

10. The Applicants also state that the transactions will conform substantially to the conditions of Rule 17a-7. To the extent that the In-Kind Transactions do not comply fully with the provisions of paragraphs (a) and (b) of Rule 17a-7, the Applicants assert that the terms of the In-Kind Transactions provide the same degree of protection to the participating companies and their shareholders as if the In-Kind Transactions satisfied all of the conditions enumerated in Rule 17a-7. The Applicants also assert that the proposed In-Kind Transactions by the Applicants does not involve overreaching on the part of any person concerned. Furthermore, the Applicants represent that the proposed In-Kind Transactions will be consistent with the policies of the Tactical Asset Allocation Portfolio and the Asset Director Portfolio, as recited in OneAmerica's current registration statement.

11. The Applicants assert that the In-Kind Transactions are consistent with the general purposes of the 1940 Act and that the In-Kind Transactions do not present any of the conditions or abuses that the 1940 Act was designed to prevent.

#### Conclusion

Applicants assert that, for the reasons summarized above, the Commission should grant the requested order approving the Substitutions and the In-Kind Transactions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-19782 Filed 8-5-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46282; File No. SR-NYSE-2001-33]

### Self-Regulatory Organizations; New York Stock Exchange; Order Granting Approval of a Proposed Rule Change Relating to Issuing Book-Entry Securities

July 30, 2002.

On April 24, 2001, the New York Stock Exchange ("NYSE") filed with the Securities and Exchange Commission ("Commission") and on April 16, 2002, and May 7, 2002, amended proposed rule change SR-NYSE-2001-33 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was

published in the **Federal Register** on May 28, 2002.<sup>2</sup> One comment letter in support of the proposed rule change was received.<sup>3</sup> For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### I. Description

Over the years the NYSE has accommodated the market's desire to immobilize or dematerialize securities by amending its rules to provide alternatives to issuing physical certificates. For example, in 1988 the NYSE amended Section 501.02 of its Listed Company Manual ("Manual") to allow the issuance of bonds on a book-entry-only basis by using global certificates held by a depository.<sup>4</sup> To further book-entry delivery and settlement of trades between brokers, the U.S. markets, including NYSE, adopted uniform rules in the 1990s that required securities listed on U.S. exchanges and securities associations to be depository-eligible<sup>5</sup> and that required members of exchanges and securities associations to settle trades in "depository-eligible" securities through book-entry movements at registered clearing agencies.<sup>6</sup> In 1996, the NYSE amended section 501.01 of the Manual to rescind its policy of requiring issuers to provide certificates to record holders with respect to distributions and instead allowed issuers to offer shareholders a choice of receiving certificates or holding their positions in book-entry form directly with the issuer through a direct registration system offered by a depository.<sup>7</sup>

<sup>2</sup> Securities Exchange Act Release No. 45970, (May 21, 2000), 67 FR 102 (May 28, 2002).

<sup>3</sup> Letter from C. Michael Viviano, Chairman, Securities Industry Association, Operations Committee; Chairman and Chief Executive Officer, Bank of New York Clearing Services L.L.C. (June 4, 2002).

<sup>4</sup> Securities Exchange Act Release No. 25872 (June 30, 1988), 53 FR 25560 [File No. SR-NYSE-88-07] (order approving permitting the use of a single global certificate for bonds).

<sup>5</sup> NYSE Rule 227. Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909 [File No. SR-NYSE-95-19] (order approving adopting of Rule 227 requiring issuers' shares to be depository eligible).

<sup>6</sup> NYSE Rule 226. Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679 [File Nos. SR-AMEX-93-07; SR-BSE-93-08; SR-MSE-93-03; SR-NASD-93-11; SR-NYSE-93-13; SR-PSE-93-04; and SR-PHLX-93-09] (order approving SRO rules requiring book-entry settlement of securities transactions).

<sup>7</sup> Securities Act Release No. 37937 (November 8, 1996), 61 FR 58728 [File No. SR-NYSE-96-29] (order approving rule change requiring participation in a direct registration system for certain stock distributions). Using the direct registration system operated by The Depository Trust Company ("DRS"), an investor is able to hold a book-entry position on the books of the issuer, to update stock ownership information directly with an issuer's transfer agent, and to electronically

In recent months, several non-U.S. issuers have approached the NYSE expressing an interest in listing their ordinary shares on the NYSE. These non-U.S. issuers would prefer or are required by home country law to issue in dematerialized format. In order for the NYSE to accommodate such non-U.S. issuers' need or preference to dematerialize or immobilize their shares, the exchange must amend its Manual.

Section 501 of the Manual sets out the certification requirements for stocks and bonds, including when certificates must be distributed and what form stock certificates must take. Section 501.01 of the Manual currently does not require a listed company to send stock certificates to a record holder unless the record holder requests one if (1) the stock distribution relates an issuance pursuant to a stock dividend reinvestment plan, stock dividend reinvestment purchase plan, or a similar stock purchase plan and (2) regardless of the nature of the distribution, the company's stock is included in DRS. Because a listed company has to send a record holder a certificate upon request, Section 501.01 did not afford the issuer the ability to completely dematerialize securities positions or immobilize securities positions where certificates would not be available to anyone other than the depository.

