

calculated, and that amount invested in the stock of the new component to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure index continuity.

The Commission further notes that the Exchange has represented that the terms of any modified capitalization or modified equal-dollar weighting calculation methodology will be clearly defined, and will consist of objective standards that permits any newly developed narrow-based index initially to meet, and subsequently, to continue to be maintained, in accordance with the generic criteria set forth in Commentary .02 to Amex Rule 901C. In addition, the Exchange has represented that these terms will be discussed in marketing materials describing the index and in the Information Circulars the Exchange will distribute to members upon the launch of new index options.

IV. Conclusion

The Commission finds that the proposed rule change is consistent with the Act, and in particular, with Section 6(b)(5).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposal, SR-Amex 99-09, be and hereby is approved.¹⁵

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.¹⁶

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-16866 Filed 7-1-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41562; File No. SR-Amex-99-22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the American Stock Exchange LLC Relating to Rule 1006

June 25, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 22, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange 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 Rule 1006 which governs disclaimers of liability relating to the Nasdaq-100 Index.[®] Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in [brackets].

Nasdaq-100 Index[®]

Rule 1006. The Nasdaq Stock Market, Inc. ("Nasdaq") has licensed the use of the Nasdaq-100 Index[®] for certain purposes in connection with trading in a particular series of Portfolio Depositary Receipts on the Exchange. Nasdaq *and its affiliates* [does] do not guarantee the accuracy and/or completeness of the Nasdaq-100 Index[®] or any data included therein. Nasdaq [and], the Exchange *and their affiliates* make no warranty, express or implied, as to results to be obtained by any person or entity from the use of the Nasdaq-100 Index or any data included therein in connection with the rights licensed or for any other use. Nasdaq [and], the Exchange *and their affiliates* make no express or implied warranties, and disclaim all warranties of merchantability or fitness for a particular purpose with respect to the Nasdaq-100 Index or any data included therein. Without limiting any of the foregoing, in no event shall Nasdaq [and], the Exchange *and their affiliates* have any liability for any lost profits or special, punitive, incidental, indirect, or consequential damages, even if notified of the possibility of such damages. In addition, Nasdaq [and], the Exchange *and their affiliates* shall have no liability for any damages, claims, losses or expenses caused by any errors or delays in calculating or disseminating the Nasdaq-100 Index.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 26, 1999,² the Commission approved the listing and trading under Amex Rules 1000 *et seq.* of Nasdaq-100 Shares,SM units of beneficial interest in the Nasdaq-100 Index[®] Trust, Series 1, a unit investment trust based on the Nasdaq-100 Index.[®] The Commission also approved in the Nasdaq-100 Shares Order Amex Rule 1006, which provides for disclaimers of liability with respect to the Nasdaq-100[®] by the Nasdaq and the Exchange in connection with the trading of Nasdaq-100 Shares. This provision is similar to other Exchange rules relating to disclaimers of liability with respect to Portfolio Depositary Receipts (e.g., Amex Rule 1004 (S&P 500 Index) and Amex Rule 1005 (Dow Jones Indexes) as well as index options (e.g., Amex Rule 902C). The Exchange is amending Amex Rule 1006 to state that the disclaimers of liability, specified in the rule, extend to affiliates of Nasdaq and the Exchange. The Exchange believes that such an amendment is appropriate to clarify and make explicit that the disclaimers of liability specified in Amex Rule 1006 also apply to affiliates of Nasdaq and Amex, which include the National Association of Securities Dealers, Inc. and NASD Regulation, Inc.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act³ in general and furthers the objectives of Section 6(b)(5)⁴ 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

¹⁴ 15 U.S.C. 78s(b)(2).

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

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) ("Nasdaq-100 Shares Order").

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed 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 June 22, 1999, the date on which it is filed, and because 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 and Rule 19b-4(f)(6) thereunder.⁵ 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 the furtherance of the purposes of the Act.⁶

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 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 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 the File No. SR-Amex-

99-22 and should be submitted by July 23, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-16869 Filed 7-1-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41563; File Nos. SR-BSE-97-07 and SR-BSE-99-09]

Self-Regulatory Organizations; Notice of Withdrawal of Proposed Rule Change and Amendment No. 1 Thereto by the Boston Stock Exchange, Inc. Relating to Its Specialist Performance Evaluation Program and Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Specialist Performance Evaluation Program

June 25, 1999.

On October 8, 1998, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (SR-BSE-98-07), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² to amend the depth measure calculations in its Specialist Performance Evaluation Program ("SPEP") pilot program. The Exchange submitted Amendment No. 1 to its proposed rule change (SR-BSE-98-07) on November 13, 1998.³ Notice of the proposed rule change, as amended, was published on December 11, 1998, in the **Federal Register**, to solicit comment from interested persons.⁴ On December 17, 1998, the Exchange submitted Amendment No. 2 to its proposal.⁵ On

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange requested permanent approval of the SPEP pilot program and deleted its request for accelerated approval and retroactive implementation of the proposed rule change. See Rule 19b-4 filing, SR-BSE-98-07, dated November 6, 1998 ("Amendment No. 1").

⁴ Securities Exchange Act Release No. 40746 (December 3, 1998), 63 FR 68490 (December 11, 1998).

⁵ In Amendment No. 2, the Exchange (1) requested an extension of the SPEP pilot program for a six-month period ending on June 30, 1999, or until the Commission approves the Exchange's proposal to make it permanent, whichever occurred first, and (2) made a technical change to its rule. See Letter From Karen A. Aluisse, Vice President, Exchange, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"),

December 28, 1998, the Commission noticed and granted accelerated approval of Amendment No. 2.⁶ On June 10, 1999, the Exchange withdrew those portions of its proposed rule change relating to permanent approval of the SPEP pilot program and to the proposed changes to its depth measures.⁷

Pursuant to Section 19(b)(1) of the Act,⁸ and Rule 19b-4 thereunder,⁹ notice is hereby given that on June 10, 1999, the Exchange filed with the Commission the proposed rule change (SR-BSE-99-09), which requests that the Commission approve an extension of the SPEP pilot until March 31, 2000. The proposed rule change is described in Items I and II 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 and to grant accelerated approval to this rule proposal.

I. Self-Regulatory Organization Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend its SPEP pilot program until March 31, 2000.¹⁰

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 III 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

The Exchange regularly evaluates the performance of its specialists under the SPEP pilot program. Under the SPEP

Commission, dated December 14, 1998 ("Amendment No. 2").

⁶ Securities Exchange Act Release No. 40844 (December 28, 1998), 64 FR 1041 (January 7, 1999).

⁷ See Letter from Karen A. Aluisse, Vice President, Exchange, to Richard Strasser, Assistant Director, Division, Commission, dated June 9, 1999.

⁸ 15 U.S.C. 78s(b)(1).

⁹ 17 CFR 240.19b-4.

¹⁰ Telephone conversation between Karen A. Aluisse, Vice President, Exchange, and Terri Evans, Attorney, Division, Commission, on June 17, 1999.

⁵ 17 CFR 240.19b-4(f)(6) (1999).

⁶ 15 U.S.C. 78s(b)(3)(C).