the proposal is appropriate because it unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of investors. The self-regulatory organization must provide all the information called for by the form, including the exhibits, and must present the information in a clear and comprehensible manner.

The proposed rule change shall be considered filed with the Commission on the date on which the Commission receives the proposed rule change if the filing complies with all requirements of this form. Any filing that does not comply with the requirements of this form may be returned to the self-regulatory organization at any time before the issuance of the notice of filing. Any filing so returned shall for all purposes be deemed not to have been filed with the Commission. See

also Rule 0–3 under the Act (17 CFR 240.0–3).

*C. Documents Comprising the Completed Form*

The completed form filed with the Commission shall consist of the Form 19b–7 Page 1, numbers and captions for all items, responses to all items, and exhibits required in Instruction H. In responding to an item, the completed form may omit the text of the item as contained herein if the response is prepared to indicate to the reader the coverage of the item without the reader having to refer to the text of the item or its instructions. Each filing shall be marked on the Form 19b–7 with the initials of the self-regulatory organization, the four-digit year, and the number of the filing for the year (*i.e.*, SRO–YYYY–XX). If the self-regulatory organization is filing Exhibit 2 or 3 via paper, the exhibits must be filed within 5 business days of the electronic submission of all other required documents.

*D. Amendments*

If information on this form or exhibit thereto is or becomes inaccurate before the proposed rule change becomes effective, the self-regulatory organization shall file amendments correcting any such inaccuracy. Amendments shall be filed as specified in Instruction E.

Amendments to a filing shall include the Form 19b–7 Page 1 marked to number consecutively the amendments, numbers and captions for each amended item, amended response to the item, and required exhibits. The amended description in Section II. A. 1. of Exhibit 1 shall explain the purpose of the amendment and, if the amendment changes the purpose of or basis for the proposed rule change, the amended response shall also provide a revised purpose and basis statement for the proposed rule change. Exhibit 1 shall be re-filed if there is a material change from the immediately preceding filing in the language of the proposed rule change or in the information provided.

If the amendment alters the text of an existing rule, the amendment shall include the text of the existing rule, marked in the manner described in Section I. of Exhibit 1 using brackets to indicate words to be deleted from the existing rule and underscoring to indicate words to be added. The purpose of this marking requirement is to maintain a current copy of how the text of the existing rule is being changed.

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission staff's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (*i.e.*, partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

If, after the rule change is filed but before it becomes effective, the self-regulatory organization receives or prepares any correspondence or other communications reduced to writing (including comment letters) to and from such self-regulatory organization concerning the proposed rule change, the communications shall be filed as Exhibit 2. If information in the communication makes the rule change filing inaccurate, the filing shall be amended to correct the inaccuracy. If such communications cannot be filed electronically in accordance with Instruction E, the communications shall be filed in accordance with Instruction F.

*E. Signature and Filing of the Completed Form*

All proposed rule changes, amendments, extensions, and withdrawals of proposed rule changes shall be filed through the EFFS. In order to file Form 19b–7 through EFFS, self-regulatory organizations must request access to the SEC's External Application Server by completing a request for an external account user ID and password for the use of the External Application User Authentication Form.

Initial requests will be received by contacting the Division of Trading and Markets Administrator located on our Web site (*http://www.sec.gov*). An e-mail will be sent to the requestor that will provide a link to a secure Web site where basic profile information will be requested.

A duly authorized officer of the self-regulatory organization shall electronically sign the completed Form 19b–7 as indicated on Page 1 of the Form. In addition, a duly authorized officer of the self-regulatory organization shall manually sign one copy of the completed Form 19b–7, and the manually signed signature page shall be maintained pursuant to Section 17 of the Act.

*F. Procedures for Submission of Paper Documents for Exhibits 2 and 3*

To the extent that Exhibit 2 or 3 cannot be filed electronically in accordance with Instruction E, four copies of Exhibit 2 or 3 shall be filed with the Division of Trading and Markets, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628. Page 1 of the electronic Form 19b–7 shall accompany paper submissions of Exhibit 2 or 3. If the self-regulatory organization is filing Exhibit 2 or 3 via paper, they must be filed within five days of the electronic filing of all other required documents.

*G. Withdrawals of Proposed Rule Changes*

If a self-regulatory organization determines to withdraw a proposed rule change, it must complete Page 1 of the Form 19b–7 and indicate by selecting the appropriate check box to withdraw the filing.

