standards would be exempt from registration in all fifty states.

The SEC has recently published for comment proposed Rule 146(b) which would designate various exchanges' listing standards as being substantially similar to those of the NYSE, Amex or Nasdaq/NMS. The SEC has indicated that it preliminarily believes that the only deficiency in the CHX Tier 1 standards, which precludes it from designating the CHX Tier 1 securities as qualifying, is that there is no minimum share price requirement for continued listing on Tier 1. If such deficiency was corrected, the SEC indicated that it would consider including CHX's Tier 1 securities in the final Rule 146(b).

As a result of the above, the CHX is proposing to amend Article XXVIII, rule 14 of the Exchange rules to add a minimum share price requirement for continued listing of common stock on Tier 1. The proposed amendment is virtually identical to Amex's requirement. In essence, the proposed amendment states that an issuer that has a common stock listed under Tier 1 that is selling for a substantial period of time at a low price per share must effect a reverse split within a reasonable period of time after being notified that the Exchange deems such action to be appropriate. The proposed amendment then sets forth examples of pertinent factors which the Exchange will review in determining whether a reverse split is appropriate. If the issuer fails to effect a reverse split, then the Exchange would initiate a proceeding to delist the issuer's common stock from Tier 1.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act [5] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were either solicited or received.

[5] 15 U.S.C. 78f(b).

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

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

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, N.W., Washington, D.C. 20549. 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 my be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–97–17 and should be submitted by July 29, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–17668 Filed 7–7–97; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38794; File No. SR–NASD–97–01]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Permanent Approval to Proposed Rule Change Relating to Entry and Cancellation of SelectNet Orders

June 30, 1997.

I. Introduction

On January 8, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') 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 clarify the obligations of NASD members regarding the use of the SelectNet Service. The proposed rule change was published for comment in Securities Exchange Act Release No. 38149 (January 10, 1996), 62 FR 1942 (January 14, 1997) (''Notice of Proposed Rule Change''). The Commission subsequently approved a portion of this proposed rule change on a temporary basis.[3] No comments were received on the Notice of Proposed Rule Change. The Commission is now approving the proposed rule change in its entirety on a permanent basis.

II. Description of the Proposal

The NASD has proposed a new Conduct Rule, Rule 3380, to prohibit members from cancelling or attempting to cancel a broadcast or preferenced order entered into Nasdaq's SelectNet Service (''SelectNet'') until a minimum period of ten seconds has elapsed (''10-second rule'').[4] The Commission temporarily approved the 10-second rule with respect to SelectNet

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38185 (January 21, 1997), approving until July 1, 1997, a new Conduct Rule to prohibit members from cancelling or attempting to cancel a preferenced order entered into SelectNet until a minimum period of ten seconds has elapsed and from entering conditional orders preferenced to electronic communications networks (''ECNs'').

[4] Conduct Rule 3380(a) is proposed to read: Cancellation of a Select Net Order: No member shall cancel or attempt to cancel an order, whether preferenced to a specific market maker or electronic communications network, or broadcast to all available members, until a minimum time period of ten seconds has expired after the order to be cancelled was entered. Such ten second time period shall be measured by the Nasdaq processing system processing the SelectNet order.

preferenced orders,[5] but deferred action on the proposed 10-second rule with respect to SelectNet broadcast orders. Consequently, there is currently no minimum time that must elapse before a SelectNet broadcast order can be cancelled. The Commission is now permanently approving the 10-second rule with respect to both preferenced and broadcast orders.

Conduct Rule 3380 has also been proposed by the NASD to prohibit the entry into SelectNet of any order covered by Rule 4623 that is preferenced to an ECN with conditions regarding the response to the order (*e.g.*, all or none orders or non-negotiable orders)[6] This proposal was previously approved on a temporary basis and is now being approved on a permanent basis.

III. Discussion

In August 1996, the Commission adopted new Rule 11Ac1–4 (''Limit Order Display Rule'') and amendments to Rule 11Ac1–1 (''Quote Rule'') that went into effect on January 20, 1997.[7] Under an amendment to the Quote Rule, some ECNs are now entering quotations in the Nasdaq Stock Market in a manner which heretofore was reserved for registered market makers.[8] To facilitate the ECN Display Alternative envisioned by the Order Execution Rules, Nasdaq has established linkages with four ECNs utilizing the SelectNet system.[9] The ECNs thereby have a mechanism to display their best market makers' as well as other customers' quotes into the public quotation stream.[10] A critical portion of the Nasdaq SelectNet linkage is that it allows NASD members that are not subscribers to a particular ECN to access the ECN's priced orders that are being displayed in the Nasdaq quote montage. An NASD member accesses an ECN's displayed order by entering a preferenced order into SelectNet directed to a particular ECN at its displayed price.[11]

The Commission believes that it is important to the successful operation of the ECN Display Alternative via the SelectNet linkage that the ECNs be afforded a reasonable opportunity to respond to orders preferenced through SelectNet before those orders are cancelled. Because of the current design of the SelectNet linkage, ECNs may execute a subscriber order based on the receipt of a SelectNet preferenced order and subsequently receive a cancellation of that SelectNet preferenced order. In addition, cancellations of SelectNet orders immediately after entry creates significant additional message traffic that may hinder the operation of the linkage.

