

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

On January 17, 1996, the Commission approved Board Rule G-38, on consultants.⁴ The Board adopted the rule because it was concerned about dealers' increasing use of consultants to obtain or retain municipal securities business, notwithstanding the requirements of: (i) Rule G-37 concerning political contributions and prohibitions on municipal securities business; (ii) Rule G-20 concerning gifts and gratuities; and (iii) Rule G-17 concerning fair dealing. Rule G-38 requires dealers to disclose information about their consultant arrangements to issuers and the public. Recently, the Board received an inquiry from a dealer concerning the application of Rule G-38 to instances in which dealers have entered into agreements to jointly seek underwriting assignments. The Board has determined to publish this fourth notice of interpretation⁵ which sets forth, in question-and-answer format, to provide general guidance on Rule G-38 and to assist the municipal securities industry, and, in particular, brokers, dealers, and municipal securities dealers in understanding and complying with Rule G-38. The Board will continue to monitor the application of Rule G-38, and, from time to time, will publish additional notices of interpretations, as necessary.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C)⁶ of the Act, which provides, among other things, that the rules of the Board shall 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, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in

municipal securities, and, in general, to protect investors and the public interest.

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

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers, and municipal securities dealers.

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

Written comments were neither solicited nor received.

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

The proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board and, therefore, has become effective pursuant to Section 19(b)(3)(A)⁷ of the Act, and subparagraph (f) of Rule 19b-4 thereunder.⁸ At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-99-1 and should be submitted by April 12, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41171; File No. SY-NYSE-99-8]

Self-Regulatory Organization; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Continuing Annual Listing Fees

March 15, 1999.

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 February 16, 1999, 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 and II below, which Items have been prepared by the NYSE. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

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

Paragraph 902.02(C) of the Exchange's Listed Company Manual ("Manual") contains the schedule of current continuing annual listing fees for NYSE-listed companies. The Exchange proposes to amend Paragraph 902.02(c) of the Manual. Paragraph 902.02(C) currently establishes a maximum continuing annual listing fee of \$500,000 for each issue (i.e., security) listed by an issuer. The NYSE proposes to amend Paragraph 902.02(C) to apply a \$500,000 cap to all securities listed by an issuer, other than derivative products, fixed-income products, and closed-end funds. The Exchange seeks accelerated approval of the proposed

⁴ Securities Exchange Act Release No. 36727 (January 17, 1996), 61 FR 1955 (January 24, 1996). The rule became effective on March 18, 1996.

⁵ See Securities Exchange Act Release No. 36950 (March 11, 1996), 61 FR 10828 (March 15, 1996), *MSRB Reports*, Vol. 16, No. 2 (June 1996) at 3-5; Securities Exchange Act Release No. 37997 (November 29, 1996), 61 FR 64781 (December 6, 1996), *MSRB Reports*, Vol. 17, No. 1 (January 1997) at 15; and Securities Exchange Act Release No. 40499 (September 29, 1998), 63 FR 53739 (October 6, 1998), *MSRB Reports*, Vol. 18, No. 2 (August 1998) at 13. See also *MSRB Manual* (CCH) at paragraph 3686.

⁶ 15 U.S.C. 78o-4(b)(2)(C).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

amendment to Paragraph 902.02(C) of the Manual.

The text of the proposed rule change is available at the Office of the Secretary, NYSE and at 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 NYSE 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 III below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspect of such statements.

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

Purpose

The proposed rule change amends the listed company fee schedule, set forth in Paragraph 902.02 of the Manual, as it applies to continuing annual listing fees. Specifically, the Exchange seeks to amend the current capped fee structure, whereby the continuing annual listing fee for each issue (*i.e.*, security) is capped at \$500,000. Under the proposal, the \$500,000 cap will apply to all issues combined for each issuer. Thus, in computing the continuing annual listing fee for a particular issuer, the Exchange will sum up the fees for each class (or series) of security for a listed company and cap the fee for the issuer at \$500,000. For purposes of this calculation, derivative products and fixed-income products will not be subject to the \$500,000 cap and will continue to be billed separately, above and beyond the cap. In addition, closed-end funds will continue to be treated separately.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(4) ³ that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

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

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.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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 exchange, and in particular, with the requirements of Section 6 of the Act.⁴ More specifically, the Commission believes that the reduction in continuing annual listing fees is consistent with Section 6(b)(4) of the Act,⁵ which requires that the rules of an exchange assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using its facilities.⁶ The Commission believes that the proposal may ease the financial burden for NYSE-listed companies that list multiple issues on the Exchange, thus facilitating capital formation and furthering competition among the Exchange and other market centers.

The Commission finds good cause for approving the proposal prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Accelerated approval will permit Exchange-listed issuers to take advantage of the Exchange's reduction in continuing annual listing fees. Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5) and Section 19(b)(2) of the Act, to grant accelerated approval to the proposal.⁷

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 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 at 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-99-8 and should be submitted by April 12, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NYSE-99-8) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Emergency Review Request and Proposed Request

In compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is requesting emergency consideration from OMB by March 29, 1999 of the information collection listed below.

Disability Update Report—0960-0511.

The Social Security Act requires a periodic review of the disabled status of recipients whose benefits are based on disability to determine whether they continue to be eligible for these benefits. SSA uses the information collected on the SSA-455 to identify those beneficiaries who have medically improved and/or returned to work and have substantial earnings, and to decide whether a full medical continuing disability review should be conducted or deferred to a later date. The respondents are recipients of

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4).

⁶ In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation, 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

³ 15 U.S.C. 78f(b)(4).