

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 Amex. All submissions should refer to File No. SR-AMEX-99-45 and should be submitted by July 12, 2000.

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

Jonathan G. Katz,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42928; File No. SR-Amex-99-30]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Amending Exchange Rule 18; Withdrawal From Listing

June 13, 2000.

I. Introduction

On August 13, 1999, the American Stock Exchange LLC ("Amex" 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 rescind Exchange Rule 18. On September 28, 1999, the Amex submitted Amendment No. 1 to the proposed rule change.³ On February 3, 2000, the Amex submitted Amendment

No. 2 to the proposed rule change.⁴ The proposed rule change, as amended by Amendments Nos. 1 and 2, was published for comment in the **Federal Register** on February 23, 2000.⁵ The Commission did not receive any comment letters with respect to the proposal. This order approves the Exchange's proposal, as amended.

II. Description of the Proposal

Amex Rule 18 currently requires an issuer, prior to withdrawing a security from listing on the Exchange, to file with the Exchange a certified copy of a resolution adopted by the board of directors authorizing withdrawal from listing and registration and explaining the reasons for such withdrawal. The Amex rule also provides that the Exchange may require the issuer to send to all registered holders of such security a statement of the reasons for such application, together with facts in support thereof within at least fifteen days prior to the filing of a delisting application with the Commission.⁶ These Exchange Rule 18 requirements must be met before an application for delisting can be filed with the Commission.

According to the Amex, Exchange Rule 18 has not been applied in many years with respect to issuers seeking to voluntarily withdraw their securities from the listing on the Exchange. The Exchange believes Amex Rule 18 represents a needless restriction imposing burdensome delays on an issuer's decision to delist. The Amex stated that the proposed amendment to Exchange Rule 18 will implement its decision to eliminate obstacles and delays for issuers seeking to voluntarily withdraw their common stock from listing on the Exchange. Under the proposed amendments to Amex Rule 18, an issuer will be able to voluntarily withdraw a security from listing on the Exchange upon written notice to the Exchange, provided the issuer complies with all applicable state laws in effect in the state in which it is incorporated.⁷

⁴ See Letter to Marla Chidsey, Attorney, Division, Commission, from Ivonne Lugo, Associate General Counsel, Amex, dated February 2, 2000 ("Amendment No. 2"). In Amendment No. 2, Amex proposes to require the issuer to comply with all applicable state laws in effect in the state in which it is incorporated prior to filing to delist from the Amex. Amendment No. 2 also proposes to make conforming amendments to the *Amex Company Guide* Sections 1010 and 1011.

⁵ Securities Exchange Act Release No. 42427 (February 15, 2000), 65 FR 9024.

⁶ See 15 U.S.C. 781(d) and 17 CFR 240.12d2-2 describing how an issuer may delist from a national securities exchange.

⁷ The rule further states that the requirement of written notice that must be met before an

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Act⁸ and the rules and regulations thereunder applicable to a national securities exchange.⁹ In particular, the Commission finds the proposed rule change is consistent with Section 6(b)(5) of the Act¹⁰ and which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

Over the last several years, Commission staff has express concerns regarding the potentially anti-competitive effects of certain rules adopted by self-regulatory organizations ("SROs"), such as Amex Rule 18.¹¹ The Commission encouraged the Amex to revise the standards a company must comply with prior to voluntarily delisting its securities from the Amex.¹² The Commission believes that the exchanges should provide a listed company with a reasonable opportunity to move to another market if it so desires, thereby increasing competition among the markets. For example, on July 21, 1999, the Commission approved a proposed rule change to revise New York Stock Exchange's ("NYSE") Rule 500 to simplify the procedures a NYSE-listed company must follow to voluntarily delist its securities from the NYSE.¹³ The Commission believes that the proposed amendments to Amex Rule 18 should similarly eliminate obstacles and delays for issuers seeking to delist their securities voluntarily from the Amex.

Furthermore, the voluntary delisting procedures proposed by the Amex in the amended proposal represent a significant and positive change over the current delisting process and requirements in the Amex's rules. Specifically, the Commission believes that the proposed requirement that a listed company simply submit written

application for delisting can be filed with the Commission.

⁸ 15 U.S.C. 78f.

⁹ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ See Market 2000 Report: An Examination of Current Equity Market Developments, Division, Commission, January, 1994, at 30.

¹² *Id.* at 31.

¹³ Securities Exchange Act Release No. 41634, 64 FR 40633 (July 27, 1999).

