

to provide prompt and accurate clearance and settlement of securities transactions before, on, and after Year 2000 without interruption.

NSCC requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing because such approval will allow NSCC to implement its mandatory Year 2000 testing program in a timely manner.

#### 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, 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 NSCC. All submissions should refer to the File No. SR-NSCC-98-15 and should be submitted by February 11, 1999.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (File No. SR-NSCC-98-15) be and hereby is approved.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40944; File No. SR-NYSE-98-35]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Specifications and Content Outline for the Trading Assistant Qualification Examination (Series 25)

January 13, 1999.

#### I. Introduction

On November 10, 1998, 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"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change consisting of the specifications of the new trading assistant exam and the Content Outline for the Trading Assistant Qualification Examination ("Series 25 Content Outline"). The proposed rule change was published for comment in the **Federal Register** on December 9, 1998.<sup>3</sup> The Commission did not receive any comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

In a companion release, the Exchange has proposed to amend Rule 35 which dictates the terms under which an employee of a member or member organization may be admitted to the Exchange trading floor.<sup>4</sup> The Rule 35 Proposal requires floor employees *i.e.*, post clerks and booth clerks, also known as trading assistants ("Trading Assistants") to take and pass an appropriate qualification examination ("Series 25 Examination") and to meet appropriate training requirements. Currently, Rule 35 only requires trading assistants to submit a completed Form U-4 ("Uniform Application for Securities Industry Registration or Transfer") and fingerprints. The current requirements will continue to be effective.

Under the Rule 35 Proposal, all current and prospective Trading Assistants will be required to pass the Series 25 Examination. Moreover, new

Trading Assistants will be required to attend a 3-month training session (including on-the-job and classroom training) before taking the exam. New Trading Assistants will not be permitted to perform their functions without supervision until they pass the exam. Current Trading Assistants will have one year from implementation of the new requirements to pass the exam and will not be required to attend the 3-month training unless they twice fail the Series 25 Examination.

The Exchange, in conjunction with the amendments to Rule 35, filed this proposal to submit its Series 25 Content Outline. The Series 25 and the Series 25 Content Outline were developed by the Exchange along with a committee of Exchange members and Trading Assistants. The Exchange believes the Series 25 will ensure that Trading Assistants will have the basic knowledge, skills, and abilities necessary to perform the functions and carry out the responsibilities of their position. The Series 25 Content Outline details the coverage of the examination. According to the Series 25 Content Outline, it is intended to familiarize examination candidates with the range of subjects covered, as well as the depth of knowledge required.

#### III. Discussion

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.<sup>5</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(c)(3)(B) of the Act.<sup>6</sup>

Section 6(c)(3)(B) of the Act provides, among other things, that a national securities exchange may examine and verify the qualifications of applicants who desire to become associated with a member and may require any person associated with a member to be registered with the exchange in accordance with established procedures. This section also provides that an exchange may bar a person from becoming a member if such person does not meet standards of training, experience, and competence as are prescribed by the rules of the exchange.

<sup>5</sup> In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(c)(3)(B).

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

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

<sup>3</sup> Securities Exchange Act Release No. 40721 (November 30, 1998), 63 FR 67965 (December 9, 1998).

<sup>4</sup> Securities Exchange Act Release No. 40720 (November 30, 1998), 63 FR 67969 (December 9, 1998) ("Rule 35 Proposal").

<sup>6</sup> 15 U.S.C. 78s(b)(2).

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

Having reviewed the Series 25 Examination itself in its entirety,<sup>7</sup> the Commission finds that the Series 25 Examination satisfies the requirements of Section 6(c)(3)(B).<sup>8</sup> The Commission believes that the nature and the scope of the examination is appropriate for ensuring that Trading Assistants admitted to the Exchange's trading floor are duly trained and qualified to competently perform their duties and functions.

The Commission also finds that the Series 25 Content Outline satisfies the requirements of Section 6(c)(3)(B) of the Act.<sup>9</sup> The Commission believes that the Series 25 Content Outline provides notice to all members and persons associated with members of the requirements to be satisfied by floor employees before they can be admitted to the Exchange trading floor. Moreover, the series 25 Content Outline also provides Trading Assistants with notice of the topics and materials tested as well as sample test questions to help them prepare.

