

Assurance Program, of Appendix B "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," of 10 CFR Part 50; and/or (b) represent inadequate corrective action for known inadequacies contrary to the requirements of Criterion XVI, Corrective Action, of Appendix B, of 10 CFR Part 50.]

Address the required written responses to the U.S. Nuclear Regulatory Commission, *ATTN:* Document Control Desk, Washington, D.C. 20555-0001, under oath or affirmation under the provisions of Section 182a, Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f). In addition, send a copy to the appropriate regional administrator.

Related Generic Communications

(1) Information Notice 96-32, "Implementation of 10 CFR 50.55a(g)(6)(ii)(A), Augmented Examination of Reactor Vessel," June 5, 1996.

(2) Information Notice 93-20, "Thermal Fatigue Cracking of Feedwater Piping to Steam Generators," March 24, 1993.

(3) Generic Letter 88-01, "NRC Position on IGSCC in BWR Austenitic Stainless Steel Piping," January 25, 1988.

Backfit Discussion

This generic letter transmits an information request pursuant to the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f) to determine if licensees are taking appropriate action to qualify future UT examinations. To the extent that the actions requested in this letter may result in corrective actions taken by addressees that are considered backfits, the backfits are justified under the compliance exception of the backfit rule, i.e., 10 CFR 50.109 (a)(4)(i).

Dated at Rockville, Maryland, this 23rd day of December, 1996.

For the Nuclear Regulatory Commission.
David B. Matthews,
Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38077; File No. SR-Amex-96-43]

Self-Regulatory Organizations; Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange, Inc., Relating to Extending Trading Hours to Permit the Execution of Matched Orders for Exchange-Listed Securities Which Are Part of a Basket Trade Being Done in Large Part on the New York Stock Exchange's Crossing Session II

December 23, 1996.

I. Introduction

On November 12, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to extend its trading hours to permit the execution of aggregate-price orders for Exchange-listed securities which are part of a basket trade being done in large part on the New York Stock Exchange's ("NYSE") Crossing Session II.

Notice of the proposal was published for comment and appeared in the Federal Register on November 26, 1996.³ No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, on an accelerated basis.

II. Description of the Proposal

When the Exchange implemented an After-Hours Trading ("AHT") facility for single-sided and matched closing price orders,⁴ it determined that it would not, at that time, establish an after-hours crossing session for aggregate-price basket trades similar to the NYSE's Crossing Session II.⁵ Some member

organizations, however, have noted that the Exchange's lack of such a facility has impaired their ability to effect program trades which include Amex-listed stocks. For example, if a firm wanted to do an after-hours program trade based on the S&P 500 Index, it would cross the component stocks listed on the NYSE during Crossing Session II; it would cross those listed on Nasdaq in-house; but it would have to cross most of the Amex-listed component stocks overseas. Because most of the Amex-listed stocks included in the S&P 500 Index are not 19c-3 securities (that is, they were exchange-listed on or prior to April 26, 1979), Exchange Rule 5 (Off Board Trading) applies and prohibits member firms from acting as principal in an upstairs trade in these securities executed in the United States. Due to the time differences, the Exchange believes that executing the Amex component of the basket trade overseas creates administrative difficulties and increased costs for member firms engaging in these transactions.

The Exchange is proposing to create a facility to permit members and member organizations to execute on the Exchange, after normal trading hours, aggregate-price orders for Amex-listed securities which are part of a larger aggregate-price basket trade otherwise being done in the NYSE's Crossing Session II.⁶ Operationally, the Exchange's AHT facility for aggregate-price orders would work in the same manner as the NYSE's Crossing Session II. The Exchange's AHT facility for aggregate-price orders would be available from 4 p.m. to 5:15 p.m. (New York p.m. (New York time). After the

facsimile form listing the number of stocks and shares to be traded and the total dollar value of the basket trade. Transactions effected during Crossing Session II are aggregated and reported on Tape A as an administrative message at the close of the session. Only the aggregate share volume and dollar amount of all programs executed during the session are reported. No reports are printed with respect to the individual stocks comprising the baskets. Notwithstanding the foregoing, members and member organizations effecting trades in Crossing Session II are required to submit to the NYSE's Market Surveillance by T+3 the names and the number of shares of each NYSE-listed stock comprising each basket. See Securities Exchange Act Release Nos. 33992 (May 2, 1994), 59 FR 23907 (May 9, 1994); and 29237 (May 31, 1991), 56 FR 24853 (June 3, 1991) ("NYSE Crossing Session II Approval Orders").

