

Based on this proposed guaranty, and in conjunction with its application to withdraw its Securities from listing and registration on the NYSE, the Company has sought exemption from the Act's reporting requirements as provided in certain circumstances by Section 12(h) of the Act.

- The Company is not obligated by the terms of the indenture under which the Securities were issued or by any other document to maintain the Securities' listing on the NYSE or any other exchange.

The Company has stated in its application to the Commission that it has complied with the requirements of NYSE Rule 500 and that the Exchange has indicated it will not interpose any objection to the withdrawal of the Securities.

Any interested person may, on or before December 7, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42129; File No. SR-Amex-99-26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to Margin and Net Capital Requirements for Members and Clearing Members Participating in Joint Back Office Arrangements

November 10, 1999.

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 July 16, 1999, the American Stock Exchange LLC

("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 Amex proposes to amend Exchange Rule 462, "Minimum Margins," to establish margin and net capital requirements for Amex members and clearing members participating in joint back office ("JBO") arrangements. The test of the proposed rule change is available at the Exchange 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 Amex 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 Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to revise Exchange Rule 462 to establish margin and net capital requirements for JBO participants³ and clearing members. JBO arrangements permit a participating broker-dealer to be deemed self-clearing⁴ for margin purposes and entitle the participating broker-dealer to receive credit on a good faith margin basis.⁵

³ The proposed rule change would apply to Amex members and member organizations that participate in JBO arrangements with JBO clearing members ("JBO participants").

⁴ Under the proposal, JBO participants would not be considered self-clearing for any purpose other than for the extension of credit under Exchange Rule 462, as revised, or under the comparable rules of another self-regulatory organization.

⁵ "Good faith" with respect to margin means, "the amount of margin which a creditor would require in exercising sound credit judgment." See 12 CFR 220.2.

In a 1996 release discussing amendments to Regulation T,⁶ the Board of Governors of the Federal Reserve System ("FRB") placed its reliance on the authority of self-regulatory organizations ("SROs") to ensure the reasonableness of JBO arrangements.⁷ When the Regulation T provision that permits JBO arrangements was first adopted, the FRB assumed there would be a reasonable relationship between the good faith credit a JBO clearing member extended to a JBO participant and the participant's ownership interest in the clearing member. Consequently, the FRB did not establish any explicit requirement for the amount of ownership that each JBO participant should have in the JBO clearing member. However, because Regulation T does not provide a precise ownership standard,⁸ good faith credit has been extended to some "owners" that hold merely a nominal interest in a JBO clearing member.

In conjunction with other SROs and representatives from the securities industry, the Exchange seeks to establish prudent ownership standards for JBO participants and clearing members. These standards would permit the extension of good faith credit to clearing member "owners" only when the owners maintain meaningful assets on deposit with the JBO clearing member, and the clearing member maintains sufficient net capital and risk control procedures to carry the JBO accounts.

a. *Requirements for JBO Participants.* Under the proposal, each JBO participant would be required to be a registered broker-dealer subject to the net capital requirements prescribed by Commission Rule 15c3-1 ("Rule 15c3-1").⁹ JBO participants could not claim the net capital exemption available to option market makers under Commission Rule 15c3-1(b)(1).¹⁰ Instead, JBO participants would be required to deposit and maintain minimum account equity of \$1 million and would be subject to Financial and Operational Combined Uniform Single Report ("FOCUS") filings and certified audits. If the equity in a JBO participant's account fell below \$1 million, the JBO clearing firm would be

⁶ Regulation T is entitled "Credit by Brokers and Dealers." The FRB issued Regulation T pursuant to Section 7(a) of the Act. See 12 CFR 220, *et seq.*

⁷ See Board of Governors of the Federal Reserve System Docket No. R-0772 (April 26, 1996), 61 FR 20386 (May 6, 1996).

⁸ Section 220.7(c) of Regulation T only requires that a JBO clearing firm be "a clearing and servicing broker or dealer owned jointly or individually by other [broker-dealers]." 12 CFR 220.7(c).

⁹ 17 CFR 240.15c3-1.

¹⁰ 17 CFR 240.15c3-1(b)(1).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

required to issue a margin call for additional funds or securities to be satisfied within five business days. Additionally, each JBO participant would be required to satisfy the ownership standards established by the JBO clearing member. To ensure that adequate procedures existed for complying with these requirements, JBO participants would be required to employ or have access to qualified Series 27 principal.¹¹

b. *Requirements for JBO Clearing Members.* The proposed rule change would require each member clearing JBO accounts to notify its Designated Examining Authority in writing of its intention to clear JBO accounts and to comply with additional net capital requirements prescribed by the Exchange. Specifically, a JBO clearing member must maintain either: (1) tentative net capital of \$25 million;¹² or (2) net capital of \$7 million, if the clearing member's primary business is clearing option market maker accounts.¹³ A JBO clearing member that primarily conducts an options market maker clearing business would be required to include the gross deductions calculated for all JBO participant accounts in its ratio of gross options market maker deductions to adjusted net capital.