The proposed rule change should help ensure that floor employees, working on the Exchange trading floor, are qualified and competent. It is therefore consistent with Section 6(c)(3)(B) because it establishes procedures of the Exchange that ensure that the standards regarding training, experience, and competence are satisfied.

Moreover, the Commission finds that the proposal is consistent with the requirements of Section 6(b)(5) of the Act,<sup>10</sup> which provides, among other things, that the rules of the Exchange be designed, in general, to protect investors and the public interest. The new exam should ensure that the Trading Assistants admitted to the Exchange trading floor are qualified to effectively perform in their positions. By ensuring the qualifications and abilities of trading assistants, the Commission believes that the integrity of the Exchange is maintained, which should protect investors and the public interest.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-NYSE-98-35) is approved.

<sup>7</sup> The Series 25 Examination was subject to confidential treatment by the Commission.

<sup>8</sup> Securities Exchange Act Release No. 40943 (January 13, 1999).

<sup>9</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40943; File No. SR-NYSE-98-36]

### Self-Regulatory Organizations; New York Stock Exchange, Inc. Order Approving Proposed Rule Change To Amend Rule 35 ("Floor Employees To Be Registered") and Adopt a New Interpretation to Rule 35

January 13, 1999.

#### I. Introduction

On October 22, 1998, 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"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Rule 35 and add a new interpretation with respect to the administration of proposed Rule 35. The proposed rule change was published for comment in the **Federal Register** on December 9, 1998.<sup>3</sup> The Commission did not receive any comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The Exchange is proposing to amend Rule 35 to require floor employees of members and member organizations to satisfy prescribed training and successfully complete a qualification examination before being admitted to the Exchange trading floor. The proposed rule change also provides a new interpretation to Rule 35 to implement the qualification examination requirements for floor employees.

Currently, floor employees *i.e.*, post clerks and booth clerks, also known as trading assistants ("Trading Assistants") are only required to submit a completed Form U-4 ("Uniform Application for Securities Industry Registration or Transfer") along with their fingerprints to the Exchange before being admitted

<sup>12</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> Securities Exchange Act Release No. 40720 (November 30, 1998), 63 FR 67969 (December 9, 1998).

to the trading floor. Under proposed Rule 35, Trading Assistants will be required, in addition to the current requirements, to be qualified by taking and passing an appropriate qualification examination and by meeting prescribed training requirements.

The Exchange has been working with a committee of Exchange members and Trading Assistants to develop a new qualification exam, the Trading Assistant Qualification Examination ("Series 25 Examination").<sup>4</sup> The Exchange believes the Series 25 Examination will ensure that trading assistants have the basic knowledge, skills and abilities necessary to perform the functions and carry out the responsibilities of a trading assistant.

The requirement to take and pass the Series 25 Examination will apply to all current and prospective Trading Assistants. The new interpretation to Rule 35, as proposed, shall require new Trading Assistants to attend three-months of training (including on-the-job and prescribed classroom instruction provided by the Exchange) before taking the exam. New Trading Assistants will not be permitted to perform functions until passing the examination. Current Trading Assistants will have one year to pass the examination<sup>5</sup> and will not be required to complete classroom training. If, however, a current Trading Assistant fails the Series 25 Examination twice, he or she will be required to attend the classroom training before retaking the exam. The NYSE states that it intends to publish this new interpretation as an Interpretation Memorandum for inclusion in the Exchange's *Interpretation Handbook*.

#### III. Discussion

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.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(c)(3)(B) of the Act.<sup>7</sup>

<sup>4</sup> The Series 25 Examination itself is the subject of a separate filing. See Securities Exchange Act Release No. 40944 (January 13, 1999).

<sup>5</sup> The Exchange plans to implement this proposed rule change on March 15, 1999. Therefore, current Trading Assistants will have until March 15, 2000 to pass the examination. Telephone call between Mary Anne Furlong, Director, Rule and Interpretative Standards, NYSE and Kelly McCormick, Attorney, Division of Market Regulation, SEC, dated January 13, 1999.

<sup>6</sup> In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(c)(3)(B).