⁸ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter to Michael Walinskas, Deputy Associate Director, Division of Market Regulation ("Division"), Commission, from Michael J. Ryan, Chief of Staff, Amex, dated September 24, 1999 ("Amendment No. 1"). In Amendment No. 1, Amex proposes to amend Exchange Rule 18 instead of rescinding the rule in its entirety, as proposed in its initial filing, to provide that an issuer may voluntarily withdraw a security from listing on the Exchange upon written notice to the Exchange.

notice to the Amex that it wants to delist provided that it has followed all applicable state laws in effect in the state in which it is incorporated should ensure compliance with investor protections codified in relevant state statutes while still significantly streamlining the delisting process on the Amex.¹⁴ As a result, because the proposed amendments to Amex Rule 18 ease the existing restrictions on Amex-listed companies that wish to voluntarily delist their securities from the Exchange while continuing to ensure compliance with applicable state laws, the Commission believes that the Amex's proposed revisions to Amex Rule 18, as amended, are consistent with the requirements of Section 6(b)(5) of the Act¹⁵ that requires the rules of the Exchange to further the protection of investors and public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-Amex-99-30), including amendments Nos. 1 and 2, is approved.

By the Commission, for the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42943; File No. SR-CBOE-00-20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Amending Its Rules to Mandate Decimal Pricing Testing

June 14, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 24, 2000, the Chicago Board Options Exchange, Incorporated ("CBOE" 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 CBOE. The CBOE has designated this proposal as one concerned solely with the administration of the CBOE under Section 19(b)(3)(A)(iii) of the Act,³ which renders the proposal effective upon filing with the Commission. 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 CBOE proposed to amend its rules to mandate that member firms test computer systems in order to ensure preparedness for the industry's conversion to decimal pricing.

The text of the proposed rule change is available upon request from the CBOE or the Commission.

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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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

As the securities industry prepares for the conversion to decimal pricing, it will be necessary for various constituents of the securities industry to test their computer systems in order to avoid widespread problems. The CBOE, in cooperation with the Commission and other self-regulatory organizations, has been working toward a successful transition to decimal pricing. The purpose of the proposed rule change is to require CBOE member firms to participate in tests of computer systems designed to prepare for the industry's conversion to decimal pricing.

The proposed rule change would create new CBOE Rule 15.12 to require

CBOE members to participate in the testing of computer systems in a manner and frequency to be prescribed by the Exchange. It is the CBOE's understanding that other self-regulatory organizations, including the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., and the American Stock Exchange LLC, are also proposing rule changes to require testing by their members in connection with the industry's conversion to decimal pricing.

The Securities Industry Association has undertaken to coordinate industry-wide computer testing to ensure that the securities industry is adequately prepared to convert to decimal pricing. Industry constituents to participate in the testing will include, among others, national securities exchanges, registered clearing corporations, data processors, and broker-dealers. Several industry-wide tests have been planned, the first of which took place in April 2000.

The CBOE will employ its new Rule 15.12 to require that its members participate in these tests. CBOE Rule 15.12 further provides that any firm having an electronic interface with the Exchange would be required to conduct point-to-point testing with the Exchange. Point-to-point testing refers to tests conducted between two entities, in this case a member having an electronic interface and the Exchange.⁴

Under the proposal, the Exchange would require member firms to participate in industry-wide testing to the extent such firms can be accommodated by the testing schedule. The Exchange would exercise its authority under CBOE Rule 15.12 to the extent it deems that the participation of particular members in the testing is important, and to the extent those members would otherwise not voluntarily choose to participate.

The proposed rule change would also allow the CBOE to require members to file reports with the CBOE concerning the required tests in the manner and frequency determined by the Exchange. A member subject to CBOE Rule 15.12 who failed to participate in the mandatory tests or who failed to file any required reports, would be subject to disciplinary action pursuant to Chapter XVII of the Exchange's rules.

The Exchange believes that it currently has the authority, without the

¹⁴ As discussed above, the revision of Amex Rule 18 eliminates requirements for Amex issuers that were imposed by Amex Rule 18. Issuers wanting to voluntarily delist would still be required to comply with Section 12 of the Act, which provides notice and an opportunity for public comment. See *supra* note 6.

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ A member that has its electronic interface with the Exchange through a service provider may be exempted from this requirement if such service provider conducts successful tests with the Exchange on behalf of the firms its services, if the member conducts successful point-to-point testing with the service provider by a time to be designated by the Exchange, and if the Exchange agrees that no further testing is necessary.