

Securities and Exchange Commission

§ 240.19c-4

privileges on this exchange have been extended.

(Secs. 2, 3, 6, 11, 17, 19, 23, Pub. L. 78-291, 48 Stat. 881, 882, 885, 891, 897, 898, 901, as amended by secs. 2, 3, 6, 14, 16, 18, Pub. L. 94-29, 89 Stat. 97, 104, 110, 137, 146, 155 (15 U.S.C. 78b, 78c, 78f, 78k, 78q, 78s, 78w, as amended by Pub. L. 94-29 (June 4, 1975)); sec. 7 Pub. L. 94-29, 89 Stat. 111 (15 U.S.C. 78k-1))

[43 FR 1328, Jan. 9, 1978]

§ 240.19c-3 Governing off-board trading by members of national securities exchanges.

The rules of each national securities exchange shall provide as follows:

(a) No rule, stated policy or practice of this exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any member to effect any transaction otherwise than on this exchange in any reported security listed and registered on this exchange or as to which unlisted trading privileges on this exchange have been extended (other than a put option or call option issued by the Options Clearing Corporation) which is not a covered security.

(b) For purposes of this rule,

(1) The term *Act* shall mean the Securities Exchange Act of 1934, as amended.

(2) The term *exchange* shall mean a national securities exchange registered as such with the Securities and Exchange Commission pursuant to section 6 of the Act.

(3) The term *covered security* shall mean (i) Any equity security or class of equity securities which

(A) Was listed and registered on an exchange on April 26, 1979, and

(B) Remains listed and registered on at least one exchange continuously thereafter;

(ii) Any equity security or class of equity securities which

(A) Was traded on one or more exchanges on April 26, 1979, pursuant to unlisted trading privileges permitted by section 12(f)(1)(A) of the Act, and

(B) Remains traded on any such exchange pursuant to such unlisted trading privileges continuously thereafter; and

(iii) Any equity security or class of equity securities which

(A) Is issued in connection with a statutory merger, consolidation or similar plan or reorganization (including a reincorporation or change of domicile) in exchange for an equity security or class of equity securities described in paragraph (b)(3)(i) or (ii) of this rule,

(B) Is listed and registered on an exchange after April 26, 1979, and

(C) Remains listed and registered on at least one exchange continuously thereafter.

(4) The term *reported security* shall mean any security or class of securities for which transaction reports are collected, processed and made available pursuant to an effective transaction reporting plan.

(5) The term *transaction report* shall mean a report containing the price and volume associated with a completed transaction involving the purchase or sale of a security.

(6) The term *effective transaction reporting plan* shall mean any plan approved by the Commission pursuant to § 240.11Aa3-1 (Rule 11Aa3-1 under the Act) for collecting, processing and making available transaction reports with respect to transactions in an equity security or class of equity securities.

[45 FR 41134, June 18, 1980]

§ 240.19c-4 Governing certain listing or authorization determinations by national securities exchanges and associations.

(a) The rules of each exchange shall provide as follows: No rule, stated policy, practice, or interpretation of this exchange shall permit the listing, or the continuance of the listing, of any common stock or other equity security of a domestic issuer, if the issuer of such security issues any class of security, or takes other corporate action, with the effect of nullifying, restricting or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock of such issuer registered pursuant to section 12 of the Act.

(b) The rules of each association shall provide as follows: No rule, stated policy, practice, or interpretation of this association shall permit the authorization for quotation and/or transaction

reporting through an automated inter-dealer quotation system (“authorization”), or the continuance of authorization, of any common stock or other equity security of a domestic issuer, if the issuer of such security issues any class of security, or takes other corporate action, with the effect of nullifying, restricting, or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock of such issuer registered pursuant to section 12 of the Act.

(c) For the purposes of paragraphs (a) and (b) of this section, the following shall be presumed to have the effect of nullifying, restricting, or disparately reducing the per share voting rights of an outstanding class or classes of common stock:

(1) Corporate action to impose any restriction on the voting power of shares of the common stock of the issuer held by a beneficial or record holder based on the number of shares held by such beneficial or record holder;

(2) Corporate action to impose any restriction on the voting power of shares of the common stock of the issuer held by a beneficial or record holder based on the length of time such shares have been held by such beneficial or record holder;

(3) Any issuance of securities through an exchange offer by the issuer for shares of an outstanding class of the common stock of the issuer, in which the securities issued have voting rights greater than or less than the per share voting rights of any outstanding class of the common stock of the issuer.

(4) Any issuance of securities pursuant to a stock dividend, or any other type of distribution of stock, in which the securities issued have voting rights greater than the per share voting rights of any outstanding class of the common stock of the issuer.

