eliminated reference to ''market'' and ''marketable limit orders'' since all orders received through SuperDOT would be eligible for commission-free execution. The provision allowing the specialist to charge a commission on orders to sell short was also eliminated. The Exchange instituted the pricing initiative of commission-free executions, in conjunction with the Exchange's specialist community, effective with trades executed on December 29, 1999. To date, the procedure has worked well. The Exchange has not received any complaints concerning this policy.

A second amendment added language to Rule 123B to clarify that if an order that had been placed with the specialist is canceled and replaced, the replacement order is considered a new order for purposes of the Rule. Since the implementation of the pilot program, the Exchange is not aware of any problems associated with the clarifying language.

2. Statutory Basis

The Exchange believes that the basis for the proposed rule change is the requirement under Section 6(b)(5) of the Act[6] that an Exchange have rules that are designed to promote just and equitable principles of trade, facilitate transactions in securities, 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. In accordance with Section 11A(a)(1)(C) of the Act,[7] the Exchange also believes that the proposed rule change will foster the economically efficient execution of securities transactions, fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets.

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

These enhancements will provide the Exchange the opportunity to compete more effectively for order flow with other marketplaces. Thus, the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1)(c).

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

The Exchange reviewed the proposed rule change with members and organizations representing various constituencies of the Exchange and the responses to the proposed rule changes were positive. The Exchange has not otherwise solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

Within 35 days of the date of 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 including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. 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 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 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–NYSE–00–09 and should be submitted April 21, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7974 Filed 3–30–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42574; File No. SR–NYSE–99–14]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Amendments to the Listed Company Manual

March 24, 2000.

I. Introduction

On April 12, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with 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 relating to amendments to the NYSE's Listed Company Manual (''Manual'') regarding the Exchange's procedures and oversight of listed companies. On October 25, 1999, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] On December 16, 1999, the Exchange submitted Amendment No. 2.[4]

The proposed rule change, as amended, as published for comment in the **Federal Register** on February 9, 2000.[5] No comments were received on

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the NYSE made several clarifications to the proposed rule change, incorporated appropriate provisions for Non-U.S. issuers, and revised the procedures for the annual report requirement. *See* Letter to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated October 22, 1999 (''Amendment No. 1'').

[4] In Amendment No. 2, the NYSE made several technical changes to the text of the proposed rule change and clarified that the supplemental listing application (''SLAP'') provision applies to Non-U.S. issuers. *See* Letter to Richard Strasser, Assistant Director, Division, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated December 14, 1999 (''Amendment No. 2''). In Amendment No. 2, the Exchange also requested accelerated approval of the proposed rule change. The Exchange withdrew this request as per telephone conversation between Amy Bilbija, Counsel, NYSE, and Terri Evans, Special Counsel, and Heather Traeger, Attorney, Division, SEC, on January 4, 2000.

[5] Securities Exchange Act Release No. 42364 (January 28, 2000), 65 FR 6432.

the proposal. This order approves the NYSE proposal, as amended.

II. Description of the Proposal

The proposal would make several changes to the Exchange's procedures and oversight of listed companies. First, the proposal would institute a regularly review procedure for listing applicants whereby Exchange staff would access media outlets, run Central Registration Depository checks, and consult with staff in the SEC's Division of Enforcement to identify any potential issues of concern regarding the applicant company's board members, officers (as the term ''Officer'' is defined in Section 16 of the Act),[6] and non-institutional shareholders with an interest in excess of 10 percent. The proposal also would require each applicant company to submit a letter from inside or outside counsel representing that, to the company's knowledge, no officer, board member, or non-institutional shareholder with more than 10 percent ownership in the company has been convicted of a felony or misdemeanor relating to financial issues (*e.g.,* embezzlement, fraud, or theft) in the past 10 years.

In addition, the proposal would amend the Exchange's procedures for processing SLAPs submitted for consideration by companies that have been identified as being below the Exchange's continued listing criteria.[7] Upon receipt of a SLAP from such a company, Exchange staff would first determine whether or not the SLAP is for an issuance to current shareholders (*e.g.,* a stock split). If so, the application would be authorized. If, however, the SLAP is for an issuance to new shareholders, the application will be reviewed against the Exchange-approved plan pursuant to which the company is operating to return to financial compliance with the Exchange's listing standards. If the proposed issuance is within the scope of the plan, or furthers the goals of the plan, it will be approved. Conversely, the Exchange will deny authorization if the proposed issuance is outside the scope of the plan or contradicts its goals.[8]

Third, the proposal would amend the Exchange's annual report requirements. The proposal would require that a company mail to shareholders by the specified date either an annual report or a Form 10–K (Form 20–F for Non-U.S. issuers) with an indication that it is in lieu of the annual report.[9] Due to longer mailing and processing time, international companies will have a maximum period following the SEC filing deadlines of 45 days to mail either the annual report or Form 20–F (with an indication that it is in lieu of the annual report), where domestic issuers would have 30 days.[10]

Furthermore, for companies that are unable to timely file a Form 10–K (or Form 20–F), the proposal would allow the Exchange to consider why the filing cannot be made, evaluate the continued listing status of the company in light of the specific facts presented, and require that the company issue a press release. Once the Form 10–K (or Form 20–F) is filed, the proposal would require a mailing of the Form 10–K (or Form 20–F) or an annual report to shareholders within 15 days (30 days for a Non-U.S. issuer).[11]

Finally, the proposal would permit companies to distribute annual reports or SEC forms electronically to beneficial holders who give prior written consent. Such consent must be in writing, which may be in the form of electronic mail.[12]

The proposal would also provide that failure to comply with these requirements will result in presentation of the company's situation to Exchange staff for appropriate action, which could include the determination to proceed with suspension of trading and application to the SEC to delist the security.

