



Number 07-65
July 3, 2007

ATTENTION: COMPLIANCE, LEGAL, AND REGISTRATION DEPARTMENTS
TO: ALL MEMBER ORGANIZATIONS
SUBJECT: AMENDMENTS TO NYSE RULES 342 AND 343

Introduction

On June 29, 2007, NYSE filed, for immediate effectiveness, amendments to NYSE Rules 342 (“Offices – Approval, Supervision and Control”) and 343 (“Offices – Sole Tenancy, Hours, Display of Membership Certificates”) to eliminate the requirement that Exchange approval be obtained for the establishment of branch offices and for space-sharing arrangements within such offices. In addition, the amendments: eliminate the requirement that an NYSE “certificate of membership” be displayed in each branch office; conform Rule 342(c) to the definition of “branch office” as set forth in Rule 342.10; and delete the Interpretation of Rule 343 in its entirety (see Exhibit A and File No. SR-NYSE-2007-59).

Detail of Amendments

Rule 342(c)

NYSE Rule 342(c) has heretofore required that member organizations obtain the Exchange’s prior consent for each office to be established, other than a main office. The amendments to Rule 342(c) replace the “prior consent” requirement with a “notice” requirement. Under the amended rule, member organizations will simply continue to utilize the Uniform Branch Office Registration Form (Form BR) through Web CRD (“Central Registration Depository”) to provide the required notice. The amendments will allow branch office filings to be monitored and reviewed without unduly delaying the initiation of business activities at such offices.

The amendments also conform Rule 342(c) to the definition of “branch office” set forth in Rule 342.10. As noted above, Rule 342(c) has heretofore applied to “each office... other than a main office.” The phrase “other than a main office” has been deleted from Rule 342(c) because the definition of “branch office” under Rule 342.10 may include a main office location, depending on the functions performed at that location.

Rule 343

NYSE Rule 343 has heretofore prohibited member organizations from jointly occupying an office with another broker or dealer, investment advisor, or other person who conducts a securities or commodities business with the public unless the prior approval of the Exchange had been obtained. Such approval was granted pursuant to member organization representations that prescribed conditions were in place at the location (e.g., establishment of physical barriers; signage; clearly designated business cards and stationary, etc.). Additionally, Rule 343(d) required member organizations to display an Exchange-provided “certificate of membership” at all branch office locations.

The amendments to Rule 343 and its Interpretation allow member organizations to establish office space-sharing arrangements without obtaining the prior approval of the Exchange. Member organizations are still responsible for taking reasonable steps to assure that any branch office location that shares space with prescribed persons is configured and administered such that public customers are clear as to the entity with which they are conducting business. Additionally, the category of prescribed persons has been expanded to include “banks” (as well as any broker, dealer, investment advisor, or other person who conducts a securities or commodities business with the public).

The amended rule continues to require that member organizations notify the Exchange prior to, or upon the establishment of, any branch office space-sharing arrangement with persons prescribed in the rule. The notice requirement is to be satisfied, as it has been, via Form BR submissions processed through Web CRD. Specifically, every branch office application for registration is still required to indicate whether the location involves a space-sharing arrangement subject to Rule 343. Likewise, the Form BR profile of any existing branch office location to which a space-sharing arrangement is being introduced still requires an amendment reflecting the presence of the arrangement. However, no representations beyond the indication that the member organization will be sharing office space is required to be included as part of the application.

Though no longer included in the rule text, the following considerations may be taken into account by member organizations when making a determination that reasonable steps have been taken to ensure that prospective space-sharing arrangements are structured such that public customers will be clear as to the entity with which they are conducting business:

- (1) There is little or no customer traffic in the branch office;
- (2) Sufficient physical separation exists to enable customers who visit the premises to identify the individual or organization with which they are transacting business;
- (3) Clearance for the arrangement has been obtained from the member organization's fidelity insurance carrier;
- (4) Clearance for the arrangement has been obtained from the member organization's auditors;
- (5) The name of each entity is placed on the door to their working space;
- (6) The entities' names are not listed under the same telephone number;
- (7) The telephone number of the member organization is not used on the letterhead, business cards, or on any advertising of the other entity;
- (8) The employees of each organization will wear a badge identifying their employer; or

- (9) Any other considerations deemed reasonable by the member organization.

The process for determining that branch office space-sharing arrangements have been considered pursuant to Rule 343 must be documented and retained.

The amendments make clear that when a space-sharing arrangement involves the dual employment of member organization personnel, policies and procedures must be in place that clearly identify the duties and functions to be performed on behalf of the member organization by such employees, and that clearly establish their supervisory reporting lines.

The amendments delete .10 of the Rule's Supplementary Material which required employees of two member organizations that are sharing office space to wear badges identifying their employer. However, as noted above, the wearing of distinguishing badges is included as an option for member organizations to consider when making determinations regarding prospective space-sharing arrangements.

The amendments also delete Rule 343(d) to eliminate the requirement that member organizations display an Exchange-provided "certificate of membership" at branch office locations. Consequently, the Exchange will no longer provide branch office membership certificates to new or existing registered branch office locations.

Finally, the amendments delete the Interpretation of Rule 343 in its entirety as the changes to Rule 343 render it irrelevant.

Any questions regarding this Information Memo may be directed to Stephen Kasprzak at 212-656-5226, Greg Taylor at 212-656-2920, or Michael Troha at 212-656-5639.

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Attachments