to delete existing Sections 820 through 830, inclusive, and Section 841 of the Listing Standards. Likewise, the Exchange rules governing the replacement of lost certificates in Section 840 are no longer necessary in light of current practices followed by issuers and transfer agents.

Treasury Shares

Existing Exchange rules require an issuer to report changes in the number of treasury shares. Given the changes proposed to the fee calculation for issuers, resulting in the exclusion of treasury shares from the fee base, the Exchange no longer needs this information. Accordingly, the Exchange proposes to eliminate Section 901 of the Listing Standards. Furthermore, Section 903, on repurchases of listed company securities, in unnecessary because it does not impose any Exchange requirements, but merely refers issuers to federal securities laws. Finally, the Exchange notes that Section 902 allows an issuer to redeem securities only in a *pro rata* fashion or by lot. The Exchange notes that issuers are governed by state law requirements in the redemption of securities and that as a practical matter, one of these methods is invariably applied. Therefore, the Exchange believes that Section 902 is unnecessary and proposes its deletion and conforming amendments to Sections 103(d), 104, and 105(b).

Other Changes to the Exchange's Listing Requirements

The Exchange proposes certain changes to the listing requirements for issuers listed on the Amex. The Exchange proposes to change the definition of ''public distribution'' and ''public shareholders'' as defined in Section 102. Currently, in determining the number of shares in the public, Exchange rules exclude concentrated holdings of 5% or greater. The comparable rules on Nasdaq, as well as the NYSE, only exclude holdings of 10% or greater. The Exchange believes that it is appropriate to exclude holdings of between 5% and 10% from the definition of public distribution and accordingly, proposes to modify Section 102.

Next, the Exchange proposes to modify Section 120, relating to conflicts of interest. The existing Exchange rule states that the Exchange will consider conflicts situations in connection with the original listing of an issuer. The Exchange believes that a broader, ongoing review of related party transactions is appropriate and that the issuer's Audit Committee (or a comparable body) is an appropriate body for conducting such a review. Furthermore, the Exchange notes that under the proposed change, as in all cases, it may review a transaction using the Exchange's general discretionary authority if a transaction involved a conflict that raised public interest concerns. Accordingly, the Exchange proposes to adopt this revised listing requirement to better protect investors.[11]

The Exchange also proposes to amend its rules relating to shareholder approval contained in Section 713 to clarify that shareholder approval is required prior to issuance of a security that has the *potential* to result in the issuance of 20% of the pre-transaction common shares outstanding for less than the greater of book or market value of the stock. While the present language of the rule does not include the word potential, it is fairly implied and Exchange staff has consistently applied the rule to require approval in cases where an issuance may potentially exceed the state threshold. Accordingly, the Exchange proposes to modify the existing rule to clarify that an issuance is not permissible without shareholder approval when there is the potential to issue more than 20% of the pre-transaction common shares outstanding for less than the greater of book or market value of the stock.

Emerging Company Marketplace

In May 1995, the Exchange determined to discontinue the listing of new companies on the Emerging Company Marketplace and subsequently received Commission approval.[12] Accordingly, the Exchange proposes to delete from the Supplement the criteria for new listing on the Emerging Company Marketplace given that no new issues are permitted to be listed on that market. Furthermore, the Exchange proposes to delete from the Supplement the continued listing criteria with respect to all issues other than common stock because no existing issuers rely on these provisions and no new issuers can be listed that would rely on these provisions. This conforming change is consistent with the SEC's order approving the elimination of the Energing Company Market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[13] which requires, among other things, the Exchange's rules to be designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest.

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 Act.

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

The Exchange did not solicit or receive written comments on the proposed rule change.

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 Exchange consents, the Commission will:

(A) by order approve such 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 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, 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 Amex. All submissions should refer to the File No. SR–Amex–99–39 and should be submitted by March 2, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3034 Filed 2–9–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–42383; File No. SR–Amex–99–35)

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change To Rescind Exchange Rule 106, ''Substitute Principals''

February 3, 2000.

I. Introduction

On September 1, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or 'Commission'') pursuant to Section

[11] The Exchange notes that this proposed change is consistent with the rules relating to conflicts of interest that apply to Nasdaq issuers and NYSE issuers. *See* NASD Rules 4310(c)(25)(G) and 4460(h) and NYSE Listed Company Manual Section 307.00.

[12] *See* Exchange Act Release No. 36079 (Aug. 9, 1995), 60 FR 42926 (Aug. 17, 1995) (SE–Amex–95–23). Companies that were listed at the time the Emerging Company Marketplace was discontinued were permitted to continue their listing, subject to all the rules applicable to issuers on that Emerging Company Marketplace.