*H. Exhibits*

List of exhibits to be filed, as specified in Instructions C and D:

*Exhibit 1.* Completed Notice of Proposed Rule Change for publication in the **Federal Register**. It is the responsibility of the self-regulatory organization to prepare Items I, II and III of the notice. Leave a 1-inch margin at the top, bottom, and right hand side, and a 1½ inch margin at the left hand side. Number all pages consecutively. Double space all primary text and single space lists of items, quoted material when set apart from primary text, footnotes, and notes to tables. Amendments to Exhibit 1 should be filed in accordance with Instructions D and E.

*Exhibit 2.* (a) Copies of notices issued by the self-regulatory organization soliciting comment on the proposed rule change and copies of all written comments on the proposed rule change received by the self-regulatory organization (whether or not comments were solicited), presented in alphabetical order, together with an alphabetical listing of such comments. If such notices and comments cannot be filed electronically in accordance with Instruction E, the notices and comments shall be filed in accordance with Instruction F.

(b) Copies of any transcript of comments on the proposed rule change made at any public meeting or, if a transcript is not available, a copy of the summary of comments on the proposed rule change made at such meeting. If such transcript of comments or summary of comments cannot be filed electronically in accordance with Instruction E, the transcript of comments or summary of comments shall be filed in accordance with Instruction F.

(c) Any correspondence or other communications reduced to writing (including comment letters and e-mails) concerning the proposed rule change prepared or received by the self-regulatory organization. All correspondence or other communications should be presented in alphabetical order together with an alphabetical listing of the authors, and shall be filed in accordance with Instruction E. If such communications cannot be filed electronically in accordance with Instruction E, the communications shall be filed in accordance with Instruction F.

(d) If after the proposed rule change is filed but before it becomes effective, the self-regulatory organization prepares or receives any correspondence or other communications reduced to writing (including comment letters and e-mails) to and from such self-regulatory organization concerning the proposed rule change, the communications shall be filed in accordance with Instruction E. All correspondence or other communications should be presented in alphabetical order together with an alphabetical listing of the authors. If such communications cannot be filed electronically in accordance with Instruction E, the communications shall be filed in accordance with Instruction F.

*Exhibit 3.* If any form, report, or questionnaire is—

(a) Proposed to be used in connection with the implementation or operation of the proposed rule change, or

(b) Prescribed or referred to in the proposed rule change,

then the form, report, or questionnaire must be attached and shall be considered as part of the proposed rule change. If completion of the form, report or questionnaire is voluntary or is required pursuant to an existing rule of the self-regulatory organization, then the form, report, or questionnaire, together with a statement identifying any existing rule that requires completion of the form, report, or questionnaire, shall be attached as Exhibit 3. If the form, report, or questionnaire cannot be filed electronically in accordance with

Instruction E, the documents shall be filed in accordance with Instruction F.

*Exhibit 4.* The self-regulatory organization must attach as Exhibit 4 proposed changes to its rule text. Changes in, additions to, or deletions from, any existing rule shall be set forth with brackets used to indicate words to be deleted and underscoring used to indicate words to be added. Exhibit 4 shall be considered part of the proposed rule change.

*Exhibit 5.* The self-regulatory organization must attach one of the following:

Certificate of Effectiveness of Proposed Rule Change: Attach a copy of the certification submitted to the CFTC pursuant to Section 5c(c) of the Commodity Exchange Act.

CFTC Request or Determination that Review of the Proposed Rule Change is Not Necessary: Attach a copy of any request submitted to the CFTC for determination that review of the proposed rule change is not necessary and any indication from the CFTC that it has determined that review of the proposed rule change is not necessary.

Request for CFTC Approval of Proposed Rule Change: Attach a copy of any request submitted to the CFTC for approval of the proposed rule change and any indication received from the CFTC that the proposed rule change has been approved.

**BILLING CODE 8011–01–P**

OMB APPROVAL

OMB Number: 3235-0553
Expires: June 30, 2010
Estimated average burden hours per response.....17.7

Page 1 of

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-7

File No. SR - -
Amendment No.

Proposed Rule Change by Select SRO

Pursuant to Rule 19b-7 under the Securities Exchange Act of 1934

Initial Amendment Withdrawal

Exhibit 2 Sent As Paper Document Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

**Contact Information**

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Last Name

Title

E-mail

Telephone Fax

**SRO Governing Body Action**

Describe action on the proposed rule change taken by the members or board of directors or other governing body of the SRO (limit 250 characters).