⁶ The Exchange anticipates commencing operation of the facility no earlier than January 2, 1997. The Exchange will provide notice to, and educate, its membership regarding the rules of the facility prior to their implementation. See Letter from William Floyd-Jones, Assistant General Counsel, Legal & Regulatory Policy Division, Amex, to John Ayanian, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated December 18, 1996 ("Date of Implementation Letter").

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 37965 (November 19, 1996), 61 FR 60135 (November 26, 1996) ("Release No. 37965").

⁴ See Securities Exchange Act Release Nos. 29515 (August 2, 1991), 56 FR 37736 (August 8, 1991); 23263 (May 25, 1993), 58 FR 31558 (June 3, 1993); 33561 (February 1, 1994), 59 FR 5789 (February 8, 1994); and 33993 (May 2, 1994), 59 FR 23902 (May 9, 1994).

⁵ As part of its overall after-hours trading plan, the NYSE created a facility for the execution of aggregate-price basket orders involving at least 15 NYSE-listed securities with an aggregate minimum value of one million dollars ("Crossing Session II"). In this facility, which is available from 4:00 p.m. to 5:15 p.m., New York time, a member transmits matched buy and sell orders to the NYSE on a

close of the 9:30 a.m. to 4 p.m. trading session, dual Amex/NYSE members and member organizations using the facility would transmit to the NYSE Service Desk a facsimile form to which would specify the number of stocks, aggregate number of shares and the dollar value of the securities to be crossed. NYSE personnel will review the order, and if eligible, execute the NYSE portion of the basket. NYSE Service Desk personnel then will fax the order to the Amex Service Desk. Amex personnel will review the order and execute the Amex portion of the basket.⁷ The trade would be executed, and a report transmitted by facsimile to the initiating firm. At the end of the session (5:15 p.m. New York time) the total number of shares⁸ and the dollar value of all baskets traded during the session would be aggregated separately by Amex and NYSE personnel for their respective Exchange-listed and NYSE-listed components of the baskets, and the totals would be transmitted to the SIAC for publication on the "Tape" as administrative messages. A print of the NYSE listed portion of the basket would appear on Tape B reflecting the Exchange-listed portion of the basket transactions.

On T+3 members will report to the Exchange the names and number of shares of each Amex-listed stock included in the basket. On T+4, the Exchange will publish this information in its Daily Sales Report.

The Amex will waive all transaction fees in connection with the execution of aggregate price orders for Amex-listed securities which are part of an aggregate-price basket trade otherwise being done in the NYSE's Crossing Session II.

III. Commission Finding and Conclusions

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, and, in particular, the

requirements of section 6(b)(5)⁹ and 11A¹⁰ of the Act. The Commission believes that the Exchange's proposal to extend its trading hours to permit the execution of matched orders for Exchange-listed securities which are part of a basket trade being done in large part on the NYSE Crossing Session II, is reasonably designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission believes that the Exchange's proposal will benefit investors by providing members and member organizations the ability to cross the Amex component(s) of the larger basket trade on the Exchange's AHT facility. The Commission notes that for the Amex-listed portion of the basket to be eligible for execution as an aggregate price order on the Exchange's AHT facility, as proposed herein, the larger basket must be eligible for NYSE's Crossing Session II,¹¹ and submitted for execution as an aggregate-price order in that exchange's Off-Hours Trading Facility.

