

from interested persons. While comment is being solicited on the proposed amendment, the Commission has determined to make the proposed amendment summarily effective upon publication of notice on a temporary basis.³

I. Description of the Amendment

The purpose of the proposed amendment is to: (1) Recognize the transition to decimal pricing, which began on August 28, 2000; (2) reduce the Pre-Opening price change parameter for certain Securities from $\frac{1}{8}$ point \$(0.125) to \$.10; and (3) expand the Pre-Opening price change parameters for certain stocks, which are reported on Network B of the Consolidated Tape Association, similar to those stocks reported on network A.⁴

II. Discussion

The Commission has made a preliminary determination that the proposed amendment is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to, and perfection of the mechanisms of, a national market system. While comment is being solicited on the proposed amendment, the Commission therefore will make the amendment summarily effective on a temporary basis upon publication of notice of the amendment.⁵

The Commission believes that temporary effectiveness of the amendment is consistent with the public interest, the protection of investors, and the maintenance of fair orderly markets because the amendment is necessary to accommodate decimal pricing, the new method of pricing for equity securities and options. The changes to the ITS Plan are necessary to accommodate this transition to decimals by providing for intermarket trading in decimals. On June 8, 2000, the Commission ordered the self-regulatory organizations ("SROs") to submit a plan

that will begin phasing in decimal pricing in equity securities and options on or before September 5, 2000, and complete this phase in no later than April 9, 2001.⁶ Since this order, the SROs have submitted a phase-in plan and rule filings necessary to implement decimal pricing. The Sixteenth Amendment to the ITS Plan is another step in the process of the market-wide conversion to decimal pricing.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed amendment, including whether the proposed Plan amendment 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 submission, all subsequent amendments, all written statements with respect to the proposed Plan amendment change that are filed with the Commission, and all written communications relating to the proposed Plan amendment 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 at the Commission's Public Reference Room. Copies of such Plan amendment will also be available for inspection and copying at the principal office of the ITS. All submissions should refer to File No. 4-208 and should be submitted by September 29, 2000.

IV. Conclusion

The Plan amendment is hereby made summarily effective on a temporary basis not to exceed January 8, 2001, pursuant to Exchange Act Rule 11Aa3-2(c)(4).⁷

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release no. 34-43229; File No. SR-Amex-00-51]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by the American Stock Exchange LLC To Extend for an Additional 90 Days Its Pilot Program Relating to Facilitation Cross Transactions

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 August 29, 2000, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

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

The Amex proposes to extend for an additional 90 days its pilot program relating to facilitation cross transactions, described in detail in Part II.A. below.

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 III below. The Exchange 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 extend for an additional 90 days its pilot program relating to member firm facilitation cross transactions approved by the

³ Exchange Act Rule 11Aa3-2(c)(4) allows the Commission to summarily put into effect on a temporarily basis a Plan amendment "if the Commission finds that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act."

⁴ The Commission notes that the Fifteenth Amendment to the restated ITS Plan will be published for comment on September 1, 2000. The Sixteenth Amendment contains text that is proposed to be added to the ITS Plan through the Fifteenth Amendment. Among other things, this text recognizes the operation of Remote Specialists on the BSE and PCX. See Securities Exchange Act Release No. 43240 (September 1, 2000).

⁵ See Exchange Act Rules 11Aa3-2(c)(4).

⁶ See Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000).

⁷ 17 CFR 240.11Aa3-2(c)(4).

⁸ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Commission on June 2, 2000.³ Revised Commentary .02(d) to Amex Rule 950(d) establishes a pilot program to allow facilitation cross transactions in equity options.⁴ The pilot program entitles a floor broker to, under certain conditions, cross a specified percentage of a customer order with a member firm's proprietary account before market makers in the crowd can participate in the transaction. The provision generally applies to orders of 400 contracts or more. However, the Exchange is permitted to establish smaller eligible order sizes, on a class by class basis, provided that the eligible order size is not for fewer than 50 contracts.

Under the current program, when a trade takes place at the market provided by the crowd, all public customer orders on the specialist's book or represented in the trading crowd at the time the market was established must be satisfied first. Following satisfaction of any customer orders on the specialist's book, the floor broker is entitled to facilitate up to 20% of the contracts remaining in the customer order. When a floor broker proposes to execute a facilitation cross at a price between the best bid and offer provided by the crowd in response to his initial request for a market—and the crowd then wants to take part or all of the order at the improved price—the floor broker is entitled to priority over the crowd to facilitate up to 40% of the contracts. If the floor broker has proposed the cross at a price between the best bid and offer provided by the crowd in response to his initial request for a market, and the trading crowd subsequently improves the floor broker's price, and the facilitation cross is executed at that improved price, the floor broker would only be entitled to priority to facilitate up to 20% of the contracts.

The program also provides that if the facilitation transaction takes place at the specialist's quoted bid or offer, any participation allocated to the specialist pursuant to Amex trading floor practices would apply only to the number of contracts remaining after all public customer orders have been filled and the member firm's crossing rights have been exercised.⁵ However, in no case

could the total number of contracts guaranteed to the member firm and the specialist exceed 40% of the facilitation transaction.

In the almost three months since the pilot program began, the Exchange has found it to be generally successful. The Exchange seeks to extend the pilot program for an additional 90 days, pending consideration of a related proposed rule change it has filed with the Commission⁶ concerning revisions to the program that the Amex believes will provide further incentive for price improvement by using different procedures to determine specialist and registered option trader participation. The related proposal would also make the program permanent.

Because the pilot program is due to expire on August 31, 2000, the Amex has requested that the Commission expedite review of, and grant accelerated approval to, the proposal to extend it, pursuant to Section 19(b)(2) of the Act.⁷

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁸ in general and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

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

The Exchange believes that 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

No written comments were solicited or received with respect to the proposed rule change.