(d) For the purpose of paragraphs (a) and (b) of this section, the following, standing alone, shall be presumed not to have the effect of nullifying, restricting, or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock:

(1) The issuance of securities pursuant to an initial registered public offering;

(2) The issuance of any class of securities, through a registered public offering, with voting rights not greater than the per share voting rights of any outstanding class of the common stock of the issuer;

(3) The issuance of any class of securities to effect a bona fide merger or acquisition, with voting rights not greater than the per share voting rights of any outstanding class of the common stock of the issuer.

(4) Corporate action taken pursuant to state law requiring a state’s domestic corporation to condition the voting rights of a beneficial or record holder of a specified threshold percentage of the corporation’s voting stock on the approval of the corporation’s independent shareholders.

(e) *Definitions.* The following terms shall have the following meanings for purposes of this section, and the rules of each exchange and association shall include such definitions for the purposes of the prohibition in paragraphs (a) and (b), respectively, of this section:

(1) The term *Act* shall mean the Securities Exchange Act of 1934, as amended.

(2) The term *common stock* shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which, by statute or by its terms, is a common stock (*e.g.*, a security which entitles the holders thereof to vote generally on matters submitted to the issuer’s security holders for a vote).

(3) The term *equity security* shall include any equity security defined as such pursuant to Rule 3a11-1 under the Act (17 CFR 240.3a11-1).

(4) The term *domestic issuer* shall mean an issuer that is not a “foreign private issuer” as defined in Rule 3b-4 under the Act (17 CFR 240.3b-4).

(5) The term *security* shall include any security defined as such pursuant to section 3(a)(10) of the Act, but shall exclude any class of security having a preference or priority over the issuer’s common stock as to dividends, interest payments, redemption or payments in liquidation, if the voting rights of such securities only become effective as a

result of specified events, not relating to an acquisition of the common stock of the issuer, which reasonably can be expected to jeopardize the issuer's financial ability to meet its payment obligations to the holders of that class of securities.

(6) The term *exchange* shall mean a national securities exchange, registered as such with the Securities and Exchange Commission pursuant to section 6 of the Act, which makes transaction reports available pursuant to Rule 11Aa3-1 under the Act (17 CFR 240.11Aa3-1); and

(7) The term *association* shall mean a national securities association registered as such with the Securities and Exchange Commission pursuant to section 15A of the Act.

(f) An exchange or association may adopt a rule, stated policy, practice, or interpretation, subject to the procedures specified by section 19(b) of the Act, specifying what types of securities issuances and other corporate actions are covered by, or excluded from, the prohibition in paragraphs (a) and (b) of this section, respectively, if such rule, stated policy, practice, or interpretation is consistent with the protection of investors and the public interest, and otherwise in furtherance of the purposes of the Act and this section.

[53 FR 26394, July 12, 1988]

240.19c-5 Governing the multiple listing of options on national securities exchanges.

(a) The rules of each national securities exchange that provides a trading market in standardized put or call options shall provide as follows:

(1) On and after January 22, 1990, but not before, no rule, stated policy, practice, or interpretation of this exchange shall prohibit or condition, or be construed to prohibit or condition or otherwise limit, directly or indirectly, the ability of this exchange to list any stock options class first listed on an exchange on or after January 22, 1990, because that options class is listed on another options exchange.

(2) During the period from January 22, 1990, to January 21, 1991, but not before, no rule, stated policy, practice, or interpretation of this exchange shall

prohibit or condition, or be construed to prohibit or condition or otherwise limit, directly or indirectly, the ability of this exchange to list up to ten classes of standardized stock options overlying exchange-listed stocks that were listed on another options exchange before January 22, 1990. These ten classes shall be in addition to any option on an exchange-listed stock trading on this exchange that was traded on more than one options exchange before January 22, 1990.

(3) On and after January 21, 1991, but not before, no rule, stated policy, practice, or interpretation of this exchange shall prohibit or condition, or be construed to prohibit or condition or otherwise limit, directly or indirectly, the ability of this exchange to list any stock options class because that options class is listed on another options exchange.

(b) For purposes of paragraph (a)(2) of this Rule, if any options class is delisted from an options exchange as a result of a merger of the equity security underlying the option or a failure of the underlying security to satisfy that exchange's options listing standards, then the exchange is permitted to select a replacement option from among those standardized options overlying exchange-listed stocks that were listed on another options exchange before January 22, 1990.

(c) For purposes of this Rule, the term *exchange* shall mean a national securities exchange, registered as such with the Commission pursuant to Section 6 of the Securities Exchange Act of 1934, as amended.

(d) For purposes of this Rule, the term *standardized option* shall have the same meaning as that term is defined in Rule 9b-1 under the Securities Exchange Act of 1934, as amended, 17 CFR 240.9b-1.

(e) For purposes of this Rule, the term *options class* shall have the same meaning as that term is defined in Rule 9b-1 under the Securities Exchange Act of 1934, as amended, 17 CFR 240.9b-1.

[54 FR 23976, June 5, 1989]