Likewise, the Commission believes that SelectNet orders preferenced to a particular market maker must also be accessible for a minimal length of time to allow for responses to be generated by that market maker. The existing possibility that SlectNet orders may be immediately cancelled, decreases market makers' incentive to attempt to accept SelectNet orders directed to them. Therefore, it is important that market makers have a reasonable period to ensure that when they accept a SelectNet preferenced order it will not be cancelled during the transmission of their acceptance.

The NASD has stated that, since the implementation of the 10-second rule for preferenced SelectNet orders, cancellations of such orders has declined by 43.8%.[12] At the same time, SelectNet share volume as a percentage of total Nasdaq share volume has increased by 502.3%. According to the NASD, the percentage of that volume attributable to preferenced orders has increased 142%.[13] Thus, the requirement that a preferenced SelectNet order have a minimum life of 10 seconds has not limited the use of preferenced orders in SelectNet.

The Commission believes that the implementation of the 10-second rule for preferenced orders has not hindered, and may have improved, the operation of SelectNet. This is illustrated by the increase in SelectNet volume since the 10-second rule went into effect. Thus, the Commission is approving the 10-second rule on a permanent basis with respect to SelectNet preferenced orders.

The Commission is also extending the 10-second rule to SelectNet broadcast orders. The Limit Order Display Rule requires the public display of certain customer limit orders and the ECN Amendment requires the public display of market maker's and specialist's better priced orders. While the Order Execution Rules have improved transparency, they have also resulted in increased quotation traffic on Nasdaq. The Commission believes, however, that the quotation traffic resulting from the entry of broadcast orders into SelectNet that are immediately cancelled does not improve transparency. In fact, the Commission believes that the entry of a broadcast order that is subsequently and immediately cancelled creates artificial transparency, which is contrary to the goals of the Order Execution Rules. The appearance of activity in a security and the multiple quotation changes caused by broadcast orders that are immediately cancelled only serve to mislead the market. Moreover, orders that are entered into SelectNet exclusively for the sole purpose of generating quotation traffic are not contributing to price discovery. As the NASD has explained, SelectNet orders are displayed on a four line window in the Nasdaq Workstation II. The constant inputting of broadcast orders that are immediately cancelled causes the SelectNet screen to flicker or scroll so rapidly that market makers can not effectively review any SelectNet orders. The constant flickering of orders on the SelectNet may hinder the execution of legitimate SelectNet orders.

The Commission believes that a minimum life of ten seconds for a SelectNet broadcast order would ensure that these orders are accessible long enough to contribute to the price discovery process and to afford other SelectNet participants the opportunity to react. The Commission, therefore, is approving the proposal to require that a broadcast order can not be cancelled until a minimum period of ten seconds

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[5] *See* Securities Exchange Act Release No. 38185 (January 21, 1997), 62 FR 3935 (January 27, 1997).

[6] NASD Rule 4623 concerns the operation of electronic communications networks. Conduct Rule 3380(b) is proposed to read: Prohibition Regarding The Entry of Conditional Orders: No member shall enter an order into SelectNet that is preferenced to an electronic communications network covered by Rule 4623 that has any conditions regarding responses to the order, *e.g.*, preferenced SelectNet orders sent to an electronic communications networks shall not be all or none, or subject to minimum execution size above a normal unit of trading, or deemed non-negotiable.

[7] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (''Adopting Release'') adopting the Limit Order Display Rule and amendments to the Quote Rule (collectively the ''Order Execution Rules'').

[8] Rule 11Ac1–1(c)(5) requires a market maker to display in its quote any better priced order the market maker places into an electronic communications network (''ECN Amendment''). Alternatively, the ECN Amendment provides an exception to the market maker's display obligation that depends upon the ECN itself displaying into the consolidated system the best-priced orders entered therein by a market maker or specialist, and allowing brokers and dealers to access such orders (''ECN Display Alternative'').

[9] The four ECNs are B-Trade; Instinet; Island; and Terra Nova Trading System.

[10] Under the ECN Display Alternative, ECNs must provide the best prices and sizes that market makers and specialists have entered in the ECN to the public quotation system for inclusion in the consolidated quotation. *See* Order Execution Rules Adopting Release at 121, *supra* note 7.