Under the proposal, a JBO clearing member would be required to adjust its net worth each day by deducting any deficiency between a JBO participant's account equity and the proprietary haircut calculated pursuant to Rule 15c3-1 for the positions maintained in the JBO account. Additionally, clearing members that maintained JBO accounts would be required to ensure that each

JBO participant maintained equity of \$1 million over all related funds. The JBO clearing member would be required to issue a margin call if the JBO participant's account equity fell below the \$1 million threshold. Each JBO clearing member also would be required to establish and maintain written ownership standards for its JBO accounts.¹⁴ Finally, JBO clearing members would be required to develop acceptable risk analysis standards and comply with the requirements of Amex Rule 462.

c. *Margin Requirements for Broker-Dealer Accounts.* Currently, any deficiency between the equity maintained in a proprietary account carried for a broker-dealer and the maintenance margin required by Exchange Rule 462(b)(1) (i.e., 25% of the current market value of securities held "long" in the account) is deducted in computing the net capital of the clearing member organization. To treat introducing broker-dealers and JBO participants similarly, the proposed rule change predicates the deduction to a clearing member organization's net capital upon the haircut requirements of Rule 15c3-1 (i.e., 15% of the current market value for long positions)¹⁵ rather than the 25% maintenance margin requirement under Exchange Rule 462(b)(1).

d. *Margin Requirements for Specialist and Market Maker Accounts.* The proposal would likewise change the manner in which deductions to a clearing member organization's net capital are computed for specialist and market maker accounts. Presently, the amount of any deficiency between the equity in the account carried for a specialist or market maker and the 25% maintenance margin required by Exchange Rule 462(b)(1) is deducted in computing the net capital of the clearing member organization. Under the proposed rule change, the deduction would be based upon the haircut requirements of Rule 15c3-1 (i.e., 15%) rather than the margin requirements under Exchange Rule 462(b)(1) (i.e., 25%).

The same modification would be made to the margin provision governing joint accounts carried by member organizations in which the member

organizations also participate. If the equity maintained in the joint account by other participants is deficient, the proposal would require the clearing member organization to compute the deduction to its net capital based upon the haircut requirements of Rule 15c3-1 rather than the margin requirements of Exchange Rule 462(b)(1).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,¹⁶ in general, and further the objectives of Section 6(b)(5) of the Act,¹⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has neither solicited nor received written comments on 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 the 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

¹¹ The Commission notes that certain broker-dealers subject to Rule 15c3-1(a)(2) (i.e., broker-dealers that carry customer accounts and broker-dealers that introduce customer accounts and receive securities) are eligible for an exemption from NASD Rule 1022(b), which requires such broker-dealers to employ a Series 27 principal. The Exchange's proposal recognizes this class of broker-dealers by providing that broker-dealers participating in JBO arrangements must either employ "or have access to" a qualified Series 27 principal. According to the Exchange, the phrase "or have access to" means that a JBO participant may employ a Series 27 principal on a part-time basis or as a consultant. Telephone conversation between Scott Van Hatten, Legal Counsel, Exchange, and Michael Loftus, Special Counsel, Division of Market Regulation, Commission (November 10, 1999).

¹² The term "tentative net capital" generally refers to a clearing member's net capital before the application of haircuts and undue concentration deductions.

¹³ A clearing member would be deemed to be primarily conducting an options market maker clearing business if at least 60% of the gross haircuts calculated for all options market maker and JBO participant accounts, in aggregate, could be attributed to options market maker transactions.

¹⁴ The Exchange would not require JBO clearing members to establish ownership standards that meet any minimum guidelines in addition to the rules of the Exchange. As a result, clearing members would possess the discretion to develop the ownership criteria governing their JBO accounts. However, should the Exchange learn of any inappropriate ownership standards through its audit and surveillance activities, the Exchange would move to correct the impropriety.

¹⁵ 17 CFR 240.15c3-1.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-99-26 and should be submitted by December 13, 1999.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42128; File No. SR-Amex-99-41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating To an Increase in the Maximum Size of Options Orders Eligible To Be Entered Through the Amex Order File System Into the Amex Options Display Book

November 10, 1999.

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 October 8, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 increase from 100 to 250 the maximum number of equity and index option contracts in an order that may be entered through the Amex Order File System ("AOF") into the Amex Options Display Book ("AODB"). The text of the proposed rule change is available at the Office of the Secretary, Amex 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 Exchange 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 Amex has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The AOF routes orders to specialists' order books and to Auto-Ex, an automatic execution system that executes public customer market and marketable limit orders in options at the best bid or offer displayed at the time the order is entered. Currently, the AOF permits a Member or Member Firm to enter orders for up to 100 option contracts directly into an Exchange specialist's order book (the AODB) from off the Exchange's trading floor.³

Amex proposes to increase the maximum size of options orders that may be entered through the AOF into the AODB from 100 to 250 option contracts.⁴ This increase in maximum

³ The Exchange represents that currently, orders for more than 100 option contracts are communicated by telephone to the floor broker, who seeks to execute that order in the trading crowd. Telephone conversation between Scott Van Hatten, Legal Counsel, Amex and Gordon Fuller, Special Counsel and Gail Fortson, Paralegal Specialist, Division of Market Regulation ("Division"), SEC (October 8, 1999).

⁴ Amex represents that its system capacity is sufficient to accommodate the anticipated increased volume of orders entered into AODB as a result of the increase in maximum order size. Telephone conversation between Scott Van Hatten, Amex, and Gordon Fuller, Special Counsel and Gail Fortson,

size of orders eligible for automated entry into the AODB will permit Members and Member Firms to send a larger percentage of orders directly to a specialist's order book for execution, resulting in increased automated order handling. Amex believes this increased automated order handling will benefit customers as well as Members and Member Firms by expanding the number of option orders eligible for automated handling and promoting the orderly and timely delivery, processing and execution of such orders.

The Exchange represents that AOF/AODB has been successful in enhancing execution and operational efficiencies. It anticipates that the proposed increase in the AOF.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)⁵ of the Act, in general, and furthers the objectives of Section 6(b)(5)⁶ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

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

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The Amex represents that the foregoing rule change effects a change in an Amex order-entry system that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not have the effect of limiting the access to or availability of the system. Therefore, the rule change has become effective pursuant to Section

Paralegal Specialist, Division, SEC (October 8, 1999).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.