[13] 15 U.S.C. 78f(b)(5).

[14] 17 CFR 200.30–3(a)(12).

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 106. The proposed rule change was published for comment in the **Federal Register** on October 22, 1999.[3] The Commission did not receive any comment letters with respect to the proposal. This order approves the Exchange's proposal.

II. Description of the Proposal

The Amex proposes to delete Exchange Rule 106, ''Substitute Principals.'' Exchange rule 106 currently provides that: ''No party to a contract shall be compelled to accept a substitute principal unless the name proposed to be substituted was declared in, and as part of, the bid or offer giving rise to the contract.'' Rule 106 dates back to the 1921 Constitution of the New York Curb market,[4] a predecessor of the Exchange. The Rule's original purpose appears to be related to the clearance and settlement of trades, specifically, the terms of contracts and the creditworthiness of counterparties. The proposed rule change was filed in response to a recent dispute where an Exchange member invoked Rule 106 in an attempt to renege on a contract. Apparently, the Exchange member's counterparty provided an incorrect give-up at the time of the trade, and later sought to correct the error by substituting the correct clearing member.

III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to national securities exchange. In particular, the Commission believes the proposed rule change is consistent with the Section 6(b)(5)[5] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and protect investors and the public interest.[6] The Commission also finds that the proposal may serve to remove impediments to and perfect the mechanism of a free and open market by rescinding Rule 106, which provides a potential basis for parties to Exchange contracts to break trades without appropriate justification.

Since Exchange Rule 106 was adopted in 1921 the process of clearance and settlement has evolved. Broker-dealers no longer compare individual trades as was the case at the time of the inception of Exchange Rule 106. Today, trades executed on the Amex are required to be cleared and settled through a registered clearing agency.[7] Typically, clearing agencies guarantee the completion of a transaction by becoming the counterparty to each side of the transaction. This has substantially reduced the risk of trade default and made concerns about counterparty identity largely irrelevant.

Clearing agencies perform comparison, clearance, and settlement of trades. Clearance activities confirm the identity and quantity of the security being bought or sold, the transaction price and date, and the identity of the buyer and the seller, Settlement is the fulfillment, by the parties to the transaction, of the obligations of the trade.

The largest clearing agency is the National Securities Clearing Corporation (''NSCC''), which acts as the contraside to every trade it processes. The NSCC guarantees the trades of its member participants and incurs the risk of default from the time of the guarantee until the settlement of obligations and payments. Thus, it is the NSCC and not the Exchange member—as was the case in 1921—who assumes counterparty risk. When the NSCC guarantees a trade, it becomes the buyer to every seller and the seller to every buyer. As a result, the clearing corporation incurs the risk that a counterparty to a transaction might default on its obligations.

Rule 106 was adopted in another era, prior to the utilization of modern clearing practices. The total assumption of default risk by clearing agencies has obviated the need for Exchange members to maintain strict control over the identify of trading counterparties. Because clearing corporations like NSCC eliminate the risk of trade default, trades are guaranteed irrespective of the identity of a counterparty. Thus, in light of clearance corporations and modern clearance and settlement practices, Rule 106 no longer serves the purpose of protecting a counterparty from the default risks associated with a trade.

Furthermore, Rule 106 may have the disruptive effect of permitting parties to Exchange contracts to break trades without appropriate justification. This kind of action is contrary to the goals of preserving the public's interest and protecting investors. The Commission therefore believes it is appropriate for the Exchange to rescind Rule 106.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Amex–99–35) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3036 Filed 2–9–00; 8:45 am]

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42010 (Oct. 14, 1999), 64 FR 57167.

[4] Section 7 of the Article XXIV of the 1921 Constitution of the New York Curb Market stated: ''No party to a contract shall be compelled to accept a substitute principal, unless the name proposed to be substituted shall be declared in marking the offer and as a party thereof.''

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

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

[7] *See* American Stock Exchange Constitution, Article X, Section 2.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42379; File No. SR–CBOE–98–27]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 6 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Enhancements to the Exchange's Processing of Live Ammo Orders

February 2, 2000.

I. Introduction

On June 16, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 amending its rule governing the execution of orders on the ''live ammo'' screen. On June 23, 1998, the CBOE submitted Amendment No. 1 to the proposed rule change to the Commission.[3] On July 15, 1998, the CBOE submitted Amendment No. 2 to the proposed rule change to the

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

[2] 17 CFR 240.19b–4.

[3] Letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), SEC, dated June 23, 1998 (''Amendment No. 1'').