number of shares is not affected by a cash distribution and, therefore, no order size adjustment is necessary.

Currently, under Section 46, a DNR instruction applies to both cash and stock distributions. For example, the price of an order marked DNR would not be adjusted under the current definition in Section 46 even in the event of a 2 for 1 or similar stock dividend. Such a dividend would halve the quotes for the security, but the order would remain at the original price, far out of line with the adjusted market for that security. Similarly, all orders marked DNI would not be subject to the current adjustment provisions of Section 46. While an order marked DNI would not be increased in size in the event of stock dividend, it also would not be reduced in price pursuant to the provisions of Section 46.

For customers who understand the operation of Section 46 to be the same as NYSE Rule 118, leaving the current definitions in place could result in unexpected executions of certain open orders. To address this concern, the NASD has proposed to amend the applicability of Section 46 to orders marked DNR and DNI. Pursuant to the amendment, the provisions of the rule will not apply to orders marked DNI where the distribution is payable in cash, nor to orders marked DNI where the distribution is payable in stock, provide, however, that the price of such DNI orders will be adjusted as required by the rule.

The Commission has determined to approve the NASD's proposal. The Commission finds that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, including the requirements of Section 15A(b)(6) of the Act.[8] Section 15A(b)(6) requires, in part, that the rules of a national securities association be designed to promote just and equitable principles of trade; 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. The proposed rule change acts to remedy an unintentional inconsistency between Section 46 and NYSE Rule 118. The rule change also protects against the unexpected and unintended execution of open orders.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–94–71 be, and hereby is, approved.

[8] 15 U.S.C. 78*o*–3(b)(6).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–3567 Filed 1–13–95; 8:45 am]

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[Release No. 34–35343; File No. SR–NYSE–94–46]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Amending Specialist Combination Review Policy to Require Proponents of Certain Specialist Unit Combinations to Address Issues Related to the Capitalization, Risk Management, and Operational Efficiency of Large Sized Specialized Units

February 8, 1995.

I. Introduction

On December 9, 1994 the New York Stock Exchange, Inc. (''NYSE'' 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 adopt amendments to the NYSE's Specialist Combination Review Policy (''Policy''). Specifically, the proposal would require proponents of certain specialist unit combinations to address issues related to the capitalization, risk management, and operational efficiency of large sized specialist units.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35171 (December 28, 1994), 60 FR 1818 (January 5, 1995). No comments were received on the proposal.

II. Background

The Exchange's Policy was first approved by the Commission on a six-month pilot basis in 1987.[3] The Commission subsequently granted permanent approval following an interim extension.[4]

The Policy is a three-tier system of review, primarily conducted by the Quality of Markets Committee (''QOMC''), to review proposed specialist combinations that raise concentration-related issues. The Policy calls for review of a potential combination where the combination will result in a specialist unit accounting for more than 5% of any one of four specified concentration measures: Allocation for all listed common stocks; allocation for the 250 most active listed common stocks; total share volume of stock trading on the Exchange; and total dollar value of stock trading on the Exchange. Once a review is triggered under the Policy, the primary factors taken into consideration by the QOMC depend upon whether the proposed combination warrants a Tier I review (exceeding a concentration measure by more than 5%), Tier II review (exceeding a concentration measure by more than 10%, up to and including 15%), or a Tier III review (exceeding a concentration measure by 15%). The level of the burden of proof placed upon the proposed combining units also may vary depending on the Tier of review.

III. Description

The proposal will add several requirements that address issues related to the capitalization, risk management, and operational efficiency of large-sized specialist units.[5] The proposal requires proponents of a combination that would exceed 10% of a concentration measure to:

- Submit an acceptable risk management plan with respect to any line of business in which they engage;
- Submit an operational certification prepared by an independent, nationally recognized management consulting organization with respect to all aspects of the firm's management and operations;
- Agree to maintain a minimum of 1.5 times (2 times, in the case of a 15% combination) the total capital requirement specified in Rule 104.20[6] with respect to the combined entity's stocks;

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See Securities Exchange Act Release No. 24411 (April 29, 1987), 52 FR 17870 (May 12, 1987).

[4] See Securities Exchange Act Release Nos. 25481 (March 17, 1988), 53 FR 9554 (March 23, 1988) (interim extension); 34167 (June 6, 1994), 59 FR 30625 (June 14, 1994) (permanent approval).