[11] *See* Order Execution Rules Adopting Release at 121, *supra* note 7, noting that the ability of non-subscribers to access market makers' and specialists' orders entered into an ECN is a fundamental requirement of the ECN Display Alternative.

[12] *See* Letter to Katherina A. England, Assistant Director, Division of Market Regulation, SEC, from Thomas R. Gira, Associate General Counsel, The Nasdaq Stock Market, Inc., dated June 26, 1997.

[13] Id.

has expired. In addition to the problems caused by immediately cancelled orders, orders that are sent to ECNs with conditions imposed also create response difficulties for ECNs.[14] Therefore, Nasdaq has proposed to prohibit members from entering conditional orders into SelectNet when those orders are preferenced to an ECN.[15] The Commission temporarily approved Conduct Rule 3380(b), prohibiting the entry of conditional order preferenced to an ECN, to eliminate impediments to the operation of the linkage with ECNs. The Commission acknowledges that conditional preferenced orders involve difficult programming issues and that the ECNs have been unable to modify their systems to accept conditional orders via the SelectNet linkage. The Commission continues to believe that this impediment to the operation of the linkage should be avoided and therefore is approving Conduct Rule 3380(b) on a permanent basis.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD, and in particular Sections 15A(b)(6), 15A(b)(9), and 15A(b)(11). In addition, the Commission finds that the rule change is consistent with the Congressional objectives for the National Market System, set out in Section 11A of the Exchange Act, of achieving more efficient and effective market operations, fair competition among brokers and dealers, and the economically efficient execution of investor orders in the best market. The Commission further believes that allowing preferenced on broadcast orders to be entered into SelectNet and immediately cancelled impedes the operation of the Order Execution Rules.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (NASD–97–01) be and hereby is approved. The 10-second minimum life requirement for a preferenced order in SelectNet is effective immediately and the 10-second minimum life requirement for a broadcast order in SelectNet shall be effective July 7, 1997. The prohibition of conditional orders preferenced to ECNs is effectively immediately.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

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[14] The Commission earlier this year approved an NASD Rule change to prohibit the entry of all-or-none orders in the Small Order Execution System. *See* Securities Exchange Act Release No. 38156 (January 10, 1997), 62 FR 2415 (January 16, 1997).

[15] For example, an all or none order, an order subject to a minimum execution size above a normal unit or trading, or an order deemed non-negotiable.

[16] 15 U.S.C. § 78s(b)(2) (1988).

[17] 17 CFR 200.30–3(a)(12) (1966).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38786; File No. SR–NYSE–97–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Exchange's Wireless Data Communications Initiatives

June 30, 1997.

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 May 28, 1997,[1] the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as 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.

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

The Exchange is proposing to modify certain aspects of its program for the use of wireless data communications technology that allows a member in a trading crowd or elsewhere on the trading floor to communicate with other locations on the floor by means of a hand-held wireless device.

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

In 1995, the Commission approved a proposed rule change of the Exchange[2] that allowed the Exchange to introduce wireless data communications technology onto the Exchange trading floor. The Exchange believes that such technology expedites, and makes more efficient, the process by which members receive and execute orders. The technology involves the floor-based use of wireless hand-held data communications devices. To effect that initiative, the Exchange undertook to develop and install a wireless data communications infrastructure on its floor. It determined to allow private vendors, as well as the Exchange itself, to offer hand-held device services to Exchange members.

As described at length in the 1995 Filing, the Exchange's plan has been to introduce the new technology in four phases:

(1) In Phase I, the Exchange supervised and monitored three ''proof-of-concept'' pilot programs on the floor of the Exchange.

(2) In Phase II, the Exchange monitored and supervised additional, more structured, pilot testing of independent wireless data communications services, including that offered by the Exchange.

(3) In Phase III, the Exchange will conduct on the floor a preproduction pilot test of its wireless data communications system infrastructure, will supervise the installation and testing of the infrastructure and will move its own wireless data communications system to the infrastructure. In addition, the Exchange will continue to allow pilot testing of private vendors' wireless data communications services.

(4) In Phase IV, the Exchange will direct the production rollout of the wireless data communications infrastructure and the migration of vendors to the infrastructure.

The Exchange had completed Phase I prior to the time of its submission of the 1995 Filing. Since then, the Exchange

[1] Amendment No. 1 was filed on June 17, 1997, the substance of which is incorporated into the notice. *See* letter from Steven J. Abrams, Attorney, Milbank, Tweed, Hadley & McCloy, to Heather Seidel, Attorney, Market Regulation, Commission, dated June 17, 1997 (''Amendment No. 1'').

[2] Securities Exchange Act Release No. 35931 (June 30, 1995), 60 FR 35767 (July 11, 1995) (''1995 Filing'').