

("Act")<sup>1</sup> and Rule 12d2-2(d)<sup>2</sup> thereunder, to withdraw the security described above ("Security") from listing and registration on the American Stock Exchange LLC ("Amex" or "Exchange").

The Security has been listed on the Amex and registered pursuant to Section 12(b) of the Act<sup>3</sup> under a Registration Statement which became effective on July 7, 1998. Subsequently the Company has determined to transfer trading in its Security from the Amex to the Nasdaq stock Market, Inc. ("Nasdaq"). The Company has registered its Security pursuant to section 12(g) of the Act<sup>4</sup> under a Registration Statement on Form 8-A filed with the Commission on March 9, 2000. The Security became designated for quotation and began trading on the Nasdaq National Market on March 14, 2000.

In making the determination to transfer its Security from trading on the Amex to the Nasdaq National Market, the Company considered that the Security would benefit from better exposure and a more liquid market on the Nasdaq among other issuers whose primary business relates to Internet technology.

The Company has stated that it has complied with the Rules of the Amex governing the withdrawal of its Security from listing and registration on the Amex and that the Exchange in turn has indicated that it will not oppose such withdrawal.

The Company's application relates solely to the withdrawal of the Security from listing and registration on the Amex and shall have no effect upon the Security's continued designation for quotation and trading on the Nasdaq National Market. By reason of section 12(g) of the Act<sup>5</sup> and the rules and regulations of the Commission thereunder, the company shall continue to be obligated to file reports with the Commission required by Section 13 of the Act.<sup>6</sup>

Any interested person may, on or before April 5, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of

investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42526; File No. SR-Amex-00-08]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by American Stock Exchange LLC and Order Granting Accelerated Approval of the Proposed Rule Change as Amended, Relating To Establishing a Fee Structure To Provide Daily Share Volume and Other Reports Via AmexTrader.com

March 13, 2000.

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 February 7, 2000, 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. On March 10, 2000, the Exchange filed Amendment No. 1 to the proposed rule change,<sup>3</sup> which supersedes and replaces entirely the initial proposal. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and to grant accelerated approval of the proposed rule change, as amended.

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

Amex proposes to establish a fee structure to provide daily share volume

and other reports through the AmexTrader.com web site. Below is the text of the proposed rule change. All text is being added; there are no deletions.

\* \* \* \* \*

#### Historical Research and Administrative Reports

The charge to be paid by the purchaser of separate Historical Research and Administrative Reports, shall be as follows:

(1) Daily Detailed Reports—\$7 per day, per security and/or market participant for reports containing 15 fields or less. \$15 per day, per security and/or market participant for reports exceeding 15 fields.

(2) Summary Level Activity Reports—\$25 per report.

(3) Administrative Reports—\$25 per user, per month.

\* \* \* \* \*

#### 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 III 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

###### Historical Research Reports

Amex proposes to establish a fee to provide to investors, upon request, historical research reports in electronic formats pertaining to Amex issues. Until recently, Amex has provided these reports exclusively on an *ad hoc* basis to customers requesting this information by telephone. Under the current system, investors contact an Amex staff member via telephone, describe the type of customized report desired, and arrange for an appropriate billing and delivery method before having the Amex staff member compile the report. Reports are issued in hard copy formats for a fee, ranging from \$10-\$575 depending on the number of pages the report consists of, and the amount of effort taken to prepare and process the report. The fees consist of an administration fee of \$10-

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

<sup>2</sup> 17 CFR 240.12d2-2(d).

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

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

<sup>5</sup> *Id.*

<sup>6</sup> 15 U.S.C. 78m.

<sup>7</sup> 17 CFR 200.30-3(a)(1).

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

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

<sup>3</sup> Amendment No. 1, which Amex filed pursuant to Section 19(b)(2) of the Act, replaces the initial proposal, which Amex filed pursuant to Section 19(b)(3)(A) of the Act. Because the fees which the Exchange intends to charge for historical research reports may be paid by non-members, the proposal is properly filed pursuant to Section 19(b)(2) of the Act. See 15 U.S.C. 78s(b)(1) and 15 U.S.C. 78s(b)(3)(A).

\$150 depending on the number of pages in the report, a copy charge of \$.25 per report page, and if the report is delivered via fax, a fax transmission fee of \$.15 per page (faxed to one recipient) or \$.40 per page (faxed to multiple recipients). The average report fee assessed is \$20–\$30. The Amex believes this is an inefficient and time-consuming arrangement that is both burdensome to Amex staff and an impediment to the accessibility of the information for the investor.

