

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 27, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 805 Third Avenue, New York, New York 10022.

**FOR FURTHER INFORMATION CONTACT:** Sarah A. Wagman, Staff Attorney, at (202) 942-0654, or Alison E. Baur, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

#### Applicant's Representations

1. Applicant, a New York corporation, registered as a closed-end investment company under the Act by filing with the SEC a notification of registration on Form N-8A on November 26, 1985. On July 25, 1986, applicant filed a registration statement on Form N-5, which became effective in December, 1986. In June, 1987, applicant issued shares of its common stock through a public offering. There has been no other public offering of applicant's securities, and applicant presently does not intend to make any other public offering of its securities. Applicant is licensed and regulated as a Specialized Small Business Investment Company by the United States Small Business Administration ("SBA") under the Small Business Investment Company Act of 1958 ("SBICA").

2. Applicant states that there are 22 beneficial holders of its shares. As of November 30, 1995, applicant also had outstanding SBA-guaranteed debentures in an aggregate principal amount of approximately \$4.1 million. These Debentures are not convertible into, exchangeable for, or accompanied by, any equity security. Applicant's

common stock is not traded on an active market.

3. As of November 30, 1995, applicant had assets aggregating \$11,335,023. Of that amount, \$10,894,910 is attributable to applicant's loan portfolio, \$85,813 is attributable to real estate acquired in foreclosure of delinquent loans, \$40,906 is cash, \$195,317 is accrued interest, and \$118,077 represents the value of other assets. Applicant's liabilities consisted of approximately \$4.1 million in SBA debentures, \$250,000 in deferred income, and \$1.7 million in other liabilities. As of November 30, 1995, shareholders' equity consisted of approximately \$5.4 million in paid-in capital.

4. Applicant presently is not a party to any litigation or administrative proceeding.

#### Applicant's Legal Analysis

1. Section 8(f) of the Act provides that whenever the SEC, upon application or its own motion, finds that a registered investment company has ceased to be an investment company, the SEC shall so declare by order. The registration of the investment company ceases to be in effect upon the taking effect of the order.

2. Section 3(c)(1) of the Act provides that an issuer is not an investment company within the meaning of the Act if (a) its outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons, and (b) it is not making and does not presently propose to make a public offering of securities.

3. Rule 3c-3 under the Act provides that, for purposes of section 3(c)(1), the holders of any debt securities offered and sold by a small business investment company licensed under the SBICA shall be deemed to be one person if the securities are (a) not convertible into, exchangeable for, or accompanied by any equity security and (b) guaranteed as to timely payment of principal and interest by the SBA and backed by the full faith and credit of the United States. Applicant believes that the holders of its debentures are considered one person under the provisions of rule 3c-3.

4. Applicant believes that, pursuant to section 3(c)(1), it is no longer an investment company as defined in section 3 because, for purposes of the Act, only 23 persons are beneficial holders of its securities: 22 persons hold its common stock, and one holds debentures. Applicant is not making and does not presently propose to make a public offering of its securities. Accordingly, applicant requests that the SEC issue an order under section 8(f) declaring that it has ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-11538 Filed 5-8-96; 8:45 am]

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[Release No. 34-37165; File No. SR-Amex-96-15]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing of Hybrid Securities

May 3, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 26, 1996, the American Stock Exchange, Inc. ("Amex" 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 self-regulatory organization. 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 Exchange is proposing to amend Section 107A of the Amex *Company Guide* to conform the Exchange's listing criteria for hybrid securities to those of the New York Stock Exchange ("NYSE").

The text of the proposed rule change is available at the Exchange and 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 self-regulatory organization 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 IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

1. Purpose

In March 1990, the Commission approved the adoption of Section 107 of the *Amex Company Guide* containing guidelines for listing securities that have features common to both equity and debt securities, yet do not fit within the traditional definitions of such securities.<sup>2</sup> Sometimes referred to as "hybrids," these securities can take a variety of forms. For example, the Exchange has listed under Section 107 a zero coupon intermediate term note, which at maturity returns the face amount of the note plus a percentage of the appreciation, if any, in a well known index such as the S&P 500, or a debt security with a relatively high fixed return, but whose value at maturity is linked to the performance of an unrelated common stock.

Section 107A currently specifies the minimum issuer qualifications, the minimum public distribution and aggregate market value of the security and other criteria to assist the Exchange in its case by case review and determination of the suitability of each security prior to its approval for listing.

The Exchange now proposes to conform its listing criteria for hybrid securities to those of the NYSE by eliminating the current requirements of Section 107A that require a certain minimum redemption price and only allow cash settlement of covered instruments if settled in U.S. dollars.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b) in particular in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest in that it conforms the Exchange's listing standards for hybrid securities to those of the NYSE.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>2</sup> See Securities Exchange Act Release No. 27753 (Mar. 1, 1990), 55 FR 8626 (Mar. 8, 1990).

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

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from April 26, 1996, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(e)(6) thereunder.<sup>4</sup>

The Commission notes that although it is reasonable for the Exchange to remove the affected provisions as mandatory listing standards,<sup>5</sup> proposals that deviate from these standards might raise novel or significant regulatory issues that would require a proposed rule change to list the product.<sup>6</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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. 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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(e)(6).

<sup>5</sup> The affected provisions currently prevent the listing of (1) any cash settled product settled in any currency other than U.S. dollars or (2) any product that had a mandatory redemption price of less than three dollars.

<sup>6</sup> See Securities Exchange Act Release No. 27753 (Mar. 1, 1990), 55 FR 8626 (Mar. 8, 1990) (order approving File-No. SR-Amex-89-29). For example, a stock index-linked note that was payable in a foreign currency would raise important regulatory issues among which might include the need to address appropriate product term and risk disclosure, customer suitability, and settlement procedures. Accordingly, the Commission expects the Amex to consult with it on the need to file a Section 19(b) rule change to list a product with such terms under the Rule 107A listing standards.

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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-96-15 and should be submitted by May 30, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-11624 Filed 5-8-96; 8:45 am]

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[Release No. 34-37163; File No. SR-NASD-96-09]

**Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Distribution of Interim Reports to Beneficial Owners and the Use of New Technology to Communicate Such Information to Shareholders**

May 2, 1996.

On March 13, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> The rule change amends Part II of Schedule D to the NASD By-Laws ("Schedule D")<sup>3</sup> by adding precatory language recommending that Nasdaq issuers distribute interim reports to both shareholders of record and beneficial shareholders<sup>4</sup> to shareholders if they

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> *NASD Manual*, Schedules to the By-Laws, Schedule D, Part II (CCH ¶¶ 1803-06A).

<sup>4</sup> Interim reports are reports that are voluntarily distributed by an issuer as part of its shareholder relations activities and do not include quarterly financial reports required to be filed with the Commission pursuant to Sections 13(a) and 15(d) of the Act, 15 U.S.C. 78m(a), 78o(d).