

Commission, the presiding Officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPAct), 42 U.S.C. 10154. Under section 134 of the NWPAct, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties."

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPAct are found in 10 CFR part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are

denied, then the usual procedures in 10 CFR part 2, subpart G apply.

For further details with respect to this application, see the application dated December 21, 2001, which is available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD or from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 12th day of April 2002.

For the Nuclear Regulatory Commission,  
**E. William Brach,**  
*Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

#### Extension

- Rule 101, SEC File No. 270-408, OMB Control No. 3235-0464
- Rule 102, SEC File No. 270-409, OMB Control No. 3235-0467
- Rule 103, SEC File No. 270-410, OMB Control No. 3235-0466
- Rule 104, SEC File No. 270-411, OMB Control No. 3235-0465
- Rule 17a-2, SEC File No. 270-189, OMB Control No. 3235-0201

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below:

### Rule 101 (Activities by Distribution Participants) and Rule 102 (Activities by Issuers and Selling Security Holders During a Distribution)

Rules 101 and 102 prohibit distribution participants, issuers, and

selling security holders from purchasing activities at specified times during a distribution of securities. Persons otherwise covered by these rules may seek to use several applicable exceptions such as a calculation of the average daily trading volume of the securities in distribution, the maintenance of policies regarding information barriers between their affiliates, and the maintenance a written policy regarding general compliance with Regulation M for de minimis transactions. The Commission estimates that 1,358 respondents collect information under Rule 101 and that approximately 31,079 hours in the aggregate are required annually for these collections. In addition, the Commission estimates that 669 respondents collect information under Rule 102 and that approximately 1,569 hours in the aggregate are required annually for these collections.

### Rule 103 (Nasdaq Passive Market Making)

Rule 103 permits passive market-making in Nasdaq securities during a distribution. A distribution participant that seeks use of this exception would be required to disclose to third parties its intention to engage in passive market making. The Commission estimates that 171 respondents collect information under Rule 103 and that approximately 171 hours in the aggregate are required annually for these collections.

### Rule 104 (Stabilizing and Other Activities in Connection With an Offering)

Rule 104 permits stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and that the distribution participant inform the market when a stabilizing bid is made. It also requires the distribution participants (*i.e.*, the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids. The Commission estimates that 519 respondents collect information under Rule 104 and that approximately 51.9 hours in the aggregate are required annually for these collections.

### Rule 17a-2 (Recordkeeping Requirements Relating to Stabilizing Activities)

Rule 17a-2 requires underwriters to maintain information regarding stabilizing activities conducted in accordance with Rule 104. The Commission estimates that 519

respondents collect information under Rule 17a-2 and that approximately 2,595 hours in the aggregate are required annually for these collections.

The collections of information under Regulation M and Rule 17a-2 are necessary for covered persons to obtain certain benefits or to comply with certain requirements. The collections of information are necessary to provide the Commission with information regarding syndicate covering transactions and penalty bids. The Commission may review this information during periodic examinations or with respect to investigations. Except for the information required to be kept under Rule 104(i) and Rule 17a2(c), none of the information required to be collected or disclosed for PRA purposes will be kept confidential.

The recordkeeping requirement of Rule 17a-2 requires the information be maintained in a separate file, or in a separately retrievable format, for a period of three years, the first two years in an easily accessible place, consistent with the requirements of Exchange Act Rule 17a-4(f).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 12, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45756; File No. SR-Amex-2002-29]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to an Increase to Five Hundred Contracts in the Maximum Permissible Number of Nasdaq-100 Tracking Stock (QQQ) Option Contracts Executable Through AUTO-EX

April 15, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on April 5, 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 April 8, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> 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 Commentary .02 to Exchange Rule 933 to increase to 500 contracts the maximum permissible number of Nasdaq-100 Tracking Stock ("QQQ") option contracts in an order that is executable through the Exchange's automatic execution system ("AUTO-EX"). The Exchange also proposes to amend Exchange Rule 933 to add new Commentary .03 to permit the Exchange, under certain circumstances, to immediately increase its AUTO-EX eligible order size to match the size of orders eligible for entry into the automated execution system of any other options exchange.

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

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

<sup>3</sup> See letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated April 5, 2002 ("Amendment No. 1"). In Amendment No. 1, the Amex amended its initial filing to limit the increase in AUTO-EX eligible order size to 500 contracts for QQQ option contracts only, and requested that the filing be re-characterized as a "noncontroversial" rule change under Rule 19b-4(f)(6) of the Act, 17 CFR 240.19b-4(f)(6).

Below is the text of the proposed rule change. Proposed new language is *italicized*.

\* \* \* \* \*

#### Automatic Execution of Options Orders Rule 933

(a)-(b) No change.

#### Commentary

.01 No change.

.02 Auto-Ex eligible orders must be market or marketable limit orders for two hundred fifty or fewer contracts for series subject to Auto-Ex *except in the case of options on the Nasdaq-100 Tracking Stock (QQQ) which is limited to five hundred or fewer contracts*. Contract limits will be established on a case by case basis for an individual option class or for all option classes upon the approval of two Floor Governors or Senior Floor Officials. Notice concerning applicable size and types of Auto-Ex eligible orders will be provided to members periodically via Exchange circulars and/or posted on the Exchange's web site.

.03 *Notwithstanding the provisions of Commentary .02 above, the size of auto-ex eligible orders in one or more classes of multiply-traded options may be increased to the extent necessary to match the size of orders in options of the same class or classes eligible for entry into the automatic execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Securities and Exchange Commission pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934.*

\* \* \* \* \*

#### 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 IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.