As the number of individual investors in today's market directing their own investment decisions has increased, the volume of requests for this information has also increased. To alleviate the demand upon staff resources and increase the quality, speed and availability of the information available to investors, Amex will develop an automated request and delivery system that will facilitate the delivery of these reports in a timely and systematic manner at a fixed price, based on a standardized pricing methodology. Investors will be able to access the reports via the Internet on the AmexTrader.com web site. Once at the proper location within the web site, the investor will choose from a list of standardized reports, input the necessary information pertaining to the desired security to market participant, and provide credit card information for payment.<sup>4</sup> Once completed, the report will be sent via e-mail directly to the investor.

Amex proposes to provide historical research reports that fall into two categories: "Daily Detailed Reports" and "Summary Level Activity Reports." Examples of Daily Detailed Reports include a Time and Sales Report (provides a record of media-reported trades in the selected security, indicating the reported time, price and share volume) and a Sales and Quotes Report (provides trade information and inside quote information at trade time). Summary Level Activity Reports would provide trade and/or quote information over a monthly or quarterly period.

Fees for the Daily Detailed Reports would be set on a two-tiered basis to reflect the amount of information provided and give Amex a level of flexibility in developing new reports and modifying those currently envisioned. Amex proposes to assess a fee of \$7 for reports with 15 or fewer fields of information<sup>5</sup> for each trading

day requested.<sup>6</sup> Those reports with more than 15 fields would cost \$15 per trading day of information. Some reports may be available for purchase on a single-day basis, while others may be available only as multiple-day packages with a corresponding charge based on the number of days provided. Fees for Summary Level Activity Reports would be fixed at \$25 per report.

Amex believes that this pricing structure is a suitable assessment method that will facilitate the creation of an inexpensive and effective service for investors.

#### Administrative Reports

This second category of reports, available through AmexTrader.com, termed "Administrative Reports", will be available to Amex member firms only.

Administrative Reports would serve to assist members in auditing their own internal systems, verifying back-end processing, and projecting monthly costs. Subscribing member firms would be charged a \$25 fee per user, per month, for access to each administrative report.<sup>7</sup>

#### 2. Statutory Basis

Amex believes that the proposed rule change is consistent with the provisions of sections 6(b)(4)<sup>8</sup> and 6(b)(5)<sup>9</sup> of the Act. Section 6(b)(4)<sup>10</sup> requires the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities. Section 6(b)(5)<sup>11</sup> requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Amex believes that this service involves the implementation of reasonable fees, assessed only to users utilizing the service, while providing beneficial information to subscribers on a non-discriminatory basis.

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

Amex does not believe that the proposed rule change will result in any burden on competition that is not

necessary or appropriate of the purposes of the Act, as amended.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

#### III. 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 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 Section, 450 Fifth Street, NW, Washington DC 20549. 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–00–08 and should be submitted by April 11, 2000.

#### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the Amex's proposed rule change, as amended, and finds, for the reasons set forth below, the proposal is consistent with the requirements of Section 6 of the Act<sup>12</sup> and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that approval of the proposed rule change is consistent with Sections 6(b)(4)<sup>13</sup> and (5)<sup>14</sup> of the Act. Section 6(b)(4)<sup>15</sup> requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by an exchange. The Commission finds that the fees which Amex has proposed for the historical research and administrative

<sup>4</sup> Credit card information will be provided utilizing a secure web site connection.

<sup>5</sup> Examples of fields, depending on the type of report chosen, could include reported volume, reported price, reported time, inside bid/ask, short sale indicator, etc.

<sup>6</sup> For example, an investor requesting a report containing 12 fields of information for a three-trading-day period would be charged \$21.

<sup>7</sup> After assessing the demand for this service, Amex may offer volume discounts to purchasers of multiple reports if such discounts are determined to be economically feasible.

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> 15 U.S.C. 78f(b)(4).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

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

reports delineated in the proposal are reasonable, given the reliability and accessibility of the information.

Furthermore, Section 6(b)(5)<sup>16</sup> requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Because the fees which Amex proposes to charge for the specified historical research and administrative reports will be assessed only to users of the service, the Commission finds that the proposal is both non-discriminatory and reasonable. The Commission also believes that the proposal may help to foster cooperation and coordination with persons engaged in facilitating transactions in securities by providing beneficial information to subscribers on a non-discriminatory basis for a reasonable fee. In doing so, the proposal may boost investor confidence, while contributing to the integrity of the securities markets.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Accelerated approval would afford investors the benefits to be realized under this proposal as soon as possible. Additionally, the Commission notes that the proposal is substantially similar to SR-NASD-99-70,<sup>17</sup> which was noticed for the full 21-day comment period, and for which no comments were received. The Commission finds, therefore, that good causes exists, consistent with Section 19(b)<sup>18</sup> and Section 6(b)<sup>19</sup> of the Act, to grant accelerated approval of the proposed rule change.