III. 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, NW., Washington, DC 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 the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR-Amex-00-51 and should be submitted by September 29, 2000.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

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.¹⁰ In its original approval of the pilot program,¹¹ the Commission detailed its reasons for finding its substantive features consistent with the Act, and, in particular, the requirements of Sections 6(b)(5) and 6(b)(8) of the Act.¹² The Commission has previously approved rules on other exchanges that establish substantially similar programs on a permanent basis,¹³ and the extension of the pilot program on the Amex—pending review of its related proposal to revise the program and make it permanent—raises no new regulatory issues for consideration by the Commission.

The Commission finds good cause, consistent with Sections 6(b) and 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The proposal will allow the pilot program, otherwise due to expire on August 31, 2000, to remain effective and in place uninterrupted while revisions are being

³ See Securities Exchange Act Release No. 42894 (June 2, 2000), 65 FR 36850 (June 12, 2000).

⁴ Facilitation cross transactions occur when a floor broker representing the order of a public customer of a member firm crosses that order with a contra side order from the firm's proprietary account.

⁵ Amex trading floor practices provide specialists with a greater than equal participation in trades that take place at a price at which the specialist is on parity with registered options traders in the crowd. These practices are subject to a separate filing that seeks to codify specialist allocation practices. See

Securities Exchange Act Release No. 42964 (June 20, 2000), 65 FR 39972 (June 28, 2000).

⁶ See File No. SR-Amex-00-49, available for inspection at the Commission's Public Reference Room.

⁷ 15 U.S.C. 78s(b)(2).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ See *supra*, note 3.

¹² 15 U.S.C. 78f(b)(5) and (b)(8).

¹³ See, e.g., Securities Exchange Act Release Nos. 42835 (May 26, 2000), 65 FR 35683 (June 5, 2000), and 42848 (May 26, 2000), 65 FR 36206.

considered, and does not raise any new regulatory issues.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved on an accelerated basis as a pilot program through November 29, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43233; File No. SR-Amex-00-03]

Self-Regulatory Organizations; American Stock Exchange LLC.; Order Approving Proposed Rule Change Relating to the Reporting of Options Transactions

August 30, 2000.

I. Introduction

On February 22, 2000, the American Stock Exchange LLC ("Amex" or the "Exchange") filed 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 a proposed rule change relating to the reporting of options transactions. The Amex filed Amendment No. 1 to this proposal on June 12, 2000.³ The proposed rule change, as amended, was published for comment in the **Federal Register** on June 27, 2000.⁴ The Commission received no comments on the proposal. This order approves the proposal, as amended.

II. Description of the Proposal

The Amex proposes to adopt a new rule, Amex Rule 992, to require the reporting of options transactions within 90 seconds of the execution. In Amendment No. 1, the Exchange

confirmed that any transaction not reported within 90 seconds after execution would be designated as "late" and would be a violation of proposed Amex Rule 992. In addition, pursuant to the proposed rule, a pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade.

Currently, the Amex Options Display Book ("AODB") handles the reporting of options transactions.⁵ The AODB processes orders routed to it both electronically and manually. Orders routed electronically are either executed automatically by the Exchange's Auto-Ex system or executed by the specialist through the AODB.⁶ These options transactions are immediately reported to the Amex Option Market Data System, which processes all Amex trades, and the Options Price Reporting Authority, which disseminates trade information to the Amex's members and the investing public through vendors. Orders manually routed to the Exchange through a floor broker and executed in the trading crowd are reported to the specialist or his clerk for entry into the AODB and processed in the same manner as electronically routed and executed trades.⁷

III. Discussion

The Commission finds that the proposal is consistent with the requirements of the Act.⁸ In particular, the Commission finds that the proposed rule change furthers the objectives of section 6(b)(5),⁹ in that it is designed to prevent fraudulent 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.

The Commission believes that the proposal, which requires the reporting of all options transactions within 90 seconds of execution, should help to

⁵ According to the Exchange, the AODB is an electronic order book and execution-processing system that was adopted to replace and improve upon what was once a paper-based specialist's book.

⁶ The Exchange estimates that 60-70% of options transactions are electronically routed and executed orders that are immediately reported and printed on the tape.

⁷ An example of such a trade is one that does not include either the specialist or a customer limit order as a party to the trade.

⁸ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b)(5).

prevent fraudulent and manipulative acts and practices, as well as to promote just and equitable principles of trade. The Commission believes that the proposed rule change, as amended, should enable the Exchange to provide accurate trade information to investors more efficiently. The enhanced transparency associated with timely trade reporting should facilitate price discovery for investors and assist the Amex's surveillance of its members' trading in listed options.

IV. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-Amex-00-03) is approved, as amended.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43231; File No. SR-Amex-00-41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the American Stock Exchange LLC Relating to Rules Regarding Decimal Pricing

August 30, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 7, 2000, the American Stock Exchange LLC "Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Amex filed the proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ The Commission is

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The Commission agreed to waive the 5-day pre-filing notice requirement because the proposal implements decimal pricing pursuant to the "Decimal Implementation Plan for the Equities and Options Markets" ("Plan") submitted to the Commission on July 24, 2000.

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Claire P. McGrath, Vice President and Special Counsel, Derivative Securities, Amex to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated June 9, 2000 ("Amendment No. 1"). In Amendment No. 1, the Exchange clarified the proposed rule text and confirmed that a member's failure to report an options transaction within 90 seconds would be considered a violation of proposed Amex Rule 992.

⁴ Securities Exchange Act Release No. 42966 (June 20, 2000), 65 FR 39638 (June 27, 2000).