

misappropriation theory of insider trading.

FOR FURTHER INFORMATION CONTACT:

Richard A. Levine, Assistant General Counsel; or Sharon Zamore, Senior Counsel; or Elizabeth Nowicki, Attorney, Office of the General Counsel (202-942-0890).

(2) adoption of new rules and amendments to its current rules to improve disclosure relating to the functioning of corporate audit committees and to enhance the reliability and credibility of financial statements of public companies.

FOR FURTHER INFORMATION CONTACT:

Meridith Mitchell, Senior Counselor, Office of the General Counsel (202-942-0900), W. Scott Bayless, Associate Chief Accountant, or Robert E. Burns, Chief Counsel, Office of the Chief Accountant (202-942-4400); or Mark Borges, Attorney-Adviser, Division of Corporate Finance (202-942-2900).

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: December 7, 1999.

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42198; File No. SR-CHX-99-17]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Voluntary Delisting Requirements

December 2, 1999.

I. Introduction

On September 24, 1999, the Chicago Stock Exchange, Inc. ("CHX" 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 ("Exchange Act" or "Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Article XXVIII, Rule 4 of the Exchange's rules to modify the prerequisites to voluntarily delist from the Exchange.

The proposed rule change was published for comment in the **Federal**

Register on October 20, 1999.³ No comments were received on the proposal. This order approves the proposal.

II. Description

The CHX proposes to amend Article XXVIII, Rule 4 of its rules to modify the prerequisites to voluntary delisting from the Exchange. Specifically, the proposed rule change would delete the requirement that an issuer to delist first obtain shareholder approval, replacing the deleted provision with a provision requiring that the issuer first file with the Exchange a certified copy of its board resolution authorizing delisting.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposed rule change is consistent with and furthers the objectives of Sections 6(b)(5) and 6(b)(8) of the Act.⁴ Section 6(b)(5) of the Act requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.⁵ Section 6(b)(5) also requires that the rules of an exchange must not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.⁶ In addition, Section 6(b)(8) of the Act prohibits the rules of an exchange from imposing any burden on competition not necessary or appropriate in furtherance of the purpose of the statute.⁷

The CHX proposes to replace the current procedures governing voluntary delisting from the Exchange by an issuer.⁸ In place of the current shareholder approval requirement, the

Exchange would now require that the issuer file with the Exchange a certified copy of a resolution adopted by the board of directors of the issuer, authorizing the withdrawal from listing and registration. The voluntary delisting procedures proposed by the CHX represent a significant and positive change over the current delisting process. In particular, the proposed voluntary delisting rule is considerably less burdensome than the existing shareholder approval requirement.

When shareholder approval requirements were first adopted, they were typically intended to protect shareholders at a time when an issuer's decision to delist from an exchange generally resulted in the loss of a public market for a security. With the development of established securities markets and changes in the competitive environment, many of the concerns that gave rise to the adoption of restrictions on voluntary delisting were rendered obsolete.

Over the last several years, the Commission and its staff have repeatedly expressed to the stock exchanges their concerns regarding the potentially anti-competitive effects of restrictions on voluntary delistings. The Commission's regulatory concerns centered upon its belief that such restrictions created nearly insurmountable obstacles for listed companies desiring to delist their securities from an exchange, and as such, impeded competition between securities markets. The Commission believes that the CHX's proposal should help to eliminate this impediment to intermarket competition.

The Commission also notes the CHX's proposal brings its voluntary delisting procedures in line with those of the Pacific Exchange, Inc. ("PCX"), the American Stock Exchange LLC ("Amex"), and the Philadelphia Stock Exchange, Inc. ("Phlx").⁹ The PCX, Amex and Phlx all require that an issuer submit a certified copy of a resolution adopted by the issuer's board of directors authorizing the withdrawal from listing and a statement detailing the reasons for the proposed withdrawal.¹⁰ The Commission further

³ See Exchange Act Release No. 42001 (October 13, 1999), 64 FR 56553.

⁴ 15 U.S.C. 78f(b)(5) and (8).

⁵ 15 U.S.C. 78f(b)(5).

⁶ *Id.*

⁷ 15 U.S.C. 78f(b)(8). In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. *Id.* at 78c(f).

⁸ In a July 21, 1999 letter, the staff requested the CHX to reexamine its voluntary delisting procedures, especially in light of the recent approval of amendments to the New York Stock Exchange's ("NYSE") Rule 500, removing a number of restrictions on voluntary delistings. See Letter to David W. Fox, chairman, CHX, from Annette L. Nazareth, Director, Division of Market Regulation, Commission, dated July 21, 1999.

⁹ See PCX Rule 3.4; Amex Rule 18; and Phlx Rule 809.

