

therefore an affiliated person of Sirrom. Because Dr. Morris also owns half of the general partner of Sirrom Ltd., and he and his family beneficially own approximately 55% of Sirrom Ltd., Sirrom Ltd. is deemed an affiliated person of an affiliated person of Sirrom and as such is subject to section 57(a). The purchase by Sirrom of the Minority Interest from Sirrom Ltd. is therefore prohibited by section 57(a).

3. Section 57(c) of the Act provides that the SEC may exempt a proposed transaction from section 57(a) if evidence establishes that (i) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable, fair, and do not involve overreaching of the BDC or its shareholders on the part of any person concerned; (ii) the proposed transaction is consistent with the policy of the BDC, as recited in its filings with the SEC, its registration statement, and its reports to shareholders; and (iii) the proposed transaction is consistent with the general purposes of the Act.

4. Applicant represents that the proposed acquisition serves a valid business purpose. After its review of the transaction, applicant's board determined that (a) the acquisition of Harris Williams was accretive to pro forma combined operating earnings for the first quarter of 1996 and was anticipated to be accretive to Sirrom's earnings for the full 1996 year; (b) Harris Williams' small-business merger and acquisition advisory services are strategically complementary to Sirrom's overall small business lending business, providing significant opportunities for cross-selling both to customers and referral sources, as well as enhancing Sirrom's overall ability to realize a liquidity event on its portfolio investments; and (c) Harris Williams provides a source for significant additional fee income to Sirrom without the funding and capital requirements associated with Sirrom's lending business, providing diversification in income and growth potential.

5. Applicant represents that the terms of the Acquisition are the result of arm's length negotiations and special procedures to assure fairness. Sirrom's board and management realized that any proposed sale of Harris Williams to Sirrom would involve a potential conflict of interest. Therefore, Dr. Morris recused himself from all discussions and negotiations relating to the transactions. Sirrom's board also conditioned the consummation of the transaction on the receipt, prior to the solicitation of Sirrom's shareholders, of an opinion from an investment banking firm that the transaction was fair, from

a financial point of view, to Sirrom. For these reasons, applicants represent that the transaction satisfies the requirements of section 57(c).

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

Margaret H. McFarland,
Deputy Secretary.

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Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing and Trading of Indexed Term Notes

July 17, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 15, 1996, the American Stock Exchange, Inc. ("Amex" 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 Amex. 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 approve for listing and trading under Section 107A of the Amex *Company Guide*, Indexed Term Notes based in whole or in part on changes in the value of 29 healthcare/biotechnology industry securities.

The text of the proposed rule change is available at the Office of the Secretary, the 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 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

Pursuant to Section 107A of the Amex *Company Guide*, the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.¹ The Amex now proposes to list for trading under Section 107A of the *Company Guide*, Indexed Term Notes whose value, in whole or in part, will be tied to an index consisting of 29 actively traded healthcare/biotechnology industry securities (the "Index").²

The Indexed Term Notes will be non-convertible debt securities and will conform to the listing guidelines under Section 107A of the *Company Guide*. Although a specific maturity date will not be established until the time of the offering, the Indexed Term Notes will provide for maturity within a period of not less than one nor more than seven years from the date of issue. Indexed Term Notes may provide for periodic payments and/or payments at maturity based in whole or in part on changes in the value of the Index. At maturity holders of the Indexed Term Notes will receive not less than 90% of the initial issue price. Consistent with other structured products, the Exchange will distribute a circular to its membership, prior to the commencement of trading, providing guidance with regard to member firm compliance responsibilities, including appropriate suitability criteria and/or guidelines.

¹ See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990).

² As of July 8, 1996, the Index was comprised of the stocks of the following 29 issuers: Abbott Laboratories, Amgen, Inc., Apria Healthcare Group, Inc., Baxter International, Inc., Beverly Enterprises, Biogen, Inc., Caremark International, Inc., Chiron Corporation, Columbia/HCA Healthcare Corporation, Emcare Holdings, Inc., Genzyme Corporation, Genesis Health Ventures, Inc., Health Management Associates, Inc., Healthsource, Inc., Healthsouth Corporation, Horizon/CMS Healthcare Corporation, Humana, Inc., Johnson & Johnson, Medpartner/Mullikin, Inc., Neuromedical Systems, Inc., Olsten Corporation, Ornda Healthcorp., Oxford Health Plans, Inc., Phycor, Inc., Quorum Health Group, Inc., Renal Treatment Centers, Inc., Tenet Healthcare Corporation, Total Renal Care Holdings, Inc., and United Healthcare Corporation. According to the Exchange, as of July 8, 1996, the market capitalizations of these companies ranged from \$222 million to \$63.9 billion, and average monthly trading volumes over the six month period from January 1, 1996 to June 30, 1996 ranged from 1.44 million to 58.48 million shares.

Eligibility Standards for Index Components

Components of the Index approved pursuant to this filing shall meet the following criteria: (1) A minimum market value of at least \$75 million, except that up to 10% of the component securities in the Index may have a market value of \$50 million; (2) average monthly trading volume in the last six months of not less than 1,000,000 shares, except that up to 10% of the component securities in the Index may have an average monthly trading volume of 500,000 shares or more in the last six months; (3) 90% of the Index's numerical Index value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; (4) all component stocks will either be listed on the Amex, the New York Stock Exchange, or traded through the facilities of the National Association of Securities Dealers Automated Quotation System and reported National Market System securities; and (5) if any foreign securities or American Depository Receipts ("ADRs") represented in the Index cause a particular foreign country's weight in the Index to initially exceed 20% of the Index's numerical Index value, the Exchange will have in place a surveillance sharing agreement with the appropriate regulatory organization in that country.

Index Calculation

The Index will be calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities is represented in an approximately "equal" dollar amount in the Index at the time such Index is established. The Index will initially be set to provide a benchmark value of 100.00 at the close of trading on the day preceding the establishment of the Index.

The multiplier of each component stock in the Index will remain fixed except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, a stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. The multiplier of each component stock may also be adjusted, if necessary in the event of a merger, consolidation, dissolution or liquidation of an issuer or in certain other events such as the distribution of property by an issuer to shareholders, the expropriation or nationalization of a foreign issuer or the

imposition of certain foreign taxes on shareholders of a foreign issuer. If the issuer of a stock included in the Index were to no longer exist, whether by reason of a merger, acquisition or similar type of corporate transaction, a value equal to the stock's final value will be assigned to the stock for the purpose of calculating the Index value. For example, if a company included in the Index were acquired by another company, a value will be assigned to the company's stock equal to the value per share at the time the acquisition occurred. If the issuer of stock included in the Index is in the process of liquidation or subject to a bankruptcy proceeding, insolvency, or other similar adjudication, such security will continue to be included in the Index so long as a market price for such security is available. If a market price is no longer available for an Index stock due to circumstances including but not limited to, liquidation, bankruptcy, insolvency, or any other similar proceeding, then the security will be assigned a value of zero when calculating the Index for so long as no market price exists for that security. If the stock remains in the Index, the multiplier of that security in the portfolio may be adjusted to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In all cases, the multiplier will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) 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 Amex does not believe that the proposed rule change will impose any inappropriate 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. 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 such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested person are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. 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 Section, 450 Fifth Street, NW., 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 File No. SR-Amex-96-27 and should be submitted by August 14, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,
Deputy Secretary.

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³ 17 CFR 200.30-3(a)(12).