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By

(Name) (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Digitally Sign and Lock Form

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-7 instructions please refer to the EFFS website.

**Exhibit 1- Notice of Proposed Rule Change**

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal.

The Notice section of this Form 19b-7 must comply with the guidelines for publication in the Federal Register, as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC and CFTC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases and Commodities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2- Notices, Written Comments, Transcripts, Other Communications**

Add Remove View

Exhibit Sent As Paper Document

☐

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction E, they shall be filed in accordance with Instruction F.

**Exhibit 3 - Form, Report, or Questionnaire**

Add Remove View

Exhibit Sent As Paper Document

☐

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change. If such documents cannot be filed electronically in accordance with Instruction E, they shall be filed in accordance with Instruction F.

**Exhibit 4 - Proposed Rule Text**

Add Remove View

The self-regulatory organization must attach as Exhibit 4 proposed changes to rule text. Exhibit 4 shall be considered part of the proposed rule change.

**Exhibit 5 - Date of Effectiveness of Proposed Rule Change**

The self-regulatory ogranization must attach one of the following:

☐ CFTC Certification

☐ CFTC Request that Review of Proposed Rule Change is not Necessary

☐ Request for CFTC Approval of Proposed Rule Change

☐ CFTC Determination that Review of Proposed Rule Change is not Necessary

☐ Indication of CFTC Approval of Proposed Rule Change

Exhibit Sent As Paper Document

☐

**Partial Amendment**

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission staff's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

BILLING CODE 8011–01–C

**Information To Be Included in the Completed Exhibit 1**

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34– ; File No. SR–[SRO Name]–[YYYY]–[XX])

SELF-REGULATORY ORGANIZATIONS; [SRO Name]; Proposed Rule Change Relating to [brief description of the subject matter of the proposed rule change].

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[76] notice is hereby given that on [date[77]], the [name of self-regulatory organization] filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. [Name of self-regulatory organization] also has filed this proposed rule change concurrently with the Commodity Futures Trading Commission (''CFTC''). [Section 19(b)(7)(B) provides that a proposed rule change may take effect upon the occurrence of one of three events. The self-regulatory organization should include one of the following sentences, whichever is applicable:]

The [name of self-regulatory organization] filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act on [date]; or

The [name of self-regulatory organization] on [date], has requested that the CFTC make a determination that review of the proposed rule change of the [self-regulatory organization] is not necessary. The CFTC has [made such determination on [date]]; or [has not made such determination]; or

The [name of self-regulatory organization] on [date] submitted the proposed rule change to the CFTC for approval. The CFTC [approved the proposed rule change on [date]]; or [has not approved the proposed rule change].

**I. Self-Regulatory Organization's Description and Text of the Proposed Rule Change**

[Supply a brief statement of the terms of substance of the proposed rule change. If the proposed rule change is relatively brief, a separate statement need not be prepared, and the text of the proposed rule change may be inserted in lieu of the statement of the terms of substance. If the proposed rule change amends an existing rule, indicate the changes in the rule by brackets for words to be deleted and underscoring for words to be added.]

**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 self-regulatory organization 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 self-regulatory organization 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

[Provide a statement of the purpose of the proposed rule change. The statement must describe the text of the proposed rule change in a sufficiently detailed and specific manner as to enable the public to provide meaningful comment on the proposal. At a minimum, the statement should:]

(a) [Describe the reasons for adopting the proposed rule change, any problems the proposed rule change is intended to address, the manner in which the proposed rule change will resolve those problems, the manner in which the proposed rule change will affect various persons (*e.g.* brokers, dealers, issuers, and investors), and any significant problems known to the self-regulatory organization that persons affected are likely to have in complying with the proposed rule change; and]

(b) [Describe how the proposed rule change relates to existing rules of the self-regulatory organization. If the self-regulatory organization reasonably expects that the proposed rule change will have any direct effect, or significant indirect effect, on the application of any other rule of the self-regulatory organization, set forth the designation or title of any such rule and describe the anticipated effect of the proposed rule change on the application of such other rule. Include the file numbers for prior filings with respect to any existing rule specified.]

2. Statutory Basis

[Explain why the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the self-regulatory organization. A mere assertion that the proposed rule change is consistent with those requirements is not sufficient. Certain limitations that the Act imposes on self-regulatory organizations are summarized in the notes that follow.

