circuit breaker parameters under Amex Rule 117 have been reached.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[37] in general and furthers the objectives of Section 6(b)(5)[38] in particular in that 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 regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, and, in general to protect investors and the public interest.

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

The Exchange believes the proposed rule change will impose no burden on competition.

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

The Exchange neither solicited nor received written comments with respect to 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, 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 person, 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 in the Commission's Public Reference Room in Washington, D.C. 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–98–49 and should be submitted by May 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[39]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10760 Filed 4–28–99; 8:45 am]

BILLING CODE 8010–01–M

[37] 15 U.S.C. 78f.

[38] 15 U.S.C. 78f(b)(5).

[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41315; File No. SR–NYSE–98–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the New York Stock Exchange, Inc. To Amend MOC/LOC Order Entry and Cancellation Procedures During a Regulatory Halt

April 20, 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 November 25, 1998, the New York Stock Exchange, Inc. (''NYSE'' 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. On March 19, 1999, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the market-on-close (''MOC'') and limit-on-close (''LOC'') procedures permitting entry and cancellation of MOC/LOC orders after 3:40 p.m. when a regulatory trading halt is in effect.

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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Cancellation of MOC/LOC Orders During a Regulatory Halt. Under Exchange policy, a trading halt in an Exchange-listed stock may be put into effect when the Exchange determines that a regulatory condition exists in that stock.[4] The purpose of a regulatory halt is to allow the market the time to absorb and react to the news or market conditions. Trading halts may also be instituted when non-regulatory conditions exist.[5]

Current Exchange procedures[6] utilized for MOC and LOC orders prohibit Exchange members from

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Donald Siemer, Director, Market Surveillance, NYSE to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), SEC, dated March 15, 1999 (''Amendment No. 1''). In Amendment No. 1, the Exchange provided information regarding the Exchange's regulatory trading halt policy and clarified that the Exchange does not seek to amend its regulatory trading halt policy in this proposed rule change.

[4] A regulatory condition may exist if news is pending about the stock or if time is needed for new dissemination about the stock. When instituting a regulatory halt, the Exchange follows procedures contained in the section on Trading Halt and Suspension Procedures of the Consolidated Tape Association Plan, which was filed with the Commission. *See* Securities Exchange Act Release No. 10787 (May 10, 1994), 39 FR 17799; and Securities Exchange Act Release No. 16983 (July 16, 1980), 45 FR 49414 (July 24, 1980).

[5] A non-regulatory condition may exist if a stock has an order imbalance of significant size or when there are equipment problems affecting the trading in a stock. *See* Securities Exchange Act Release No. 38225 (January 31, 1997), 62 FR 5875 (February 7, 1997) and Exchange Information Memo No. 97–23 (May 8, 1997).

[6] For a description of the Exchange's current procedures *see* Securities Exchange Act Release No. 40094 (June 15, 1998), 63 FR 38230 (July 15, 1998) and Exchange Information Memo No. 98–20 (June 22, 1998).

canceling MOCs and LOCs after 3:40 p.m., except in the case where the member entering the order made a legitimate error or the member must cancel the order to comply with the provisions of Exchange Rule 80A(c).[7] Therefore, if a regulatory halt for a particular stock is in effect at 3:40 p.m. or occurs after that time, market participants are not permitted to cancel their MOC and LOC orders in that stock, even if the stock reopens at a price substantially different from the last sale.

The Exchange is proposing that when a regulatory halt is in effect at 3:40 p.m. or occurs after that time, members may cancel MOC and LOC orders until 3:50 p.m. or until the stock reopens, whichever occurs first. The Exchange is not proposing any changes in the case of a *non*-regulatory halt with respect to this position.

The Exchange believes that this exception to the no-cancellation policy for MOC/LOC orders is appropriate because of the need of market participants to be able to respond to information that was not available before 3:40 p.m. Furthermore, by limiting the period of time for canceling MOC and LOC orders to 3:50 p.m. at the latest, specialists will have sufficient time to arrange an orderly close.

Entry of MOC/LOC Orders During a Regulatory Halt. Current Exchange procedures prohibit members from entering MOC and LOC orders after 3:40 p.m. except to offset a published imbalance. If any type of halt is in effect at 3:40 p.m., no imbalance of MOC or LOC orders would be published,[8] and, therefore, no MOC or LOC orders could be entered after 3:40 p.m. If a regulatory halt occurs after an imbalance has been published at 3:40 p.m., market conditions may differ substantially from those that existed at the time of the imbalance publication.

Therefore, the Exchange is proposing that if a regulatory halt is in effect at 3:40 p.m. or occurs after that time, members may enter MOC and LOC orders on either side of the market until 3:50 p.m. or until the stock reopens, whichever occurs first. If an order imbalance is published following a regulatory halt, MOC and LOC order entry would be permitted only to offset the published imbalance.

Order Imbalance Publication After Any Trading Halt. Finally, under current Exchange policy, if a stock reopens at or before 3:50 p.m. following any type of halt, the specialist in that stock will publish an imbalance of 50,000 shares or more (or less than 50,000 shares with the approval of a Floor Official) as soon as practicable after 3:50 p.m. The Exchange is proposing that if the stock opens after 3:50 p.m., the specialist must publish an imbalance of 50,000 shares or more (or less than 50,000 shares with the approval of a Floor Official), if practicable.[9] If a halt occurs after 3:50 p.m., the stock will not reopen on that day and MOC and LOC orders will not be executed.

The Exchange intends to issue an Information Memo to inform its members of the revised MOC/LOC proceures.

2. Statutory Basis

The Exchange believes the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[10] that the rules of an Exchange be 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.

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 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 self-regulatory organization 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 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 N.W., Washington, D.C. 20549–0609. Copies of the submission, 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 person, 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 in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–42 and should be submitted by May 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10761 Filed 4–28–99; 8:45 am]

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[7] For example, Exchange Rule 80A(c) requires index arbitrage orders in any stock in the Standard & Poor's 500 Stock Price Index entered on the Exchange to be stabilizing (*i.e.,* the order must be marked either buy minus or sell plus) when the Dow Jones Industrial Average advances or declines by the 2% point level determined by the Exchange each quarter. *See* Securities Exchange Act Release No. 41041 (February 11, 1999), 64 FR 8424 (February 19, 1999). When Rule 80A(c) goes into effect, a MOC index arbitrage order without the appropriate tick restriction must be canceled unless it is related to an expiring derivative index product.

[8] A specialist is required to publish tape indications to reopen a stock after a trading halt. The Exchange's policy on tape indications requires a minimum of ten minutes to elapse between the first indication and the reopening of a stock and a minimum of five minutes to elapse between the last indication and the reopening of a stock, provided that a minimum of ten minutes has elapsed since the first indication. *See* Securities Exchange Act Release No. 38225 (January 31, 1997), 62 FR 5875 (February 7, 1997) and Exchange Information Memo No. 97–23 (May 8, 1997).

[9] The decision of whether an imbalance shall be published for a stock opening after 3:50 p.m. will be made by an Exchange Floor Director or other Exchange Floor Official. Telephone call between Betsy Lampert Minkin, Senior Project Specialist, NYSE and Kelly McCormick, Attorney, Division, SEC, on January 13, 1999.

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).