

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and subparagraph (e) of Rule 19b-4<sup>4</sup> thereunder. At any time within 60 days of the filing of such proposed fee change, the Commission may summarily abrogate such fee 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the fee change that are filed with the Commission, and all written communications relating to the fee 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 File No. SR-Amex-96-48 and should be submitted by January 27, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-38128; File No. SR-AMEX-96-46]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Amending Rule 170 to Permit Options Specialist Organizations and Their Approved Persons to Engage in Market Making Activities on Other Options Exchanges in the Options in Which They Are Registered on the AMEX

January 6, 1997.

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 November 27, 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 self-regulatory organization. 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 amend Exchange Rule 950(n) to permit options specialist organizations and their approved persons to engage in market making activities on other options exchanges in the options in which they are registered on the AMEX.

#### 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 self-regulatory organization 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 self-regulatory organization 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

Exchange Rule 950(n) currently prohibits AMEX options specialists and their "approved persons"<sup>1</sup> from

effecting transactions in specialty options except insofar as reasonably necessary to satisfy their specialist obligations on the Exchange. Thus, among its several consequences, Rule 950(n) prohibits an AMEX specialist organization and its approved persons from acting as a market maker in a specialty option on the floor of another options market.<sup>2</sup> The other options exchanges have rules that are similar to AMEX Rule 950(n) with respect to persons that perform functions similar, or identical, to those of a specialist.<sup>3</sup> However, it is the Exchange's understanding that not all those markets interpret their rules in the same manner as the AMEX. Thus, the Exchange has observed Registered Options Traders ("ROTs") on its Floor trading as market makers in options in which affiliates of such ROTs perform a specialist function on another exchange.

The restrictions on the trading activities of options specialists and their approved persons have their origin in the Exchange's and the New York Stock Exchange's equity trading rules. The AMEX extended these restrictions to listed options at the outset of the Exchange's option program in the mid-1970s in order to expeditiously commence trading options using a combination specialist/competitive market maker system. While these restrictions reflect historical regulatory concerns, the federal securities laws do not require that trading by specialists and their approved persons in specialty securities should be limited to that necessary to the specialist function on any one market. In many respects, moreover, the policy reasons behind the trading restrictions on equity specialists are not compelling in the context of options due to the derivative pricing of these securities. In addition, the limitations contained in Rule 950(n) on principal trading by the affiliates of options specialists predate multiple trading of listed options. When you add to these factors the extraordinary level of self-regulatory organization surveillance of specialists and market makers, the Exchange believes that the

is engaged in a securities or kindred business and is controlled by or under common control with a member or member organization. See Article I, Section 3(g) of the Exchange Constitution.

<sup>2</sup> The approved persons of Exchange specialists may obtain relief from the restrictions of Rule 950(n) by establishing an Exchange approved information barrier pursuant to Rule 193. In practice, however, it has generally proven impractical for all but the largest broker-dealers to establish information barriers that would satisfy the requirements of Rule 193.

<sup>3</sup> Chicago Board Option Exchange Rule 8.81(a), Pacific Stock Exchange Rule 6.83(a), Philadelphia Stock Exchange Rule 1020(e).

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

<sup>4</sup> 17 CFR 19b-4(e).

<sup>5</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> An "approved person" is a person or entity that controls a member or member organization or that

prophylactic restrictions on trading represented by Rule 950(n) are not essential to ensure compliance with standards of fair dealing.

For the foregoing reasons, the Exchange believes that it is appropriate to permit Exchange specialist organizations and their affiliates to engage in market making in specialty options on the floor of other options exchanges. This measure will eliminate a regulatory disparity between the rules of the Exchange and other markets. To ensure that specialist organizations and their affiliates do not intentionally trade ahead of, or otherwise disadvantage, orders on the AMEX limit order book, the Exchange will require any AMEX member organization that seeks to act as a market maker on the floor of another options exchange in an option in which they are a specialist on the AMEX to implement policies and procedures designed to prevent the misuse of information regarding limit orders on the AMEX limit order book.<sup>4</sup> These policies and procedures will not have to conform to the specific requirements of Rule 193. Instead, the Exchange proposes to adopt the approach used by Congress in enacting Sections 15(f) and 21A of the Act, and by the Commission in adopting Rule 14(e)(3) under the Act, which require firms to adopt information barriers, but do not legislate the design of these internal controls.<sup>5</sup> The Exchange believes that specialist firms and their affiliates should have the ability (subject to Exchange oversight) to structure information barriers that are appropriate to the structure of their firms.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) <sup>6</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

<sup>4</sup> As proposed, these policies and procedures will not be subject to pre-approval by the Exchange. Telephone conversation between Bill Floyd-Jones, Assistant General Counsel, AMEX, and Heather Seidel, Attorney, Division of Market Regulation, Commission, on January 2, 1997.

<sup>5</sup> See Broker-Dealer Policies and Procedures Designed to Segment the Flow and Prevent the Misuse of Material Nonpublic Information, Securities and Exchange Commission Division of Market Regulation, March 1990.

<sup>6</sup> 15 U.S.C. 78f(b)(5)

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

The Exchange 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 either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the 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 the proposed rule change, or

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

## IV. Solicitation of Comments

Interested persons 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, NW., 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-AMEX-96-46 and should be submitted by January 27, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

<sup>7</sup> 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-38125; File No. SR-CHX-96-32]

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Fee Waiver by the Chicago Stock Exchange, Incorporated

January 6, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> notice is hereby given that on December 17, 1996, the Chicago Stock Exchange, Incorporated ("CHX" 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 self-regulatory organization. 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 waive certain member charges in its Membership Dues and Fees Schedule. Specifically, the Exchange proposes to waive all membership dues for the month of December. The Exchange also proposes to waive all floor telephone booth and post space charges for the fourth quarter of 1996 (i.e., October, November and December).

## 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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

<sup>1</sup> 15 U.S.C. § 78s(b)(1).