

deciding whether to grant Cedel's request for exemption from registration. Persons desiring to make written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. 600-29. Copies of the application and all written comments will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.³³

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37304; File No. SR-MSRB-96-5]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Preservation of Records

June 11, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 4, 1996, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (SR-MSRB-96-5). The proposed rule change is described in Items I and II below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is proposing to amend rule G-9, on preservation of records. The proposed rule change would require that brokers, dealers and municipal securities dealers (collectively, "dealers") retain the records required by rule G-8(a)(xv) for a period of three years. The Board requests that the Commission set the effective date for the proposed rule for 30 days after filing.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section (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

Among other things, Board rule G-36 requires that, with certain exceptions, each dealer acting as an underwriter in a primary offering of municipal securities submit a copy of the final official statement, if one is prepared, to the Board. Underwriters also are required to send advance refunding documents to the Board if an offering of municipal securities "advance refunds" an outstanding issue of municipal securities.

Rule G-8(a)(xv) requires that dealers maintain a record of sending to the Board, Forms G-36(O/S) and G-36(ARD) and the corresponding required documentation. Rule G-9, on preservation of records, currently does not state a time period for preservation of these records.

The proposed amendment to rule G-9 would require that dealers retain the records required by rule G-8(a)(xv) for a period of three years. This three-year period would coincide with the record retention requirement for the documentation supporting proof of delivery of official statements to purchasers of new issues securities as required by rule G-32 on disclosures in connection with new issues.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(G) of the Act, which requires, in pertinent part, that the Board's rules:

prescribe records to be made and kept by municipal securities brokers and municipal securities dealers and the periods for which such records shall be preserved.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the Commission for its review at least five days prior to the filing date; and (iv) does not become operative for thirty (30) days from the date of its filing, the Board has submitted this proposed rule change to become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder. In particular, the Board believes that the proposed rule change qualifies as a "non-controversial filing" in that the proposed amendment does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No.

³³ 17 CFR 200.30-3(a)(16).

SR-MSRB-96-5 and should be submitted by July 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37307; File No. SR-NYSE-96-07]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval To Proposed Rule Change Relating To Continued Listing Criteria for Capital or Common Stock

June 12, 1996.

On March 18, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the criteria for continued listing on the Exchange for capital or common stock.

The proposed rule change was published for comment in Securities Exchange Act Release No. 3707 (Apr. 1, 1996), 61 FR 15548 (Apr. 8, 1996). No comments were received on the proposal.

In 1995, the Exchange amended its domestic listing standards by making changes to the numerical criteria.³ One of the proposals adopted an alternate demonstrated earnings power standard for companies that have a market capitalization of at least \$500 million and revenues of at least \$200 million in their most recent fiscal year. Under this new alternative, such companies are able to qualify for listing if their adjusted net income is positive for each of the last three fiscal years and not less than \$25 million in the aggregate for such period. At the same time, the NYSE also amended its domestic listing standards by increasing the listing standard regarding aggregate market value of publicly-held shares and net tangible assets from \$18 million to \$40 million and added an alternate liquidity standard of 500 total stockholders and average monthly trading volume of 1,000,000 shares.⁴ When the

Commission approved these amendments to the initial listing standards, it noted that the Exchange committed to propose corresponding continued listing criteria.⁵

Currently, Paragraph 802 of the NYSE's Listed Company Manual ("Manual") sets forth the standards for companies that want their equity securities to remain listed on the Exchange. These standards require companies to maintain the following minimum numerical criteria for their capital or common stock. First, the company must have at least 1,200 holders of 100 shares or more (or of a unit of trading if less than 100 shares). Second, the number of publicly-held shares must be at least 600,000. Third, the aggregate market value of publicly-held shares must be at least \$5,000,000. Fourth, the company must have at least \$8,000,000 in aggregate market value of shares outstanding (excluding treasury stock) and in net tangible assets available to common stock. The current NYSE continued listing standards, however, do not provide for continue listing standards for companies that were listed by satisfying the alternate demonstrated earnings power standard or under the alternate liquidity standard. In its proposed rule change, the NYSE proposes to adopt new continued listing criteria to parallel the adjusted net income listing standard and to amend its current continued listing criteria to reflect the changes made in 1995 to the initial listing standards.⁶

Adjusted Net Income Continued Listing Criteria

Under the proposal, for companies that are currently valued on a "cash flow" basis under Paragraph 102.01 of the Manual, the aggregate market value of shares outstanding, excluding treasury stock, must be at least \$25,000,000 and average adjusted net

an average monthly trading volume of 100,000 shares for the most recent six months, or 2,000 round-lot holders.

⁵ See Securities Exchange Act Release No. 35571 n. 19 (Apr. 5, 1995), 60 FR 18649 (Apr. 12, 1995).

⁶ According to the Exchange, a small number of companies that initially listed on the Exchange by satisfying the minimum aggregate market value of both publicly held shares and net tangible assets before the original listing standards were increased to their current levels are above the current continued listing criteria, but are below the proposed criteria. Upon the Commission's approval of the proposed rule change, the Exchange will notify these companies of the new continued listing criteria and inform such companies that the Exchange expects them to be in compliance with the new criteria within 18 months of their effective date. The Exchange will consider those companies that do not meet these new standards by such date to be below the continued listing criteria at that time.

income for the past 3 years must be at least \$6,500,000.⁷

Earnings and Liquidity Continued Listing Criteria

Under the proposal, the NYSE will require that the company maintain at least 400 total stockholders or 1,200 total stockholders if the average monthly trading volume in the common stock is less than 100,000 shares for the most recent 12 months.⁸ The Exchange will also require that the company maintain an aggregate market value of publicly-held shares of \$8,000,000 for its common stock. With respect to earnings, the Exchange proposes to require that the company maintain an aggregate market value of shares outstanding (excluding treasury stock) of at least \$12,000,000 and average net income after taxes for the past three years of at least \$600,000. The Exchange will also require the net tangible assets available to common stock to be at least \$12,000,000 and average net income after taxes for the past 3 years to be at least \$600,000.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).⁹ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between issuers.

The Commission believes that the development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to exchange markets and to the investing public. Listing standards serve as a means for the self-regulatory organizations ("SROs") to screen issuers and to provide listed status only to bona fide companies with substantial float, investor base, and trading interest to ensure sufficient liquidity for fair and orderly markets. Listing standards also enable an exchange to assure itself of

⁷ Companies may currently be valued on a "cash flow" basis by either on listing demonstrating earning power by meeting the minimum levels of adjusted income or after being listed on the Exchange switching from a reported income to a "cash flow" basis.

⁸ As described above, the Exchange currently requires 1,200 round-lot holders.

⁹ 15 U.S.C. § 78f(b).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 35571 (Apr. 5, 1995), 60 FR 18649 (Apr. 12, 1995) (order approving proposed rule change relating to domestic listing standards).

⁴ Previously, the NYSE required that the company have at least 2,200 total stockholders together with