

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 such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-2002-54 and should be submitted by July 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46064; File No. SR-Amex-2002-49]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Allow the Amex's Chief Executive Officer To Halt, Extend or Suspend Trading in the Event of an Emergency or an Extraordinary Market Condition

June 12, 2002.

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 May 31, 2002, 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, II and III below, which Items have been prepared by the Exchange. On June 6, 2002, the Amex amended the proposal.<sup>3</sup> The

Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. 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 Amex Rule 1, "Hours of Business," to afford the Chief Executive Officer ("CEO") of the Exchange, or his designee, in consultation with the Vice Chairman or Senior Supervisory Officer on the floor of the Exchange, greater guidance, specificity and flexibility with regard to halting, extending or suspending trading, or by closing some or all Exchange facilities, in the event of an emergency or an extraordinary market condition to meet the kinds of challenges that the Exchange may face in the future. The proposed amendment is consistent with Article XII of the Exchange Constitution ("Constitution") and merely provides specific guidance to the CEO and others concerning the types of emergencies and special circumstances envisioned in the authority delegated to him by the Board of Governors ("Board") pursuant to Article XII of the Constitution. The text of the proposed rule change is below. Proposed additions are in italics.

#### Hours of Business

Rule 1. Except as otherwise determined by the Board of Governors, the Exchange shall be open for the transaction of business on every business day, Monday through Friday. At 9:00 a.m., official announcement shall be made that the Exchange is open for trading in options on debt securities. At 9:30 a.m., official announcement shall be made that the Exchange is open for all other business purposes. The Exchange shall remain open until closed by official announcement at 4:00 p.m.; provided however, that option transactions in debt options may be effected on the Exchange only until 3:00 p.m. and all other option transactions may be effected on the Exchange until 4:02 p.m. each business day at which times no further debt or other options transactions may be made.

"After-Hours Trading" (as defined in Rule 1300(e)(iii)) shall be conducted

during such hours as the Exchange may from time to time specify.

*Except as may be otherwise determined by the Board of Governors, the Chief Executive Officer of the Exchange, or his designee, shall have the power to halt, extend or suspend trading in some or all securities traded on the Exchange, to close some or all Exchange facilities, and to determine the duration of any such halt, extension, suspension or closing, when he deems such action to be necessary or appropriate for the maintenance of a fair and orderly market or the protection of investors, or otherwise in the public interest, due to extraordinary circumstances, such as (1) actual or threatened physical danger, severe climatic conditions, civil unrest, terrorism, acts of war, or loss or interruption of facilities utilized by the Exchange; (2) a request by a governmental agency or official; or (3) a period of mourning or recognition for a person or event. In considering such action, the Chief Executive Officer of the Exchange, or his designee, shall consult with the Vice Chairman or Senior Supervising Officer on Floor, if available, and such available Floor Governors as he deems appropriate under the circumstances. The Chief Executive Officer of the Exchange, or his designee, shall notify the Board of Governors of actions taken pursuant to this Rule, except for a period of mourning or recognition for a person or event, as soon thereafter as is feasible.*

Commentary—No change.

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#### 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 its proposal and discussed any comments it received regarding the proposal. 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 Rule 1, "Hours of Business," to afford the CEO, or his designee, greater flexibility with regard to suspension of

<sup>13</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> See undated letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Alton Harvey, Division of Market Regulation, Commission ("Amendment No. 1"). In Amendment No. 1, the Amex asked the Commission to consider the proposed rule change pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. 15 U.S.C. 78s(b)(3)(A), 17

CFR 240.19b-4(f)(6). The Amex asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

trading in the event of an emergency or extraordinary market condition to meet the kinds of challenges that the Exchange may face in the future.

Currently, Article XII of the Constitution authorizes the Board, or a person or persons designated by the Board, to take any action regarding the trading of any or all securities on the Exchange and the operation of any Exchange trading system or facility, if such action is deemed necessary or appropriate for the protection of investors, the public interest or the orderly operation of the Exchange or any Exchange system or facility. The Board has delegated these emergency powers to the CEO or his designee.

The proposed amendment to Rule 1 is consistent with Article XII of the Constitution and merely provides greater guidance, specificity and flexibility to the CEO or his designee during an emergency or extraordinary market condition.

The proposal calls for the CEO or his designee, in consultation with the Vice Chairman or Senior Supervisory Officer on the floor of the Exchange, and such available Floor Governors as he deems appropriate under the circumstances, to be authorized to respond to extraordinary circumstances, as described below, by halting, extending or suspending trading in some or all securities traded on the Exchange or by closing some or all Exchange facilities, and to determine the duration of any such halt, extension, suspension or closing. The CEO, or his designee, will be required to notify the Board of actions taken, other than for a period of mourning or recognition for a person or event, as soon thereafter as is feasible.

Under the proposed rule change, action would be taken only as a result of extraordinary circumstances and only as the CEO, or his designee, deems it necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors or otherwise in the public interest. Examples of possible extraordinary circumstances include, but are not limited to (i) actual or threatened physical danger, severe climatic conditions, civil unrest, terrorism, acts of war, or loss or interruption of facilities utilized by the Exchange; (ii) a request by a governmental agency or official; and (iii) a period of mourning or recognition of a person or event.

## 2. Statutory Basis

The Exchange believes that the proposal is 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 it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest. The proposed rule change is designed to strengthen the Exchange's ability to respond appropriately and in a timely fashion to future extraordinary circumstances.

### *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.

### *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

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> At any time within 60 days of the filing of the 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.

The Amex has requested that the Commission waive the 5-day pre-filing notice requirement and the 30-day operative delay. The Commission believes waiving the 5-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the CEO or his designee to respond appropriately and in a timely fashion to an emergency or extraordinary market conditions as of the date the Amex filed the proposed rule change. The Commission notes that

a similar proposed rule change by the New York Stock Exchange, Inc. ("NYSE") was published for notice and comment, and received no comment letters.<sup>10</sup> Because the Amex's proposed rule change provides authority to the CEO similar to that in the NYSE's proposed rule change, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>11</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-2002-49 and should be submitted by July 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>10</sup> See Securities Exchange Act Release No. 45249 (January 7, 2002), 67 FR 1529 (January 11, 2002)(SR-NYSE-2001-55).

<sup>11</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

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

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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).