

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 Exchange 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 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 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-00-48 and should be submitted by April 9, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44065; File No. SR-AMEX-01-11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Increase the Maximum Permissible Number of Equity and Index Option Contracts in an Order Entered Through the Amex Order File System

March 12, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, notice is hereby given that on February 28, 2001, 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 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

Amex proposes to increase from 250 to 2500 the maximum permissible number of equity and index option contracts in an order that may be entered in the Amex Order File System. Although this limit does not appear in the Exchange's rules as such, Amex will notify members of the increase in this limit by issuing an information circular.³

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex 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. Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Telephone conversation between Claire P. McGrath, Vice President and Special Counsel, Amex, and Michael Gaw, Attorney-Adviser, Division of Market Regulation, Commission, on March 12, 2001.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex Order File ("AOF") handles limit orders routed to specialists' order books and orders routed to Auto-Ex, an automatic execution system that executes public customer market and marketable limit orders in options at the best bid or offer displayed at the time the order is entered. In October 1999, Amex filed to expand from 100 to 250 the number of option contracts that a member or member firm may enter directly into an Exchange specialist's order book (the Amex Order Display Book or "AODB") from off the Exchange's trading floor using AOF.⁴

The Exchange now proposes to further increase from 250 to 2500 the maximum permissible number of option contracts in an order that can be entered through AOF directly into the AODB.⁵ By increasing the size of orders eligible for entry into the AOF, members and member firms will be able to send a larger percentage of orders directly to a specialist's order book for execution resulting in increased automated order handling. This increased automated order handling will benefit customers, as well as members and member firms, by expanding the option orders eligible for automated handling, further ensuring the orderly and timely delivery, processing, and execution of such orders.

Amex believes that, since its introduction, AOF/AODB has been successful in enhancing execution and operational efficiencies. Amex anticipates that the proposed increase to the AOF's parameters should further increase the enhanced execution and operational efficiencies realized since the introduction of the AOF.

2. Statutory Basis

Amex states that the proposed rule change is consistent with Section 6(b) of the Act⁶ in general and furthers the objectives of section 6(b)(5)⁷ in that it is designed to prevent fraudulent and

⁴ See Securities Exchange Act Release No. 42128 (November 10, 1999), 64 FR 63836 (November 22, 1999).

⁵ Although this filing would give the Exchange authority to increase the limit to 2500 contracts, Amex may for business or operational reasons set the actual limit at less than 2500 contracts. Telephone conversation between Claire P. McGrath, Vice President and Special Counsel, Amex, and Michael Gaw, Attorney-Adviser, Division of Market Regulation, Commission, on March 12, 2001.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

¹⁵ 17 CFR 200.30-3(a)(12).

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

Amex 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

Amex represents that the proposed rule change would effect a change in an existing order-entry or trading system that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. Amex concludes, therefore, that the proposal has become effective pursuant to section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(5)⁹ thereunder. 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.

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 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-01-11 and should be submitted by April 9, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44062; File No. SR-CHX-00-31]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Preopening Orders

March 12, 2001.

I. Introduction

On October 18, 2000, the Chicago Stock Exchange, Incorporated ("Exchange" or "CHX"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the CHX rule governing preopening orders in Nasdaq/NM securities³ to explicitly define "preopening orders" in Nasdaq/NM securities, and to explicitly provide for a single price opening at or better than the NBBO at the first unlocked, uncrossed market. On December 20, 2000, the CHX filed Amendment No. 1 to the proposed rule change.⁴ The proposed rule change was published in the **Federal Register** on January 22,

¹⁰ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See CHX Article XX, Rule 37(a)(4).

⁴ In Amendment No. 1, the CHX clarified the proposed rule text to reflect that the 8:25 a.m. cutoff time for preopening orders is "Central Time." See Letter from Kathleen M. Boege, Associate General Counsel, CHX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 20, 2000 ("Amendment No. 1").

2001.⁵ No comments were received on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The Exchange proposes to amend the CHX rule governing preopening orders in Nasdaq/NM securities to provide for additional clarity regarding the types of orders eligible for treatment as preopening orders and the price at which such orders will be filled. The Exchange represents that because Article XX, Rule 37(a)(4) of the Exchange's rules does not explicitly define what constitutes a preopening order in the case of Nasdaq/NM securities, there has been some confusion as to which orders are eligible for treatment as preopening orders, and consequently, some unintended execution guarantees. The proposed rule change will expressly provide that, for an order to be considered a preopening order, an order must be received at or prior to 8:25 a.m. (Central Time) of the date of the opening.

The Exchange also proposes to provide additional clarity regarding the price at which each preopening order will be filled. Currently, the rule provides that preopening orders for Nasdaq/NM securities must be filled "at the Exchange opening trade price." The Exchange believes that it is in the best interest of its order-sending firms and their customers to provide for greater specificity as to the parameters governing the fill price for preopening orders. Accordingly, the proposed rule change provides that each preopening order must be filled "on a single price opening at or better than the NBBO at the first unlocked, uncrossed market."

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ In particular, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,⁷ which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market,

⁵ See Securities Exchange Act Release No. 43835 (January 11, 2001), 66 FR 6718.

⁶ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(5).