

Act,¹³ which requires, in part, 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities, 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. Further, as noted in more detail below, the changes being adopted by CHX meet the requirements of amended SEC Rule 12d2-2.

A. Exchange Delisting

Amended SEC Rule 12d2-2(b) states that a national securities exchange may file an application on Form 25 to strike a class of securities from listing and/or withdraw the registration of such securities, in accordance with its rules, if the rules of such exchange, at a minimum, provide for notice to the issuer of the exchange's decision to delist, opportunity for appeal, and public notice of the exchange's final determination to delist. The Commission believes that CHX's current rules and proposal comply with the dictates of amended SEC Rule 12d2-2(b).

CHX Article XXVIII, Rule 4 currently provides the requisite issuer notice as well as an opportunity for appeal to a committee designated by the Board. Specifically, issuers may appeal the Hearing Examiner's delisting determinations to the Board's Executive Committee.¹⁴ In addition, the proposed rule change will provide for public notice of the Exchange's final determination to remove the security from listing and/or registration. This should ensure that investors have adequate notice of an exchange delisting and is consistent with the protection of investors under section 6(b)(5) of the Act.¹⁵

B. Issuer Voluntary Delisting

In the case of an issuer-initiated delisting, CHX proposes revisions to CHX Article XXVIII, Rule 4(b) that would set forth, in general terms, the process that should be followed when an issuer seeks to voluntarily withdraw the listing or registration of a security on the Exchange, including the issuer's obligation to file Form 25 with the Commission (and to submit it to the

Exchange) and the Exchange's obligation to provide public notice of an issuer's voluntary request to delist securities. In the case of an issuer-initiated delisting, CHX proposes to require the issuer to:

- (i) Comply with the Exchange's rules for delisting and applicable state laws;
- (ii) Submit written notice to the Exchange, no fewer than ten days before filing a Form 25, of its intent to withdraw its security; and
- (iii) Issue public notice of its intent to withdraw from listing and registration; and
- (iv) File Form 25 with the Commission.

The Commission believes that the amendments will fully inform issuers of the requirements for voluntary delisting of their securities under CHX rules and federal securities laws.

The proposal also sets forth a new requirement not in amended SEC Rule 12d2-2 that would require the issuer to file a copy of Form 25 with the Exchange immediately after filing Form 25 with the Commission. This requirement will allow the Exchange to be fully informed of the actual filing of a Form 25 and be prepared to take timely action to delist the security in accordance with the filing of the Form.

CHX also proposes that an issuer seeking to voluntarily apply to withdraw a class of securities from listing on the Exchange that has received notice from the Exchange that it is below the Exchange's continued listing policies and standards, or that is aware that it is below such continued listing policies and standards notwithstanding that it has not received such notice from the Exchange, must disclose that it is no longer eligible for continued listing (including the specific continued listing policies and standards that the issue is below) in: (i) Its statement of all material facts relating to the reasons for withdrawal from listing provided to the Exchange along with written notice of its determination to withdraw from listing required by amended SEC Rule 12d2-2(c)(2)(ii) and; (ii) its public press release and Web site notice required by amended SEC Rule 12d2-2(c)(2)(iii). The Commission believes that this requirement will allow shareholders to be informed and aware that the issuer has failed to meet Exchange listing standards and is voluntarily delisting. Issuers will therefore not be permitted to delist voluntarily without public disclosure of their noncompliance with Exchange listing standards.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁶ that the proposed rule change (File No. SR-CHX-2005-27), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53687; File No. SR-NASD-2006-015]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change To Establish the Nasdaq Halt Cross

April 20, 2006.

On January 31, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to establish the Nasdaq Halt Cross. On February 16, 2006, Nasdaq filed Amendment No. 1 to the proposed rule change. On March 6, 2006, Nasdaq filed Amendment No. 2 to the proposed rule change. The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for comment in the **Federal Register** on March 21, 2006.³ The Commission received no comments on the proposal. On April 17, 2006, Nasdaq filed Amendment No. 3 to the proposed rule change to make NASD Rule 4703(b)(2)(B) parallel to NASD Rule 4703(a)(2)(B).⁴ This order approves the proposed rule change, as amended.

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

¹⁶ *Id.*

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 53488 (March 15, 2006), 71 FR 14272.

⁴ Amendment No. 3 was a technical amendment and therefore not subject to notice and comment.

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ See CHX Article XXVIII, Article 4.