**Note 1.** *National Securities Exchanges.* Under Section 6 of the Act, rules of a national securities exchange may not permit unfair discrimination between customers, issuers, brokers, or dealers, and may not regulate, by virtue of any authority conferred by the Act, matters not related to the purposes of the Act or the administration of the self-regulatory organization.

**Note 2.** *Limited Purpose National Securities Associations.* Under Section 15A(k) of the Act, rules of a national securities association registered for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest, including rules governing sales practices and the advertising of security futures products reasonably comparable to those of other national securities associations registered pursuant to Section 15A(a) that are applicable to security futures products. The rules may not be designed to regulate, by virtue of any authority conferred by the Act, matters not related to the purposes of the Act or the administration of the association.]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

[The information required by this section must be sufficiently detailed and specific to support the premise that the proposed rule change does not unduly burden competition. In responding to this section, the self-regulatory organization must:

- State whether the proposed rule change will have an impact on competition and, if so

(i) State whether the proposed rule change will impose any burden on competition or whether it will relieve any burden on, or otherwise promote, competition, and

(ii) Specify the particular categories of persons and kinds of businesses on which any burden will be imposed and the ways in which the proposed rule change will affect them.

- Explain why any burden on competition is not undue; or, if the self-regulatory organization does not believe that the burden on competition is significant, explain why.

In providing those explanations, set forth and respond in detail to written comments as to any significant impact or burden on competition perceived by any person who has made comments on the proposed rule change to the self-regulatory organization.]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

[If written comments were received (whether or not comments were solicited) from members of or participants in the self-regulatory organization or others, summarize the substance of all such comments received and respond in detail to any significant issues that those comments raised about the proposed rule change.

If an issue is summarized and responded to in detail under Section II.A.1. or Section II.B. of this Form 19b–7 Notice, that response need not be duplicated if appropriate cross-reference is made to the place where the response can be found. If comments were not or are not to be solicited, so state.]

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

[The self-regulatory organization shall include the following with the applicable phrase on the proposed rule change's effectiveness:]

The proposed rule change has become effective on [insert date of filing of written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act; or the date of determination by the CFTC that

[76] 15 U.S.C. 78s(b)(7).

[77] To be completed by the Commission. This date will be the date on which the Commission receives the proposed rule change filing if the filing complies with all requirements of this form. *See* General Instructions for Form 19b–7.

review of the proposed rule change is not necessary; or the date of approval of the proposed rule change by the CFTC]. [or]

The proposed rule change is not effective because the CFTC [has not determined that review of the proposed rule changes is not necessary or has not approved the proposed rule change].

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.

**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 SR–[SRO]–[YYYY]–[XX] 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 SR–[SRO]–[YYYY]–[XX]. This file number should be included on the subject line if e-mail is used. To help the 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the [SRO]. 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 publicly available. All submissions should refer to File Number SR–[SRO]–[YYYY]–[XX] and should be submitted on or before April 17, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[1]

Secretary

**BILLING CODE 8011–01–P**

[1] 17 CFR 200.30–3(a)(73).

**Appendix B**

OMB APPROVAL

OMB Number: 3235-0045
Expires: June 30, 2010
Estimated average burden hours per response.....23.2

Page 1 of

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - -
Amendment No.

Proposed Rule Change by Select SRO

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial Amendment Withdrawal

Section 19(b)(2) Section 19(b)(3)(A) Section 19(b)(3)(B)

Pilot

Extension of Time Period for Commission Action

Date Expires

Rule

19b-4(f)(1) 19b-4(f)(4)
19b-4(f)(2) 19b-4(f)(5)
19b-4(f)(3) 19b-4(f)(6)

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

**Contact Information**

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Last Name
Title
E-mail
Telephone Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date
By
(Name) (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Digitally Sign and Lock Form

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

| | |
|---|---|
| **Form 19b-4 Information**<br>Add Remove View | The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act. |
| **Exhibit 1 - Notice of Proposed Rule Change**<br>Add Remove View | The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3) |
| **Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**<br>Add Remove View<br>Exhibit Sent As Paper Document<br>☐ | Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G. |
| **Exhibit 3 - Form, Report, or Questionnaire**<br>Add Remove View<br>Exhibit Sent As Paper Document<br>☐ | Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change. |
| **Exhibit 4 - Marked Copies**<br>Add Remove View | The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working. |
| **Exhibit 5 - Proposed Rule Text**<br>Add Remove View | The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change. |
| **Partial Amendment**<br>Add Remove View | If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions. |

[FR Doc. E8–5998 Filed 3–26–08; 8:45 am]
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