Although the execution of an aggregate-price order on the Exchange's AHT facility does not provide a traditional auction market for basket trades, the reality of the marketplace is that these trades currently are being effected off-exchange and, frequently, overseas. By bringing these institutional trades within the purview of U.S. regulatory bodies, the marketplace and the investing public generally benefits, for example, through the Commission and Exchange oversight, trade reporting, and consolidated surveillance.

The Amex has also requested exemptive relief from the requirement of Rule 11Aa3-1(b)(2)(iv) under the Act that the Exchange disseminate on a consolidated basis trading volume for each of the Amex-listed component securities in the aggregate-price order executed on the Exchange's AHT facility.¹² The Amex has proposed a plan under which the Exchange would collect the required trade detail information by T+3 and would publish this information in the Daily Sales Report on T+4. The Commission staff is

currently reviewing the Exchange's request for exemptive relief from certain provisions of Rule 11Aa3-1(b)(2)(iv) under the Act. The Commission's approval of the proposed rule change is contingent upon the Commission's granting of the necessary Rule 11Aa3-1(b)(2)(iv) exemptive relief.

The Amex also requested an exemption from Rule 10a-1 under the Act to permit, subject to certain conditions, short sales of certain orders during the AHT session without complying with the "tick" provisions of the Rule.¹³ The Commission is currently reviewing the Exchange's request.

The Commission expects the Exchange, through the use of its surveillance procedures, to monitor for, and report to the Commission, any patterns of manipulation or trading abuses or unusual trading activity resulting from the AHT facility.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. The Commission notes that Exchange represents that operationally, the Exchange's AHT facility for aggregate-price orders would work in the same manner as the NYSE's Crossing Session II, which the Commission approved in 1994.¹⁴ The Commission also notes that the Exchange will implement the AHT facility for aggregate-price orders no earlier than January 2, 1997.¹⁵ The Commission believes that by granting accelerated approval the Exchange may, in a timely manner, notify and educate its membership regarding the rules of the AHT facility approved in this release, prior to their implementation. Additionally, no comments were received on the proposal, which was subject to the full 21 day notice and comment period.¹⁶

Accordingly, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the proposed rule change on an accelerated basis.

IV. Conclusion

Based on the foregoing, the Commission finds that approval of the Exchange's proposal to extend its

⁷ See Letter from William Floyd-Jones, Assistant General Counsel, Legal & Regulatory Policy Division, Amex, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated December 10, 1996 ("Amex Letter").

⁸ The Amex erroneously indicated in its original filing that the number of stocks in the basket would be transmitted to the Securities Industry Automation Corporation ("SIAC") for publication on the Tape as administrative text messages. The Amex states that, as is currently the case with NYSE's Crossing Session II facility, only the total number of shares and dollar value of such shares in the basket will be transmitted to SIAC on trade date for dissemination. See Amex Letter, *supra* note 7.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78k-1.

¹¹ See NYSE Crossing Session II Approval Orders, *supra* note 5.

¹² See Letter from William Floyd-Jones, Assistant General Counsel, Legal & Regulatory Policy Division, Amex, to Larry Bergmann, Senior Associate Director, Office of Risk Management and Control, Market Regulation, Commission, dated November 11, 1996 ("Exemptive Relief Letter").

¹³ See Exemptive Relief Letter, *supra* note 12. See also Letter from William Floyd-Jones, Assistant General Counsel, Legal & Regulatory Policy Division, Amex, to Blair Corkran, Senior Special Counsel, Office of Risk Management and Control, Market Regulation, Commission, dated December 4, 1996.

¹⁴ See NYSE Crossing Session II Approval Orders, *supra* note 5.

¹⁵ See Date of Implementation Letter *supra* note 6.

