



**RULE
ADOPTION
NOTICE**

**RAN-06-25
June 1, 2006**

**TO: All NYSE Arca OTP Holders, OTP Firms
and Associated Persons**

FROM: Department of Regulatory Policy

**SUBJECT: Public Disclosure Program
(File No. SR-NYSEArca-2006-03)**

On April 6, 2006, the Exchange filed with the Securities and Exchange Commission ("SEC") NYSEArca-2006-03, a proposed rule instituting and governing a program in which certain disciplinary actions would be publicized. Partial amendments to the rule were filed on May 9 and 17, 2006. The SEC notified the Exchange on June 2, 2006 that the rule was effective.

The following is the text of the rule change. Questions regarding this bulletin may be directed to Melanie Grace at (415) 393-4135.

Text of the Proposed Rule Change:¹

Rules of the NYSE Arca, Inc.

RULE 10 DISCIPLINARY PROCEEDINGS AND APPEALS

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**Release of Disciplinary Information
Through the Public Disclosure Program**

Rule 10.17(a) The Exchange shall, in response to a request, release a copy of any identified disciplinary decision issued by the Exchange or any Committee thereof; provided, however, that each copy of:

- (1) a decision that is released prior to the expiration of the time period provided under NYSE Arca Rule 10.8 for appeal or while such an appeal is pending shall be accompanied by a statement that the findings and sanctions

¹ New text is underlined, Deleted text is in brackets.

imposed in the decision may be increased, decreased, modified, or reversed by the Exchange;

(2) a final decision of the Exchange that is released prior to the time period provided under the Securities Exchange Act of 1934 for appeal to the Securities and Exchange Commission or while such an appeal is pending shall be accompanied by a statement that the findings and sanctions of the Exchange are subject to review and modification by the Securities and Exchange Commission; and

(3) a final decision of the Exchange that is released after the decision is appealed to the Securities and Exchange Commission shall be accompanied by a statement as to whether the effectiveness of the sanctions has been stayed pending the outcome of proceedings before the Securities and Exchange Commission.

(b)(1) The Exchange shall release to the public information with respect to any disciplinary decision issued pursuant to NYSE Arca Rule 10 imposing: (i) a suspension, cancellation or expulsion upon an OTP Holder or OTP Firm; or (ii) suspension or revocation of the registration of an associated person of an OTP Holder or OTP Firm; or (iii) suspension or barring of an OTP Holder or OTP Firm or associated person from association with all OTP Holders or OTP Firms; or (iv) imposition of monetary sanctions of \$10,000 or more upon an OTP Holder or OTP Firm or associated person; or (v) containing an allegation of a violation of a Designated Rule; and may also release to the public such information with respect to any disciplinary decision or group of decisions that involve a significant policy or enforcement determination where the release of information is deemed by the President of the Exchange to be in the public interest. The Exchange may, in its discretion, determine to waive the requirement to release information with respect to a disciplinary decision under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work as an injustice. The Exchange may release to the public information on any disciplinary or other decision issued pursuant to NYSE Arca Rule 10 not specifically enumerated in this paragraph, regardless of sanctions imposed, so long as the names of the parties and other identifying information is redacted.

A “Designated Rule” means (i) SEC Rule 10b-5, (ii) NYSE Arca Rule 11.5, or (iii) NYSE Arca Rule 11.2.

(A) The Exchange shall release to the public, in unredacted form, information with respect to any disciplinary decision issued pursuant to NYSE Arca Rule 10.8 that does not meet one or more of the criteria in section (b)(1) for the release of information to the public, provided that the underlying decision issued pursuant to NYSE Arca Rule 10.7 meets one or more of the criteria in section (b)(1) for the release of information to the public, and information regarding such decision has been released to the public in unredacted form.

(B) In the event there is more than one respondent in a disciplinary decision issued pursuant to NYSE Arca Rule 10 and sanctions imposed on one or more, but not all, of the respondents meets one or more of the criteria in section (b)(1) for the release of information to the public, the Exchange shall release to the public, in unredacted form, information with respect to the respondent(s) who meet such criteria, and may release to the public, in redacted form, information with respect to the respondent(s) who do not meet such criteria. Notwithstanding the foregoing, the Exchange shall release to the public, in unredacted form, information with respect to any respondent in a disciplinary decision issued pursuant to NYSE Arca Rule 10.8 if the sanctions imposed on such respondent in the underlying decision issued pursuant to NYSE Arca Rule 10.7 meet one or more of the criteria for release of information to the public, and information with respect to that respondent has been released in unredacted form.

(2) Information released to the public pursuant to subparagraph (b)(1) shall be accompanied by a statement to the extent required for that type of information under subparagraphs (a)(1) – (3).

(c) Information regarding any sanctions imposed pursuant to NYSE Arca Rule 10.6 shall be released to the public pursuant to paragraph (b) immediately upon such approval.

(d) If a decision of the Exchange imposing monetary sanctions of \$10,000 or more or a penalty of expulsion, revocation, suspension and/or barring of an OTP Holder or OTP Firm from being associated with all OTP Holders or OTP Firms is appealed to the Securities and Exchange Commission, notice thereof shall be given to all OTP Holders and OTP Firms and to the press as soon as possible after receipt by the Exchange of notice from the Securities and Exchange Commission of such appeal and the Exchange's notice shall state whether the effectiveness of the Exchange's decision has been stayed pending the outcome of proceedings before the Securities and Exchange Commission.

(e) In the event an appeal to the federal courts is filed from a decision by the Securities and Exchange Commission in a case previously appealed to it from a decision of the Exchange, involving the imposition of monetary sanctions of \$10,000 or more or a penalty of expulsion, revocation, suspension and/or barring of an OTP Holder or OTP Firm from being associated with all OTP Holders or OTP Firms, notice thereof shall be given to the OTP Holders or OTP Firms as soon as possible after receipt by the Exchange of a formal notice of appeal. Such notice shall include a statement whether the order of the Securities and Exchange Commission has been stayed.

(f) Any order issued by the Securities and Exchange Commission of (i) revocation or suspension of an OTP Holder's or OTP Firm's broker/dealer registration

with the Securities and Exchange Commission; or (ii) the suspension or expulsion of an OTP Holder or OTP Firm from the Exchange; or (iii) the suspension or barring of an OTP Holder or OTP Firm or an associated person from association with all broker/dealers or OTP Holders or OTP Firms; or (iv) the imposition of monetary sanctions of \$10,000 or more shall be released to the public through a notice containing the effective date thereof sent as soon as possible after receipt by the Exchange of the order of the Securities and Exchange Commission.

(g) Cancellations of Option Trading Permits or registration pursuant to the Exchange's Rules and interpretative material shall be released to the public as soon after the effective date of the cancellation as possible.

(h) Releases to the public referred to in paragraph (b) above shall identify the Exchange Rule(s) or the SEC Rule(s) violated, and shall describe the conduct constituting such violation. Releases may also identify the OTP Holder or OTP Firm with which an individual was associated at the time the violations occurred if such identification is determined by the Exchange to be in the public interest.

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