III. Discussion

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] Specifically, the Commission believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act[14] because 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, in general, to protect investors and the public interest. The Commission believes that the proposal, by codifying and expanding the Exchange's procedures and oversight of listed companies, strikes a reasonable balance between the Exchange's obligation to protect investors and investor confidence in the market, and its parallel obligation to perfect the mechanism of a free and open market.

The NYSE proposes several amendments to the Manual. First, the Exchange proposes to implement regulatory reviews of key personnel associated with listing applicants. Specifically, the proposal provides for a procedure where Exchange staff would attempt to identify, through a variety of sources, any possible issues of concern regarding an applicant's board members, officers, and certain non-institutional shareholders. The Commission believes that such reviews should strengthen and improve the effectiveness of the procedures for reviewing listing applicants, and enhance investor protection by screening out those companies that the Exchange believes are unsuitable for listing.

The proposal also codifies the Exchange's procedures regarding SLAPs for companies identified as being below continued listing standards. Specifically, the proposal requires that SLAPs concerning an issuance to new shareholders must not conflict with the company's Exchange-approved plan under which it is operating to return to compliance with the Exchange's financial listing standards. The Commission believes that codifying the procedures applicable to the SLAPs of such companies should enhance investor protection by ensuring that SLAPs which fail to satisfy the procedures are denied authorization.

The proposal further amends the Exchange's disclosure requirements for listed companies late in filing Form 10–Ks or annual reports. A company that is unable to make a timely filing will be required to explain its reasons for such lateness and will be required to issue a press release. Furthermore, the continued listing status of the company will be evaluated with regard to the specific facts presented. The proposal also allows companies to electronically distribute annual reports or SEC forms to beneficial shareholders who give prior written consent. Finally, the proposal provides that failure to comply with these requirements could result in the NYSE's determination to suspend trading and apply to the Commission to delist the security. The Commission believes that this proposed change should ensure that companies distribute

[6] 15 U.S.C. 80a–16.

[7] This provision will apply to both U.S. and Non-U.S. issuers. *See supra* note 4.

[8] In this context, the Exchange would recognize that employee stock option plans, although rarely a specific element of a financial plan, are customarily in furtherance of the company's objectives and are thereby consistent with any approved plan.

[9] *See* Amendment No. 1, *supra,* note 3. Domestic companies are required to submit their annual filings on Form 10–K to the SEC within 90 days of the fiscal year end. International companies are required to submit their annual filings on Form 20–F within 180 days of the fiscal year end.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] In approving this rule, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

their annual reports to investors in a timely manner or provide investors with an explanation for any delay, and provide issuers with explicit notice that a failure to comply with these requirements could result in suspension and delisting from the NYSE. The proposal also should provide investors with faster access to a company's forms or annual reports by allowing electronic distribution to those investors who give express consent to such distribution.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NYSE–99–14), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7975 Filed 3–30–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42575; File No. SR–OCC–00–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Exercise Settlement Values for Expiring Index Options

March 24, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 19, 2000, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') and on March 14, 2000, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The proposed rule change would allow OCC to conform the method used to establish settlement values for expiring stock index options with the method used to value futures on the underlying index when the primary market(s) for one or more component securities of an index is closed on the last trading day before expiration.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to add new subparagraph (3) to Article XVII, Section 4(a) of OCC's By-Laws. The new subparagraph would permit OCC to conform the exercise settlement value for expiring options on a security index to the final settlement value used for related index futures and options on index futures when the primary market(s) for one or more component securities of the index is closed on the last trading day before expiration. The present default method for setting the exercise settlement amount for the underlying index, as specified in the current version of Article XVII, Section 4(a)(2) and disclosed in the current Options Disclosure Document, is to use the reported level of the stocks in the underlying index at the close of trading on the last preceding day for which a closing index level was reported.

However, this is not the valuation method that would be used under the same circumstances by the Chicago Mercantile Exchange (''CME''), which would determine the settlement value of the index by using the opening values for index stocks affected by the closing as reported when the primary market for such stocks reopens. For example, under CME rule 4003, ''[i]f the New York Stock Exchange (NYSE) does not open on the day scheduled for the determination of the Final Settlement Price [of S&P 500 index futures], then the NYSE-stock component of the Final Settlement Price shall be based on the next opening prices of NYSE stocks.'' The use of different dates and hence potentially different index values for fixing the final settlement values for index options and futures on the same index creates uncertainty and risk for investors who use trading strategies involving index options and index futures based on the expectation that their settlement values will have a predictable relationship. Therefore, OCC is proposing that if the primary market(s) for one or more component securities of an index did not open for trading on the last trading day before expiration of a series of options on such index, an adjustment panel acting pursuant to Article XVII may fix the exercise settlement amount for such options using the opening prices of the affected security or securities when the primary market reopens.

OCC is also amending Article XVII to make clear that (1) OCC has the discretion to determine which market is a security's primary market and (2) when OCC fixes a settlement price based on an index level at the close of trading, the price will be fixed based on the index level at the close of regular trading hours, as determined by OCC.

OCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to OCC, and in particular with Section 17A of the Act [3] because it fosters cooperation and coordination with persons engage in the clearance and settlement of securities transactions, removes impediments to and perfects the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, protects investors and the public interest.

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

OCC does not believe that the proposed rule change would impose any burden on competition.

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

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1)

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] 15 U.S.C. 78q–1.