¹⁵ 15 U.S.C. 78f(b)(5).

association,⁵ the requirements of section 15A of the Act,⁶ in general, and section 15A(b)(6) of the Act,⁷ in particular, which requires, among other things, that the rules of a national securities association be designed to facilitate transactions in securities and to remove impediments to and perfect the mechanism of a free and open market. The Commission believes that the proposed rule change, as amended, should provide useful information to market participants and increase transparency and order interaction at the opening after a trading halt. In addition, the Commission believes that the proposed rule change, as amended, should result in the public dissemination of information that more accurately reflects the trading in a particular security at the open after a trading halt. The Commission notes that the Halt Cross is based on the Nasdaq opening cross, which the Commission approved in a prior filing.⁸

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-NASD-2006-015), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6-6317 Filed 4-26-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53685; File No. SR-NYSE-2005-72]

Self-Regulatory Organizations; New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC); Order Granting Approval of a Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Thereto To Amend Exchange Delisting Rules To Conform to Recent Amendments to Commission Rules Regarding Removal From Listing and Withdrawal From Registration

April 20, 2006.

I. Introduction

On October 20, 2005, the New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC) ("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 to amend Exchange delisting rules to conform to recent amendments to Commission rules regarding removal from listing and withdrawal from registration. On December 22, 2005, NYSE filed Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, was published for comment in the **Federal Register** on March 13, 2006.⁴ No comments were received regarding the proposal. On April 11, 2006, the Exchange filed Amendment No. 2 to the proposed rule change.⁵ This order approves the proposed rule change, as amended, publishes notice of Amendment No. 2 to the proposed rule change, and grants accelerated approval to Amendment No. 2.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange made clarifying changes to Item 3 of the Exchange's Form 19b-4 and to Exhibit 1.

⁴ See Securities Exchange Act Release No. 53398 (March 2, 2006), 71 FR 12738.

⁵ In Amendment No. 2, the Exchange made typographical changes to the proposed rule text of Section 806.02 (Removal from List Upon Request of Company) of the NYSE Listed Company Manual that were intended to clarify that the Exchange's proposed new requirement that a company provide a copy of the Form 25 to the Exchange simultaneously with the filing of such Form 25 with the Commission is a new requirement and is not part of the requirements of Rule 12d2-2(c) under the Act.

II. Description of the Proposed Rule Change

Section 12 of the Act⁶ and Rule 12d2-2 thereunder⁷ ("SEC Rule 12d2-2") govern the process for the delisting and deregistration of securities listed on national securities exchanges. Recent amendments to SEC Rule 12d2-2 ("amended SEC Rule 12d2-2") and other Commission rules require the electronic filing of revised Form 25 on the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system by exchanges and issuers for all delistings, other than delistings of standardized options and securities futures, which are exempted.⁸

In the case of exchange-initiated delistings, amended SEC Rule 12d2-2(b) states that a national securities exchange may file an application on Form 25 to strike a class of securities from listing and/or withdraw the registration of such securities, in accordance with its rules, if the rules of such exchange, at a minimum, provide for:⁹

(i) Notice to the issuer of the exchange's decision to delist its securities;

(ii) An opportunity for appeal to the exchange's board of directors, or to a committee designated by the board; and

(iii) Public notice of the national securities exchange's final determination to remove the security from listing and/or registration, by issuing a press release and posting notice on its Web site. Public notice must be disseminated no fewer than 10 days before the delisting becomes effective pursuant to amended SEC Rule 12d2-2(d)(1), and must remain posted on its Web site until the delisting is effective.

The Exchange proposes to amend sections 804.00 and 806.02 of the Exchange's Listed Company Manual. With respect to the above requirements set forth in amended SEC Rule 12d2-2(b), NYSE rules currently provide the requisite issuer notice as well as an opportunity for appeal to a committee designated by the Board.¹⁰ NYSE rules do not currently provide for the mandated public notice, and accordingly the Exchange is proposing changes to section 804.00 of the NYSE Listed Company Manual to provide that

⁶ 15 U.S.C. 78l.

⁷ 17 CFR 240.12d2-2.

⁸ See Securities Exchange Act Release No. 52029 (July 14, 2005), 70 FR 42456 (July 22, 2005).

⁹ See also Form 8-K (Item 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing), which sets forth disclosure requirements for issuers that do not satisfy listing standards.

¹⁰ See section 804.00 (Procedure for Delisting) of the NYSE Listed Company Manual.

⁵ In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78o-3.

⁷ 15 U.S.C. 78o-3(b)(6).

⁸ See Securities Exchange Act Release No. 50405 (September 16, 2004), 69 FR 57118 (September 23, 2004).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).