The rule change will amend Section 501.01 to allow a listed company to issue in a dematerialized or completely immobilized form and therefore not send stock certificates to record holders, provided the company's stock is issued pursuant to a dividend reinvestment program, stock purchase plan, or similar plan or is included in DRS.<sup>8</sup> The rule change will not mandate dematerialization or immobilization but rather will allow listed companies the option of issuing traditional stock certificates or not. Securities that have traditionally been issued in a dematerialized or completely immobilized form, such as bonds and derivatives, will continue to be covered by the specific rules applicable to them and will not be required to be in DRS.<sup>9</sup> Dematerialized or immobilized equities listed on the NYSE will continue to be subject to the requirement of Rules 226 and 227 that the issue must be depository eligible and must be settled

transfer shares between the books of the issuer and his or her broker.

<sup>8</sup> Listed companies incorporated in states that require certification may not be able to issue their securities in an immobilized or dematerialized format.

<sup>9</sup> Sections 501.11 and 703.16 of the Manual respectively.

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

through book-entry movements at registered clearing agencies.

The NYSE believes the rule change recognizes the desirability of providing issuers with the efficiencies and safety of not issuing certificates while still providing shareholders with the ability to hold book-entry securities in their own name through DRS. The NYSE notes that the successful expansion of the DRS since its implementation in the mid-1990s should readily accommodate non-U.S. companies trading ordinary shares in this country.

The NYSE also believes that in accommodating the immobilization or dematerialization of common stock, it is aligning itself with the rules and policies of the other U.S. markets. The National Association of Securities Dealers Automated Quotations System ("Nasdaq") does not have rules requiring certification or dictating the format of issues that are certificated. The American Stock Exchange ("Amex"), which had rules similar to the traditional NYSE rules, eliminated all those rules as part of a sweeping set of amendments intended to more closely align the Amex and the Nasdaq listing requirements following the acquisition of the Amex by the National Association of Securities Dealers ("NASD") in 1998. As a result, both the Amex and Nasdaq are fully able to accommodate a listing applicant that wishes to immobilize or dematerialize their common stock.

## II. Discussion

Section 6(b)(5) of the Act requires that the rules of an exchange are designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and in general, to protect investors and the public interest.<sup>10</sup> For the reasons set forth below, the Commission believes that the NYSE's rule change is consistent with the exchange's obligations under the Act.

In an effort to facilitate a more efficient and secure marketplace, including the trading and clearance and settlement of securities transactions, the Commission encourages the use of alternatives to holding securities in certificated form. The Commission believes that use of certificates results in unacceptable delays and expenses in processing securities and securities transactions and raises safety concerns because of lost, stolen, or forged certificates. The difficulty with lost certificates was dramatically demonstrated during the September 11, 2001, tragedy when thousand of

certificates were destroyed in vaults maintained by broker-dealers. Allowing NYSE listed companies to issue securities in a dematerialized or immobilized format should increase efficiencies and safety in both the trading and settling of securities. As a result, industry participants and investors should see reduced costs.

Furthermore, now that DRS is operational, investors have the ability to register their securities in their own name on the issuer's records and to efficiently transfer using book-entry movements their securities positions to their brokers. As the Securities Industry Association ("SIA") noted in their comment letter supporting NYSE's rule change, DRS with the Profile System enhancement now provides equity securities a similar level of portability as other book-entry securities such as treasury securities, municipal bonds, mutual funds, and derivatives. Using DRS, an investor can register a position directly with the issuer and can electronically move the position to a broker of choice for disposition within the current settlement timeframes as well as any future shortened settlement cycle.

## III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 6 of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NYSE-2001-33) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-19783 Filed 8-5-02; 8:45 am]

BILLING CODE 8010-01-P

## DEPARTMENT OF STATE

[Public Notice 4079]

### Culturally Significant Objects Imported for Exhibition Determinations: "Magna Graecia: Greek Art From South Italy and Sicily"

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to

the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibition, "Magna Graecia: Greek Art from South Italy and Sicily," imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Cleveland Museum of Art, Cleveland, Ohio, from on or about October 27, 2002, to on or about January 5, 2003, the Tampa Museum of Art, Tampa, Florida, from on or about February 2, 2003, to on or about April 20, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619-5997, and the address is United States Department of State, SA-44, Room 700, 301 4th Street, SW., Washington, DC 20547-0001.

Dated: July 26, 2002.

**Miller Crouch,**

*Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 02-19837 Filed 8-6-02; 8:45 am]

BILLING CODE 4710-08-P

## DEPARTMENT OF STATE

[Public Notice 4075] (TE)

### Bureau of Consular Affairs; Certain Foreign Passports Validity

In accordance with section 212(a)(7)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(7)(B)), a nonimmigrant alien who makes an application for a visa or for admission into the United States is required to possess a passport that: (1) Is valid for a minimum of six months beyond the date of the expiration of the initial period of the alien's admission into the United States or contemplated initial period of stay and, (2) authorizes the alien to return to the country from which he or she came, or to proceed to

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

<sup>11</sup> 17 CFR 200.30-3(a)(12).