Commission, however, currently does not have the means to identify accurately broker-dealers affiliated with U.S. or foreign banks. Accordingly, in order to gather information that may be useful, for example, in evaluating the scope and nature of bank securities activities, and in conducting an effective inspection program of broker-dealers selling securities on behalf of banks, the amendments propose adding Item 10B. Proposed Item 10B will elicit information concerning all financial institutions or organizations, including bank holding companies, that control the applicant. Specifically, proposed Item 10B asks whether the applicant is controlled, directly or indirectly, by a bank holding company, national bank, state member bank of the Federal Reserve System, state non-member bank, savings bank or association, credit union, or foreign bank. If the applicant answers in the affirmative, the applicant will be required to complete Section II of proposed Schedule D,12 which requests general information about the financial institution, such as name, type (e.g., bank holding company), and business address.

If the proposed amendments to Form BD are adopted, the Commission proposes to delete these questions from Schedule I of Form X–17A–5, the FOCUS report. 13 Disclosure on Schedule I is required *only* at the end of each calendar year, and, unlike the redesigned CRD system, is incapable of being queried and sorted by special

category

In addition to identifying bank affiliated broker-dealers, the amendments propose adding Item 12Y(1), which is intended to elicit information concerning securities activities conducted on bank premises by third-party broker-dealers.14

the bank's premises in exchange for a percentage of the commissions earned.

Specifically, proposed Item 12Y(1) will require an applicant to indicate whether it is involved (or will be involved) in any networking, kiosk, or similar arrangement with a bank, savings bank or association, or credit union.

C. Broker-Dealer Arrangements

The Commission is proposing revisions to Item 8 in order to simplify and clarify the question. Item 8A currently asks, in pertinent part, "does applicant have any arrangements with any other person, firm or organization under which: (1) any of the accounts or records of applicant are kept or maintained by such person, firm or organization; or (2) the funds or securities of applicant or any of its customers are held or maintained by such other person, firm or organization." Under the proposed amendments, current Items 8A (1) and (2) will be revised and separated out as Items 8A, 8B, and 8C. Item 8A will continue to inquire about arrangements to maintain books and records. Items 8B and C will ask about arrangements to maintain the accounts, funds, or securities of the applicant, and the accounts, funds, or securities of customers of the applicant, respectively.15

While Item 8 contains a question that asks whether the applicant is an introducing broker-dealer, it currently does not contain the same question about clearing broker-dealers. Information about clearing brokerdealers is important for regulatory purposes, including identifying clearing broker-dealers that will be responsible for paying certain transaction fees pursuant to Section 31 of the Exchange Act. 16 Accordingly, new Item 6 will be added to ask "does applicant hold or maintain any funds or securities or provide clearing services for any other broker or dealer?" 17

D. Instructions

The Commission is proposing to add to the filing instructions of Form BD an "Explanation of Terms," containing definitions of the following words: charged, order, felony, misdemeanor, found, minor rule violation, and

enjoined.18 The definitions contained in this section are intended to assist applicants in responding to disciplinary-related questions, and are consistent with the definitions recently proposed to be added to Form U-4 by NASAA.

III. Proposed Amendments to the Schedules to Form BD

A. Schedules A, B, and C-Direct and Indirect Ownership Disclosure

The proposed changes revise Schedules A, B, and C to elicit more relevant and accurate information concerning an applicant and its control affiliates. Schedules A, B, and C currently require applicants to disclose the identity of their executive officers, directors, partners, and direct and indirect owners.¹⁹ In response to

¹⁸ The proposed definitions are set out below: Charged: Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

Order: A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an order.

Felony: Includes a general court martial. For jurisdictions that do not differentiate between a felony or misdemeanor, a felony is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least \$1,000.

Misdemeanor: Includes a special court martial. For jurisdictions that do not differentiate between a felony or misdemeanor, a misdemeanor is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than \$1,000.

Found: Includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters examination reports, memoranda of understanding, letters or caution, admonishments, and similar informal resolutions of matters. This term is discussed in Securities Exchange Act Release No. 22468 (Sept. 26, 1985), 50 FR 41867

Minor Rule Violation: A violation of a selfregulatory organization rule that has been designated as "minor" pursuant to a plan approved by the U.S Securities and Exchange Commission. A rule violation may be designated as "minor" under a plan if the sanction imposed consists of a fine of \$2,500 or less, and if the sanctioned person does not contest the fine. This term is discussed in Securities Exchange Act Release No. 30958 (July 27, 1992), 57 FR 34028.

Enjoined: Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a temporary restraining order.

In addition, the proposed amendments move current definitions, such as control affiliate. investment or investment-related, foreign financial regulatory authority, and proceeding to the section containing the proposed "Explanation of Terms.

¹⁹ Schedule A currently requires disclosure of all five percent owners. Schedule B requires disclosure of all twenty-five percent owners of direct owners, their twenty-five percent owners, and each successive twenty-five percent owner of a twentyfive percent owner, continuing up the chain of ownership until a reporting company is reached. Similar provisions apply to limited partners that

¹² See discussion infra part III.B.1.

¹³ In Securities Exchange Act Release No. 31398 (Nov. 4, 1992), 57 FR 53261, the Commission adopted an amendment to Schedule I of Form X-17A-5 (the "FOCUS" report) to require registered broker-dealers to disclose their affiliations, if any, with U.S. banks. Broker-dealers already were required to disclose their affiliations with foreign

¹⁴ See supra note 11. Revised Item 12Y(2) also would ask whether the applicant has entered into a networking arrangement with an insurance company or agency. Insurance companies increasingly are selling securities without registering as broker-dealers under Section 15(a) of the Exchange Act through networking arrangements. New Item 12Y(2) is proposed to assist the Commission, SROs, and state securities regulators in conducting an effective examination program to ensure that broker-dealers involved in networking arrangements with an insurance company or agency are complying with the federal securities laws, including certain conditions set

forth in staff no-action letters. See, e.g., Letters regarding: FIMCO Securities Group, Inc. (July 16, 1993); Delta First Financial (Sept. 21, 1992); and The Wolper Ross Corporation (Oct. 16, 1991).

¹⁵ These items also have been reorganized because accounts generally are associated with funds and securities, rather than with records.

^{16 15} U.S.C. § 78ee.

¹⁷ Because a clearing broker-dealer may provide such services for multiple broker-dealers, details of clearing arrangements would not be required to be provided by the clearing broker-dealer on Schedule