¹⁰ In addition to requiring a detailed statement detailing the reasons for the proposed withdrawal, Amex retains the discretion to determine whether the reasons advanced by the issuer warrant withdrawal of the listing. In addition, Amex may require the issuer to send to all registered holders of the security at least fifteen days prior to the filing of the delisting application with the Commission a complete, clear and definite statement of the reasons and supporting facts for the withdrawal. See Amex Rule 18. PCX and Phlx also retain the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 1240.19b-4.

notes that it recently approved a proposed rule change by the NYSE, amending its voluntary delisting procedures.¹¹

The Commission recognizes the significance of an issuer's decision regarding the appropriate market in which to list its securities. The Commission believes that issuers should carefully consider the best interests of their shareholders in both listing and delisting decisions, and that the CHX's proposal should ensure that due consideration is given to a decision regarding whether to delist from the Exchange. The Commission believes that the proposed rule change eliminates an onerous restriction on voluntary delistings. As a result, the Commission believes that the CHX's proposed rule change is consistent with the provisions of the Act.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹² that the proposed rule change (SR-CHX-99-17) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Jonathan G. Katz,
Secretary.

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discretion to require the issuer to submit the proposed withdrawal to the shareholders for a vote provided the security is not also listed on another exchange. See PCX Rule 3.4 and Phlx Rule 809.

¹¹ The NYSE's rule requires approval of the issuer's board of directors according to applicable state law on majority votes, as well as approval by the issuer's audit committee. In addition, a U.S. issuer must notify the thirty-five largest record holders. Foreign issuers must give notice to the thirty-five largest U.S. record holders. The issuer must also issue a press release. Finally, there is a minimum waiting period before a security may be delisted of twenty business days after the later of the date the notice is sent or the press release is issued, and a maximum period of sixty business days. See NYSE Rule 500. Although the NYSE's proposal did not ease voluntary delisting restrictions to the extent that the CHX's proposal does, it is indicative of the Commission's belief that impediments to competition in the context of voluntary delisting standards must be eased, if not eliminated.

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42201; File No. SR-NASD-99-65]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Creation of a Corporate Bond Trade Reporting and Transaction Dissemination Facility and the Elimination of Nasdaq's Fixed Income Pricing System ("FIPS")

December 3, 1999.

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 October 28, 1999 the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.¹ 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

NASD is proposing to amend, delete and create numerous rules of the Association to establish a corporate bond trade reporting and transaction dissemination facility. Below is the text of the proposed changes. Proposed new language is in *italics*; proposed deletions are in *brackets*.

[6200. FIXED INCOME PRICING SYSTEM (FIPS) Rules 6210. Through 6260]

6200. TRADE REPORTING AND COMPARISON ENTRY SERVICE (TRACE)

6210. Definitions.

The terms used in this paragraph shall have the same meaning as those defined in the Association's By-Laws and Rules unless otherwise specified.

The term "TRACE Eligible Security" shall mean all United States dollar denominated debt securities that are registered with the Securities and Exchange Commission and issued by United States and/or foreign private

¹ The NASD also agreed to extend the comment period to 60 days and the time within which the Commission must approve the filing or institute proceedings to determine whether the proposed rule change should be disapproved to 120 days. Telephone call to Thomas Moran, Office of General Counsel, The Nasdaq Stock Market, Inc., from Kevin Ehrlich, Attorney, Division of Market Regulation, SEC, November 22, 1999.

corporations and that are depository eligible securities as defined in Rule 11310(d); all debt securities qualified as PORTAL securities pursuant to Rule 5000 Series; all investment-grade rated debt securities that are issued pursuant to Section 4(2) of the Securities Act of 1933 and that are depository eligible securities pursuant to Rule 11310(d).

(b) the term "Trade Reporting And Comparison Entry Service" or "TRACE" shall mean the automated system owned and operated by The Nasdaq Stock Market, Inc. that, among other things, accommodates reporting, comparison, and dissemination of transaction reports where applicable in TRACE Eligible Securities and which may submit "locked-in" trades to National Securities Clearing Corporation for clearance and settlement and provide participants with monitoring and risk management capabilities to facilitate a "locked-in" trading environment.

(c) The term "reportable TRACE transaction" shall mean all transactions in a TRACE Eligible Security as required by this rule.

(d) the term "time of execution" for a transaction in a TRACE-eligible security shall be the time when all of the terms of the transaction are agreed to which are sufficient to calculate the dollar price of the trade. The time of execution for transactions involving TRACE-eligible securities that are trading "when issued" on a yield basis shall be when the yield for the transaction has been agreed to by the parties.

(e) The term "Parties to the Transaction" shall mean the executing broker/dealer, introducing broker/dealer, and clearing brokers, if any.

(f) The term "TRACE Participant" shall mean any NASD member in good standing that uses the TRACE system.

(g) The term "TRACE Reporting Party" shall mean a member of the Association that is registered as a TRACE participant with the Association and obligated to report a TRACE transaction pursuant to TRACE system rules and who is member of a registered clearing agency for clearing or comparison purposes or has a clearing arrangement with such a member.

(h) The term "TRACE Non-Reporting Party" shall mean a member of the Association that is registered as a TRACE participant with the Association who is not obligated to report under TRACE system rules for a particular transaction to which it is a party and who is a member of a registered clearing agency for clearing or comparison purposes or has a clearing arrangement with such a member. it shall also mean