

the Act,⁹ in general, and with Section 6(b)(4)¹⁰ in particular, in that it would provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

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

The Amex does not believe that the proposed rule change would impose any burden on competition.

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

The Amex neither solicited nor received written comments with respect to the proposed rule change.

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Amex, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and Rule 19b-4(f)(2) thereunder.¹² At any time within 60 days after the filing of Amendment No. 1 to the proposed rule change, the Commission may summarily abrogate the 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 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 proposal 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-2003-50 and should be submitted by July 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48041; File No. SR-AMEX-2003-06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the American Stock Exchange LLC Relating to Mandatory Continuing Education for All Floor Members and Mandatory Continuing Education and Initial Test Requirements for Floor Clerks of Members and Member Firms

June 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 3, 2003, 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 Amex. On May 21, 2003, the Amex amended the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to adopt Amex Rule 359 (Mandatory Continuing Education for all Floor Members and Mandatory Continuing Education and Initial Test Requirements for Floor Clerks of Members and Member Firms) to ensure that Floor members are regularly apprised of critical regulatory and operational issues affecting the Exchange and that all other individuals affiliated with members or member

organizations, and necessary for the transaction of business on the Amex trading floor, demonstrate a basic understanding of the auction market, as well as an understanding of the critical regulatory and operational issues affecting the Exchange in particular, and the securities industry in general. Below is the text of the proposed rule change. Proposed new text is *italicized*.

* * * * *

Mandatory Continuing Education for all Floor Members and Mandatory Continuing Education and Initial Test Requirements for Floor Clerks of Members and Member Firms.

Rule 359. All regular and options principal members, limited trading permit holders, their clerks (post, booth and DK) active in the business of the Exchange trading floor will be required to participate in the Exchange-sponsored mandatory continuing education program to be conducted annually and at such other times as the Exchange deems appropriate. Any individual who fails to attend a mandatory continuing education program will be subject to disciplinary action under the Exchange's Minor Rule Violation Fine System.

Additionally, all floor clerks, with no previous trading floor experience (other than those performing strictly ministerial functions) who are employed after the adoption of this rule will be subject to the training and are required to pass a qualifying exam; and all specialist clerks, with no previous trading floor experience, who are employed after the adoption of this rule, will be subject to additional training and an additional qualifying exam.

The Exchange will levy a per program fee as indicated in its Schedule of Fees for each participant (members and clerks) in any of the continuing education and testing programs.

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Amex Price List

Member Fees

- I. Membership Dues
No change.
- II. Initiation Fees
No change.
- III. Membership Fees
No change.
- IV. Examination Fees
No change.

V. Continuing Education Fees

\$50.00 per participant/per year

Notes: No change.

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⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Iyonne L. Natal, Associate General Counsel, Amex, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated May 20, 2003 ("Amendment No. 1"). In Amendment No. 1, the Exchange replaced the original filing in its entirety.

Minor Rule Violation Fine System**Part 1****General Rule Violations**

Rule 590. (a) through (f)—No change.

(g) The following is a list of the rule violations and applicable fines that may be imposed by the Exchange's Enforcement Department pursuant to Part 1 of this Rule.

1.–13. No change.

14. *Failure to attend mandatory continuing education as required by Rule 359.*

(h) No change.

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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 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. 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

In order to protect public customers and maintain its competitive position, the Exchange believes that it needs to ensure that all individuals active in the transaction of business on the Amex trading floor demonstrate a basic understanding of the auction market. While an examination is required before an Exchange member may conduct business on the Floor of the Exchange, no such initial requirement currently exists for those members' clerks who perform a critical role in the conduct of that business. For these same reasons, and particularly in this age of rapid and continuous change and diversity in innovative securities products, the Exchange states that it needs to ensure that individuals on the Amex trading floor continue to possess this basic understanding of the auction market, as well as an understanding of the critical regulatory and operational issues affecting the Exchange in particular, and the securities industry in general.

The continuing education needs of the securities industry were studied in 1993 by the Securities Industry Task Force on Continuing Education. The Task Force released a report

recommending mandatory continuing education for registered representatives. In 1999, the New York Stock Exchange (the "NYSE") instituted a semiannual program of continuing education for its floor members. That same year, with SEC approval, the NYSE amended its Rule 35 implementing training and qualification requirements for floor employees of members or member organizations, including a new Trading Assistant Qualification Examination (Series 25). The NYSE also required that Front Line Specialist Clerk candidates submit to a six-month, specialist-supervised, on-the-job training period and, thereafter, pass the Series 21 examination, before being permitted to function as a Front Line Specialist Clerk. Most recently, in June 2000, the SEC approved amendments to NYSE Rule 103A making mandatory the periodic (*i.e.*, semiannual "and at such other times as may be necessary") training of all NYSE floor members.

