

Dated: October 15, 2003.

Jonathan G. Katz,

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

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### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Cincinnati Stock Exchange To Amend Article IV of Its By-Laws Pertaining to Its Listing Standards

October 10, 2003.

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> notice is hereby given that on September 12, 2003 the Cincinnati Stock Exchange ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 proposes to amend Article IV of its By-Laws pertaining to its listing standards, including the addition of requirements applicable to audit committees of listed companies. The text of the proposed rule change is set forth below. Text in brackets indicates material to be deleted, and text in italics indicates material to be added.<sup>3</sup>

\* \* \* \* \*

By-Laws

#### Article IV

[Prohibitions or Limitations on Access to the Exchange or Member Services]

*Securities Listed on the Exchange*

Section 1. Listing of Securities

##### 1.1. Applications

All applications for listing on the Exchange will be submitted to the

Exchange's Secretary on a form prescribed by the Exchange.

##### 1.2. Procedure

The Secretary of the Exchange shall refer such applications to the Exchange's [Listing]Securities Committee. In passing on applications, the [Listing]Securities Committee shall determine whether the applicant meets the requirements for listing and, in making such determination, the Committee shall adhere to the following procedures:[set forth in Section 6, paragraphs (c)-(e) of Article II of these By-Laws.]

*(a) Applications received by the Exchange's Secretary shall be referred to the Securities Committee and, if a majority of the Committee is satisfied that the applicant is qualified for listing pursuant to the provisions of this Article, the Committee shall promptly notify the Secretary of the Exchange of such determination, and the Secretary shall promptly notify, in writing, the applicant of the Committee's determination, and the applicant will be approved for listing on the Exchange.*

*(b) If a majority of the Securities Committee is not satisfied that the applicant is qualified for listing pursuant to the provisions of this Article, the Committee shall promptly notify the Secretary of the Exchange of such determination, and the Secretary shall promptly notify, in writing, the Board and the applicant of the grounds for denying listing. Within 30 days of such notification, the Board may reverse the determination of the Securities Committee that the applicant is not qualified for listing; provided, however, that if at the end of the 30-day period a majority of the Board has not specifically reversed the Committee's determination, the Secretary of the Exchange shall promptly notify the applicant, in writing, of the grounds for denying listing. If during the 30-day period a majority of the Board specifically determines to reverse the Securities Committee's determination to deny listing, the Board shall promptly notify the Secretary of the Exchange who shall promptly notify the applicant that the Board has granted the applicant's application for listing.*

*(c) In considering applications for listing, the Securities Committee, the Board and the Exchange's Secretary shall adhere to the following procedures:*

*(1) The Securities Committee shall act upon the application within 90 days of receipt of such application.*

*(2) Where a listing application is granted by the Board, the Secretary shall promptly notify the applicant.*

*(3) The applicant shall be afforded an opportunity to be heard on the denial of listing pursuant to the provisions of Exchange Rules governing adverse action.*

*(4) The applicant must satisfy the requirements of subsection 1.4 of this Article IV, including any portion of paragraphs (b) or (c) of Rule 10A-3 of the Act pertaining to audit committees, which cannot be exempted or otherwise waived other than as provided within the rules.*

##### 1.3. Requirements

No security shall be listed on the Exchange unless the issuer thereof shall meet the following requirements:

[(1)](a) In the case of common stock have:

(1) net tangible assets of at least \$2,000,000;

[(b) have](2) at least 1000 recordholders of the issue for which trading privileges have been granted or are requested;

[(c) have](3) outstanding at least 250,000 shares for which trading privileges have been granted or are requested exclusive of the holdings of officers and directors;

[(d) have](4) demonstrated net earnings of \$200,000 annually before taxes for two prior years excluding non-recurring income; and

[(e) have](5) been actively engaged in business and have been so operating for at least three (3) consecutive years

[(2)(a)](b) In the case of preferred stock[.]:

(1) [t]The listing of issues is considered on a case by case basis, in light of the suitability of the issue for [continuous auction market]trading on the Exchange. The Exchange, as a general rule, will not consider listing the convertible preferred stock of a company unless its common stock is also listed on the Exchange[, NYSE or AMEX], another exchange that is registered pursuant to Sections 6 of the Act or a facility of a national securities association registered pursuant to Section 15A of the Act.

[(b)2] [Companies]An issuer applying for listing of a preferred stock [are]is expected to meet the following criteria:

(i) The [Company]issuer appears to be in a financial position sufficient to satisfactorily service the dividend requirements for the preferred stock and meets the requirements set forth in [P]paragraph 1.3.[(1)a] above.

(ii) In the case of an issuer whose common stock is [traded]listed on the CSE, [NYSE or AMEX,] another exchange that is registered pursuant to Section 6 of the Act or a facility of a national securities association

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

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

<sup>3</sup> The rule text as set forth herein includes several minor technical revisions that the Exchange has committed to correct by filing an amendment. Telephone conversation between Jennifer M. Lamie, CSE, and Ira L. Brandriss, Division of Market Regulation, Commission, on October 3, 2003.