[5] Once the proponents agree that they will abide by the requirements listed below, the Exchange will verify the ability of the units to make such commitments by reviewing their individual capitalization information. If such a review shows that the units do not have the requisite capacity, then the combination will not be approved. Once the combination has been approved, the Exchange will monitor the combined unit to ensure that it continues to meet the additional requirements. In the event the combined unit fails to meet the additional requirements, the Exchange will address the issue as it would any other capital requirements violation. In such circumstances, the Exchange, through its Rule 476, has several courses of action available to it including stock reallocation. Conversations between Don Seimer, NYSE, and Amy Bilbija, Attorney, SEC, on January 27, 1995 and February 6, 1995.

[6] Pursuant to NYSE Rule 104.20, a specialist unit at an active post is required to be able to assume a position of 150 trading units in each common

Continued

• Agree to maintain 2 times (2.5 times, in the case of a 15% combination) the capital requirement specified in Rule 104.20 with respect to each of the combined entity's stocks that are component stocks of the Standard and Poor's 500 Stock Price Index; and

• Agree that all capital required to be dedicated to specialist operations be accounted for separate and apart from any other capital of the combined entity, and that such specialist capital may not be used for any other aspect of the combined entity's operations.

The proposal also requires that proponents of a proposed combination that would result in a specialist unit accounting for more than 5%, but less than or equal to 10%, of a concentration measure, maintain 1.5 times the capital requirement specified in Rule 104.20 with respect to each of the combined entity's stocks that are components stocks of the Standard and Poor's 500 Stock Price Index.

IV. Discussion and Conclusion

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 Sections 6(b).[7] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designated to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public, in that it addresses concerns about capitalization, operational efficiency, and risk management where proposed combinations would result in large sized specialist units.

The Commission agrees with the NYSE that these new requirements are appropriate in that they should minimize the risk of financial and/or operational failure of larger-sized units, and ensure that such units have sufficient, separately dedicated capital with which to meet their market making responsibilities. The Commission believes that it is appropriate to modify the Policy to place additional capitalization requirements when specialist units are combining. The combined entity will be larger than either of the two (or more) original entities, responsible for more securities, and financially exposed to a larger degree. The potential impact of the financial failure of a large-sized specialist unit upon the NYSE would be proportionately greater in comparison to either original unit. Thus, imposing more stringent capitalization requirements upon the new unit should decrease the probability of any such failure, and minimize any subsequent detrimental impact upon the market place.

The Commission also believes that the proposal does not impose any unnecessary or inappropriate burden on competition under Section 6(b)(8) of the Act in that it establishes review procedures to prevent potential under-capitalization of specialist units that could hinder market quality. The Commission recognizes that the revised Policy can prevent certain combinations from occurring by placing additional requirements for such combinations to take place. Nonetheless, the Commission believes that the additional requirements will help to ensure that combinations potentially detrimental to the market place will not be permitted. Accordingly, any potential burden on competition resulting from the proposal is, in the Commission's view, justified as necessary and appropriate under the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NYSE–94–46) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–3619 Filed 2–13–95; 8:45 am]

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stock in which he is registered and must be able to establish that he can meet, with his own net liquid assets, the greater of, a minimum capital requirement of $1,000,000 or 25% of the foregoing position requirement.

[7] 15 U.S.C. 78f(b) (1988).

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1994).

SMALL BUSINESS ADMINISTRATION

Declaration of Disaster Loan Area, North Carolina

Duplin, Lenoir, and Sampson Counties and the contiguous Counties of Bladen, Crave, Cumberland, Greene, Harnett, Johnston, Jones, Onslow, Pender, Pitt, and Wayne in the State of North Carolina constitute a disaster area as a result of damages caused by severe storms and tornadoes which occurred on January 6 and 7, 1995. Applications for loans for physical damage may be filed until the close of business on April 10, 1995 and for economic injury until the close of business on November 8, 1994 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 276412 and for economic injury the number is 844400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 8, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–3593 Filed 2–13–95; 8:45 am]

BILLING CODE 8025–01–M

Commonwealth of the Northern Mariana Islands; Declaration of Disaster Loan Area

The Islands of Antahan, Saipan, and Tinian in the Commonwealth of the Northern Mariana Islands are hereby declared a disaster area as a result of damages caused by Typhoon Zelda which occurred on November 3, 1994. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on April 7, 1995 and for economic injury until the close of business on November 6, 1995 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000