¹⁶ See Release No. 37965, *supra* note 3.

trading hours to permit the execution of aggregate-price orders for Exchange-listed securities which are part of a basket trade being done in large part on the New York Stock Exchange's ("NYSE") Crossing Session II is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change (File No. SR-Amex-96-43) is approved, contingent upon the Commission's granting of the necessary Rule 11Aa3-1(b)(2)(iv) exemptive relief, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-33272 Filed 12-30-96; 8:45 am]

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[Release No. 34-38080; File No. SR-CBOE-96-78]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Circuit Breaker Halts

December 23, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 18, 1996, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change relating to certain market-wide circuit breaker provisions as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 CBOE proposes to amend CBOE Rule 6.3B (Trading Halts Due to Extraordinary Market Volatility—"circuit breakers") to increase the levels of decline in the Dow Jones Industrial Average ("DJIA")³ that would trigger a

trading halt on the Exchange pursuant to that Rule.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set for in sections (A), (B), and (C) below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to conform the circuit breaker trading halt procedures of the CBOE to the circuit breaker trading halt procedures of the New York Stock Exchange, Inc. ("NYSE"), as such procedures are currently proposed to be amended by the NYSE. CBOE Rule 6.3B, which sets forth the CBOE's circuit breaker trading halt procedures, currently contains substantially the same provisions as are contained in NYSE Rule 80B, which sets forth the NYSE's circuit breaker trading halt procedures. On December 11, 1996, the NYSE submitted a rule filing to the Commission designated as File No. SR-NYSE-96-38, which proposed to modify the NYSE's circuit breaker trading halt procedures by proposing to amend NYSE Rule 80B. The CBOE's proposed amendments to Rule 6.3B are intended to maintain the conformity between the circuit breaker trading halt procedures of the CBOE and the NYSE by proposing to amend Rule 6.3B in the same manner that the NYSE is proposing to amend NYSE Rule 80B in File No. SR-NYSE-96-38.

CBOE Rule 6.3B currently provides, in part, that if the DJIA falls 250 or more points below its previous trading day's closing value, trading in all securities on the Exchange will halt for thirty minutes. It further provides that, if on the same day the DJIA drops 400 or more points from its previous trading day's close, trading on the Exchange will halt for one hour. In conformity with the NYSE, the Exchange is now proposing to amend CBOE Rule 6.3B to

increase the foregoing circuit breaker levels from 250 points to 350 points and from 400 points to 550 points.

In conformity with the NYSE, the adoption of amendments to CBOE Rule 6.3B would be contingent upon the adoption of amended rules or procedures substantively identical to CBOE Rule 6.3B by (i) all United States stock exchanges and the National Association of Securities Dealers with respect to the trading of stocks, stock options, and stock index options; and (ii) all United States futures exchanges with respect to the trading of stock index futures and options on such futures.

The CBOE's proposed amendments to Rule 6.3B will serve to maintain the coordinated approach of the NYSE, the CBOE, and other markets to trading halt procedures that are applicable during large, rapid market declines. Various studies of the October, 1987 market break noted that the stock, options, and futures markets are interrelated. And, in addition, the Exchange recognizes the Commission's desire to have coordinated mechanisms across these markets to deal with potential strains that may develop during periods of extreme downward volatility.⁴ Such a coordinated approach is also in accordance with the recommendations contained in the Report of the Presidential Task Force on Market Mechanisms, which recommended, among other things, that circuit breaker mechanisms, in order to be effective, need to be coordinated across stock, stock index futures, and options markets in order to prevent intermarket problems of the kind experienced in October, 1987.⁵

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that amending Rule 6.3B is consistent with these objectives, in that an all-market circuit breaker trading halt requirement at appropriate levels can be

⁴ See Securities Exchange Act Release No. 26198 (October 18, 1988), 53 FR 41637 (October 24, 1988) (Commission order approving proposed rule changes of the CBOE, the National Association of Securities Dealers, Inc., the NYSE, and the American Stock Exchange, Inc. relating to market circuit breakers).

⁵ See *Id.* (citing Report of the Presidential Task Force on Market Mechanisms).

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ "Dow Jones Industrial Average" is a service mark of Dow Jones & Company, Inc.