

issuer's board of directors would be required to adopt and approve a formal written charter for its audit committee. The charter would be required, at a minimum, to specify the scope of the audit committee's responsibilities and how the committee carries out those responsibilities. The charter would also be required to specify that the audit committee is responsible for ensuring that the outside auditor submits on a periodic basis to the audit committee a formal written statement delineating all relationships between the outside auditor and the issuer, that the audit committee is responsible for actively engaging in a dialogue with the outside auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the outside auditor, and for recommending that the issuer's board of directors take appropriate action in response to the outside auditor's report to satisfy itself of the outside auditor's independence.

As part of the initial listing process, when subsequent changes to the audit committee composition occur, and otherwise approximately once each year, each issuer would be required to provide the Exchange with written confirmation regarding any determinations made regarding the independence of its audit committee members, its compliance with the financial literacy and accounting or related financial management expertise requirements, and its annual review and reassessment of the adequacy of the audit committee charter. An issuer would also be required to notify the Exchange promptly after an executive officer or the issuer becomes aware of any material noncompliance by the issuer with the requirements of Subsection 1.4 of Article IV of CSE's By-Laws or Rule 10A-3 of the Act.⁸

Proposed Subsection 1.4 of Article IV of the By-Laws also contains provisions for opportunities to cure defects and compliance dates. If a member of an issuer's audit committee ceases to be independent in accordance with the requirements of Rule 10A-3 of the Act⁹ for reasons outside the committee member's reasonable control, that person, with notice by the issuer to the Exchange, would be permitted to remain an audit committee member of the issuer until the earlier of the next annual shareholders meeting of the issuer or one year from the occurrence of the event that caused the committee member to be no longer independent. For securities listed on the Exchange

prior to the approval of Subsection 1.4, an issuer would have until the earlier of its first annual shareholders meeting after January 15, 2004, or October 31, 2004, to cure any defects that would be the basis for a prohibition from continued listing.

In addition, the Exchange is conducting a review of its listing standards designed to strengthen the corporate governance practices of listed companies. In the course of that review, the Exchange intends in the near future to adopt additional listing policies and requirements pertaining to issuer corporate governance, including standards for independence of board directors, independence and responsibilities of nominating, compensation and other board committees, codes of conduct, and shareholder approval of equity-compensation plans. As indicated in paragraph (f) of proposed Subsection 1.4, these additional policies and requirements will be reflected within the Exchange Rules.

Finally, CSE is also proposing to make certain other changes to Article IV of its By-Laws. Specifically, the Exchange is seeking to:

1. Change the name of Article IV from "Prohibitions or Limitations on Access to the Exchange or Member Services" to "Securities Listed on the Exchange";

2. Change the name of the Exchange Committee that reviews listing applications from Listing Committee to Securities Committee in Section 1.2;

3. Include the application review procedures within the listing procedures set forth in Section 1.2 rather than cross-referencing the procedures contained in Article II;

4. Change the reference to suitability for "continuous auction market trading" in Subsection 1.3 to suitability for "trading on the Exchange". Replace references to "company" and "companies" with "issuer" and a reference to "CSE" with "Exchange". In addition, correct a reference to "traded" in paragraph (b)(2)(ii) to "listed";

5. Make reference to securities that are subject to listing criteria that is contained in the Exchange Rules as not being subject to the general listing requirements contained in paragraph (e) of Subsection 1.3;

6. Make changes to Section 2 to provide that the Exchange may extend unlisted trading privileges to any security for which unlisted trading privileges have been granted pursuant to Section 12(f) of the Act, not just securities listed on the NYSE and Amex;

7. Make changes to Subsection 3.2 to clarify that an issuer seeking to delist its securities may be required to submit the

proposed withdrawal to the security holders for their vote at a meeting for which proxies are solicited provided the stock is not also listed on another national securities exchange having similar requirements or on a facility of a national securities association having similar requirements. Previously the text simply referenced other exchanges; and

8. Make certain other miscellaneous grammatical, punctuation and numbering changes throughout Article IV. Cross-references will be updated accordingly.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act¹⁰ in general, and furthers the objectives of section 6(b)(5) of the Act¹¹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received in connection with the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- (A) By order approve such proposed rule change, or

- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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.

⁸ 17 CFR 240.10A-3.

⁹ 17 CFR 240.10A-3.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).