It is therefore ordered, pursuant Section 19(b)(2) of the Act,<sup>20</sup> that the proposed rule change be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice and Opinion; Certificate of Repossession of Encumbered Aircraft (AC Form 8050-4)

**AGENCY:** Federal Aviation Administration, DOT.

**SUMMARY:** This provides notice of a revised Certificate of Repossession of Encumbered Aircraft (AC Form 8050-4), and a legal opinion concerning certificates of repossession and their impact on aircraft registration.

**FOR FURTHER INFORMATION CONTACT:** Joseph R. Standell, Aeronautical Center Counsel (AMC-7), Post Office Box 25082, Oklahoma City, OK 73125 or telephone (405) 954-3296.

**SUPPLEMENTARY INFORMATION:** This is to provide notice of a revised Certificate of Repossession of Encumbered Aircraft (AC Form 8050-4) incorporating various changes and revisions to versions of the form dated 6/99 and earlier. A copy of the new form follows this opinion and is available to the public at <http://registry.faa.gov/> or linked through <http://www.mmac.jccbi.gov/MMAC/>

The revised form dated 02-00, supersedes and replaces all previously dated versions of the form. Prior versions of the form will be accepted through the end of the regular business day on the 90th day after the date of publication of this Notice in the **Federal Register**.

The superseding form and the opinion contained herein are in response to general concerns about specific language contained in Certificate of Repossession of Encumbered Aircraft (AC Form 8050-4, 6/99 and earlier) and industry practices involving use of that form.

This opinion addresses the comments expressed by attorney John I. Karesh in a letter dated January 19, 1998, to Aeronautical Center Counsel.

This opinion also provides information concerning certificates of repossession and their impact on aircraft registration.

Although it is recognized that certain rights to repossess on default may exist in leases and other transactions, this opinion is limited to repossessions (whether physical or constructive to the extent permitted by applicable local law) and foreclosures which effect a change in ownership of an aircraft.

**Opinion—Change of Ownership:** An aircraft is eligible for registration only if, among other things, it is owned by a citizen of the United States (49 U.S.C. 44102(a)(1)(A)). Only the owner of an aircraft is eligible to make application

for registration of that aircraft (49 U.S.C. 44103(a)).

Each person who submits an Aircraft Registration Application (AC Form 8050-1) must also submit evidence of ownership as required by § 47.11 of the Federal Aviation Regulations (14 CFR Part 47) (the Regulations). Where the applicant relies upon repossession as evidence of ownership, § 47.11(b) provides:

The reposessor of an aircraft must submit—

(1) A certificate of repossession on FAA Form 8050-4, or its equivalent, signed by the applicant and stating that the aircraft was repossessed or otherwise seized under the security agreement involved and applicable local law;

(2) The security agreement (unless it is already recorded at the FAA Aircraft Registry), or a copy thereof certified as true under § 49.21 of this chapter; and

(3) When repossession was through foreclosure proceedings resulting in sale, a bill of sale signed by the sheriff, auctioneer, or other authorized person who conducted the sale, and stating that the sale was made under applicable local law.

Based on information provided by the office of the National Conference of Commissioners on Uniform State Laws, it appears that all 50 states have adopted Article 9 of the Uniform Commercial Code (U.C.C.), albeit with some variations. Therefore, for purposes of this discussion, U.C.C. Article 9, as adopted, is cited as the applicable local law.

In his letter of January 19, 1998, Mr. Karesh states that “it is standard practice for the repossessing Lender to file for recordation with the FAA the certificate of repossession at the time of repossession, in order to vest title to the aircraft in the name of the Lender.” This practice is referred to in the aviation legal practice as a “protective filing.”

Apparently this protective filing practice stems from reliance upon the following language contained in the earlier versions of the Certificate of Repossession of Encumbered Aircraft (AC Form 8050-4) which is typically submitted by a reposessor to the Civil Aviation Registry:

by virtue of such act of repossession he divested the said debtor, and any and all persons claiming by, through or under him, of any and all claims they hand or may have had, and now holds title to the aforesaid aircraft, free and clear \* \* \*.

This language may be causing some confusion; therefore, FAA has revised the form. The revisions emphasize that it is repossession and foreclosure under the applicable local law not the filing of the Certificate of Repossession of Encumbered Aircraft and the Aircraft

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> Securities Exchange Act Release No. 42341 (January 14, 2000), 65 FR 3513 (January 21, 2000).

<sup>18</sup> 15 U.S.C. 78s(b).

<sup>19</sup> 15 U.S.C. 78f(b).

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</sup> 17 CFR 200.30-3(a)(12).