The Exchange believes that mandatory continuing education should be an integral part of an efficient trading floor operation. Consequently, we are proposing that newly hired floor clerks (other than those performing strictly ministerial functions) with no previous floor experience, be tested within a three-month on-the-job training period to ensure that they can properly perform their functions on the trading floor. The training period should be sufficient for an individual to learn the basic systems and regulations needed to function effectively as a member firm clerk.

The Exchange further proposes that an additional level of training and testing be required for newly-hired specialist clerks, with no previous experience as specialists or specialist clerks. In order to qualify as a specialist clerk, a candidate must, first, have either floor experience or be subject to the training and exam requirement of a floor clerk. In addition, a specialist clerk candidate will be required to have on-the-job and classroom training specifically related to the job of specialist clerk. The specialist clerk training would not exceed three months, which could be concurrent with or consecutive to any floor clerk training required by the candidate.

Continuing education for members and their floor employees is both necessary and beneficial. The needs of the Amex, however, are, in some ways, unique. Accordingly, the Exchange is proposing an annual, mandatory continuing education program for members and their employees. However, Exchange staff would be authorized to schedule additional mandatory educational sessions at such

other times as it deems necessary and/or appropriate. These additional mandatory sessions could be of a general nature for all members and member firm personnel, or they could be tailored to address the needs of a specific group, *e.g.*, as with the introduction of a new product or in a specific situation where only certain members could effect transactions and for which particular expertise is required.

The Exchange proposes to include the failure to attend a mandatory continuing education session in the General Rule Violations section of the Exchange's Minor Rule Violation Fine Systems, under which a fine may be imposed by the Exchange's Enforcement Department for failure to attend a mandatory continuing education session.

In order to finance the development and implementation of an effective continuing education and testing program, the Exchange proposes to levy an annual fee for each participant (members and clerks) in any of the programs. On approval of Amex Rule 359, the fee will be set at \$50. This fee will be incorporated in the Amex Fee Schedule (Price List) and may be changed from time to time in the same manner as other Amex fees are revised.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act⁴ in general and furthers the objectives of sections 6(b)(4) and (5) in particular,⁵ in that it is designed to (i) provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and (ii) remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change is designed to ensure that Floor members are regularly apprised of critical regulatory and operational issues affecting the Exchange and that all other individuals affiliated with members and member organizations, and necessary for the transaction of business on the Exchange trading floor, demonstrate a basic understanding of the auction market as well as the critical regulatory and operational issues affecting the Exchange in particular, and the securities industry in general.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4) and (5).

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has neither solicited nor received written comments on 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 Amex 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, including whether the proposed rule change, as amended, 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 No. SR-AMEX-2003-06 and should be submitted by July 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48059; File No. SR-CBOE-2003-21]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Disclaimers for Index Option Reporting Authorities

June 18, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 16, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" 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 CBOE. 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 clarify the effect of certain disclaimers provided by the Exchange on behalf of index reporting authorities under CBOE Rule 24.14 ("Disclaimers"). Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are in brackets.

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Chapter XXIV

Index Options

Rule 24.14. Disclaimers

No reporting authority with respect to any index underlying an option traded on the Exchange, no affiliate of such reporting authority (each such reporting authority and its affiliates are referred to collectively as the "Reporting Authority"), and no other entity identified in this Rule makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index, any

opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract based thereon or for any other purpose. The Reporting Authority or any other entity identified in this Rule shall obtain information for inclusion in, or for use in the calculation of, such index from sources it believes to be reliable, but the Reporting Authority or any other entity identified in this Rule does not guarantee the accuracy or completeness of such index, and opening, intra-day or closing value therefor, or any data included therein or related thereto. The Reporting Authority or any other entity identified in this Rule hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such index, any opening, intra-day, or closing value therefor, any data included therein or relating thereto, or any option contract based thereon. The Reporting Authority or any other entity identified in this Rule shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract based thereon or arising out of any errors or delays in calculating or disseminating such index. The foregoing disclaimers shall apply to Standard & Poor's, a division of The McGraw-Hill Companies, Inc. ("S&P") in respect to the S&P Indexes, [S&P and Barra, Inc. in respect to the S&P 500/ Barra Growth Index and the S&P 500/ Barra Value Index,]Frank Russell Company in respect to the Russell Indexes [2000 Index], [LIFFE Administration and Management in respect to the FT-SE 100 Index,]The NASDAQ Stock Market, Inc. in respect to the Nasdaq [100]Indexes, Morgan Stanley Dean Witter & Co. Incorporated in respect of the Morgan Stanley [Multinational Company]Indexes, Dow Jones and Company, Inc. in respect to the Dow Jones Averages and *any other*[the] Dow Jones [Equity REIT]Indexes, [Lipper Analytical Services, Inc., Salomon Brothers, Inc. in respect to the Lipper-Salomon Indexes, and]Goldman, Sachs & Co. in respect to the Goldman Sachs Indexes [Technology Indexes.]; *to the foregoing Reporting Authorities in respect to any other indexes for which they act as the designated Reporting Authority; [,] to the Exchange in respect to the indexes*

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.