

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland.**

*Deputy Secretary.*

[FR Doc. 01-27018 Filed 10-25-01; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 29, 2001: closed meetings will be held on Monday, October 29, 2001 and Tuesday, October 30, 2001, at 10:00 a.m.

Commissioner Unger, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i) 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matter of the closed meetings scheduled for Monday, October 29, 2001 and Tuesday, October 30, 2001, will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Formal orders.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: October 23, 2001.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 01-27106 Filed 10-24-01; 12:20 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44958; File No. SR-Amex-2001-71]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange LLC Relating to Priority on Multiple Price Transactions

October 19, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 6, 2001, 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 950 to add Commentary .05 relating to priority on multiple price transactions. The following is the text of proposed Commentary .05 (all new language):

*.05 Purchase Priority. If a member purchases one or more option contracts of a particular series at a particular price or prices such member shall, at the next lower price at which a member other than an Exchange Broker or specialist representing a customer agency order entitled to priority pursuant to Rule 950(c), have priority in purchasing up to the equivalent number (or a reasonably large number) of option contracts of the same series that he purchased at the higher price or prices, but only if his bid is made promptly and the purchase so effected represents the opposite side of a transaction with the same order or offer as the earlier purchase or purchases. Sale Priority. If a member sells one or more option contracts of a particular series at a particular price or prices, he shall, at the next higher price at which a member other than an Exchange Broker or specialist representing a customer agency order entitled to priority pursuant to Rule 950(c), have priority in selling up to the equivalent number (or a reasonably larger number) of option contracts of the same series that he sold at the lower price or prices, but only if*

*his offer is made promptly and the sale so effected represents the opposite side of a transaction with the same order or bid as the earlier sale or sales.*

*Two or more members entitled to priority. If the bids or offers of two or more members are both entitled to priority in accordance with paragraph (a) or paragraph (b), it shall be afforded them insofar as practicable, on a pro-rata basis.*

#### II. Self-Regulatory Organization's Statement of the Purpose of, and the 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 amend Exchange Rule 950 by adding Commentary .05 to provide for multiple price priority in the execution of equity option transactions. The Exchange believes that the proposal is designed to promote price improvement in the execution of equity option orders and provide incentives to registered options traders ("ROTs") and specialists in the execution of such orders by providing ROTs and specialists with priority in the execution of those orders in which a ROT or specialist improves upon the displayed quotation.

In particular, proposed Commentary .05 provides for member price priority with respect to purchases (sales) up to an equivalent number of options contracts of the same series purchased at the higher price or prices (or sold at the lower price or prices for sales) if the bid (offer) is made promptly and the purchase (sale) effected represents the opposite side of a transaction with the same order or offer (bid) as the earlier purchases (sale). A floor broker or specialist representing a public customer order entitled to priority pursuant to Amex Rule 950(c) will continue to retain such priority under proposed Commentary .05.

For example, application of the proposal would operate as follows: If the displayed quotation is 6 (bid), 6.50

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

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

(asked), and a market or marketable limit order to sell 100 contracts is received, a ROT or specialist that executes part of the 100 contract order at the improved price of 6.20 would be granted priority in executing additional contracts in a quantity up to the number of contracts executed at the improved price. Therefore, in this example, because the ROT stepped up to bid 20 contracts at a price of 6.20, he would be granted priority in the execution of up to 20 contracts at 6. In each instance, the specialist or ROT that betters the market would be able to receive a fill at the next lower or inferior price. Moreover, if two (2) or more members were entitled to priority for certain multiple price transactions, such priority would be provided on a pro rata basis to the extent practicable.

The Exchange believes the proposal will provide incentive for both ROTs and specialists to improve upon displayed quotations. As a result, the Exchange believes the proposal will enhance competitive market making on the Exchange and offer additional price improvement for customer orders. The Exchange believes that the proposed rule is similar to rules that are currently in place at other options exchanges.<sup>3</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of section 6(b)(5),<sup>5</sup> 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 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 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*

Amex has 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

Because the foregoing rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from September 6, 2001, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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 submission 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 in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to SR-Amex-2001-71 and should be submitted by November 16, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 01-26957 Filed 10-25-01; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44961; File No. SR-NYSE-2001-34]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Amending NYSE Rule 103A To Delete an Unused Measure of Specialist Performance**

October 19, 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 August 29, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which items have been prepared by the NYSE. 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 NYSE proposes to delete one of the performance measures for specialists under Exchange Rule 103A. The test of the proposal is below. Deletions are in brackets. Specialist Stock Reallocation and Member Education and Performance Rule 103A(a)(1) In order to ensure that a high level of market quality and performance in Exchange listed securities is achieved and maintained, the Market Performance Committee, under the authority granted in its Charter, shall develop and administer systems and procedures, including the determination of specific kinds of data to be reviewed and the establishment of appropriate standards and measurements of performance, designed to measure specialist performance and market quality on a periodic basis to determine whether or not all or particular specialist units need to take actions to improve their performance. Based on such determinations, the Market Performance

<sup>3</sup> See CBOE Rule 6.47 and PCX Rule 6.76.

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</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.