

### 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-01-10 and should be submitted by March 28, 2001.

### IV. Commission Findings and Order Granting Accelerated Approval of the 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.<sup>10</sup> In its original approval of the pilot program,<sup>11</sup> 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.<sup>12</sup> The Commission has previously approved rules on other exchanges that establish substantially similar programs

<sup>10</sup> 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).

<sup>11</sup> See *supra*, note 3.

<sup>12</sup> 15 U.S.C. 78f(b)(5) and (b)(8).

on a permanent basis,<sup>13</sup> 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 February 27, 2001, to remain effective and in place uninterrupted while revisions are being 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 May 28, 2001. For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44017; File No. SR-ISE-00-20]

### Self Regulatory Organizations; Order Approving Proposed Rule Change by the International Securities Exchange LLC Relating to Limitations on Orders

February 28, 2001.

#### I. Introduction

On November 20, 2000, the International Securities Exchange LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend ISE Rule 717 relating to limitations on orders.<sup>3</sup> The proposed rule change was published for comment

<sup>13</sup> 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 (June 7, 2000).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The ISE filed its proposed rule change on November 20, 2000. On December 18, 2000, the ISE filed Amendment No. 1 that entirely replaced the original rule filing.

in the **Federal Register** on January 16, 2001.<sup>4</sup> The Commission received no comments on the proposed rule change. This order approves the proposal.

#### II. Description of the Proposal

Exchange market makers must be firm at their quotations for all orders, although they can set different sizes for customer and broker-dealer orders. When the size of a particular quote is exhausted, the Exchange's trading system automatically moves the quote to an inferior price according to parameters preset by the market maker. However, the system moves only the quotation in the options series in which there was a trade, leaving the market maker exposed to the risk that multiple orders may be executed nearly simultaneously in many series of the same option. This situation increases an ISE market maker's "delta risk" (the amount of underlying stock that would be necessary to hedge the options position), due to exposure across multiple series. This could result in ISE market makers providing more liquidity than may be available in the underlying stock. Under the ISE's proposed new paragraph (h), members shall not cause the entry of more than one order every fifteen seconds for the account of the same beneficial owner in options on the same underlying security.

The Exchange also proposes to amend paragraph (g) of ISE Rule 717, which currently prohibits an Electronic Access Member ("EAM") from entering an order for any other member of the Exchange. The amendment will limit the scope of ISE Rule 717(g) to only prohibit EAMs from entering orders for ISE market maker accounts.

#### III. Discussion

The Commission has reviewed the ISE's proposed rule change and finds, for the reasons set forth below, that the proposal is consistent with the requirements of section 6 of the Act<sup>5</sup> and the rules and regulations thereunder applicable to a national securities exchange.

The Commission notes that amending ISE Rule 717 to prohibit members from causing the entry of more than one order for the same beneficial account within a fifteen second period should help reduce ISE market maker risk exposure. The Commission believes that fifteen seconds is a sufficient time period to allow market makers to change their quotations following an execution, while at the same time not unduly long

<sup>4</sup> See Securities Exchange Act Release No. 43803 (January 4, 2001), 66 FR 3624 (January 16, 2001).

<sup>5</sup> 15 U.S.C. 78f.

as to place a burden on investors seeking to execute transactions on the Exchange.

The Commission also notes that the amendment to ISE Rule 717(g), which will limit the scope of that rule solely to prohibit EAMs from entering orders for ISE market maker accounts, recognizes that there are legitimate reasons why a member may enter orders on the Exchange through an EAM. These reasons can vary. For example, some EAMs may desire a temporary means of routing orders to the ISE until they are connected directly to the Exchange. In addition, a few members have clearing relationships with EAMs and thus route orders through those EAMs.

Therefore, the Commission finds that the proposed revisions to ISE Rule 717 are consistent with section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of section 6(b)(5)<sup>7</sup> in particular, in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.<sup>8</sup>

#### IV. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-ISE-00-20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44018; File No. SR-NYSE-01-04]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., to Extend the Pilot Regarding Shareholder Approval of Stock Option Plans Through March 31, 2001

February 28, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 26, 2001, 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. 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 extend, until March 31, 2001, the effectiveness of the amendments to section 312.01, 312.03 and 312.04 of the Exchange's Listed Company Manual with respect to the definition of a "broadly based" stock option plan, which amendments were approved by the Commission on a pilot basis (the "Pilot") on June 4, 1999.<sup>3</sup>

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

##### 1. Purpose

On July 12, 2000, the Exchange filed a proposed rule change seeking to extend the effectiveness of the Pilot until September 30, 2003.<sup>4</sup> Following receipt of comments from interested parties and the SEC staff, on January 19, 2001, the Exchange filed an Amendment No. 1 to that filing proposing to shorten the three-year extension until September 30, 2001, and to amend the definition of "broadly based" under the Exchange's rule.<sup>5</sup> Prior to the filing of Amendment No. 1, the Pilot had been extended to provide the Commission and the Exchange with additional time to review and evaluate comment letters submitted to the Commission regarding the Extension Proposal.<sup>6</sup>

The Exchange now proposes to further extend the effectiveness of the Pilot until March 31, 2001 to provide the Commission and the Exchange with additional time to complete the review and evaluation of the above-referenced comment letters.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act,<sup>7</sup> which requires, among other things, that the rules of an exchange be 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, 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

<sup>4</sup> Securities Exchange Act Release No. 43111 (August 2, 2000), 65 FR 49046 (August 10, 2000) ("Extension Proposal").

<sup>5</sup> See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC dated January 18, 2001 and accompanying amended Form 19b-4 ("Amendment No. 1").

<sup>6</sup> See Securities Exchange Act Release No. 43647 (November 30, 2000), 65 FR 77407 (December 11, 2000) (proposal to extend the effectiveness of the pilot through February 28, 2001). See also Securities Exchange Act Release No. 43329 (October 2, 2000), 65 FR 58833 (October 2, 2000) (proposal to extend the effectiveness of the pilot period through November 30, 2000).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 41479, 64 FR 31667 (June 11, 1999).