

outstanding Bonds. These intercompany notes that the T&D Utility owes to CenterPoint would be "deemed paid" when the outstanding Bonds are redeemed. In addition, the redemption of the outstanding Bonds would result in a corresponding satisfaction of the related series of currently outstanding mortgage bonds.

The precise amount of the costs associated with the refunding will not be known until the refinancing is complete but the fees and terms and conditions of the refinancing will comply with the terms and conditions established in the Omnibus Financing Order. Among other things, Applicants would continue to comply with the investment grade and equity capitalization criteria in the Omnibus Financing Order. In particular, the T&D Utility will continue to maintain a minimum of 30% common equity, as required by the Omnibus Financing Order.

#### **Dominion Resources, Inc., et al. (70-10144)**

Dominion Resources, Inc. ("DRI"), a registered holding company, and Consolidated Natural Gas Company ("CNG"), a registered holding company and direct subsidiary of DRI ("Applicants"), both at 120 Tredegar Street, Richmond, VA 23219, have filed a declaration ("Declaration") under sections 6(a) and 7 of the Act and rules 53 and 54 under the Act.

#### **I. Request To Issue and Sell Short-Term Debt**

DRI and CNG, each requests authority to issue short-term debt through December 31, 2004. DRI and CNG request authorization to issue short-term debt including, but not limited to, the issuance of commercial paper, in an aggregate amount of up to \$4.0 billion principal amount outstanding at any one time, \$2.0 billion for DRI and \$2.0 billion for CNG. The short-term debt will enable DRI to support its Money Pool and other short-term financing needs, which vary significantly during a calendar period. This \$2.0 billion short-term debt authorization will enable CNG to support its short-term financing needs which vary significantly during a calendar period.

Short-term borrowings from banks or other financial institutions borrowings will be evidenced by (a) "transactional" promissory notes to be dated the date of such borrowings and to mature not more than one year after the date thereof or (b) "grid" promissory notes evidencing all outstanding borrowings from the respective lender, to be dated as of the date of the first borrowing evidenced

thereby, with each borrowing maturing not more than one year thereafter. DRI and CNG state that, at any given time, some or all of its outstanding short-term notes will be issuable in connection with the establishment of back-up credit facilities to support DRI's and CNG's commercial paper program, but that the credit facilities will not be drawn upon and no borrowings will occur, except in certain limited circumstances, at which time obligations under the related commercial paper will be paid. Thus, short-term notes issued in connection with the establishment of commercial paper back-up facilities backstop and duplicate commercial paper issuances and should not be deemed to be borrowings under DRI's and CNG's financing authorization unless and until an actual borrowing occurs under the related credit facility. Additionally, with respect to any "grid" notes issued by Applicants, only the amount actually outstanding at any given time shall be considered a borrowing. DRI and CNG each propose to issue and sell the commercial paper at market rates with varying maturities not to exceed 270 days.

#### **II. Parameters for Financing Authorization**

Authorization is requested to engage in certain financing transactions through December 31, 2004 for which the specific terms and conditions are not at this time known. The following general terms will be applicable, where appropriate to the financing transactions:

*Common Equity.* Consistent with the current authority, the Applicants will each maintain common equity of at least 30% of its consolidated capitalization; provided that the Applicants will in any event be authorized to issue common stock to the extent authorized.

*Investment Grade Ratings.* Applicants will not issue any securities under this Declaration, unless upon original issuance: (i) the securities, if rated, are rated at least investment grade; and (ii) all outstanding senior debt obligations of the Applicants that are rated, are rated investment grade. For purposes of this provision, a security will be deemed to be rated investment grade if it is rated investment grade by at least one nationally recognized statistical rating organization, as defined in rule 15c3-1(c) (2) (vi) (F) under the Securities Exchange Act of 1934.

*Effective Cost of Money on Financings.* The effective cost of capital for short-term debt will not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms

and conditions issued by similar companies of reasonably comparable credit quality; provided that in no event will the effective cost of capital on such short-term debt securities exceed 700 basis points over the comparable term London Interbank Offered Rate ("LIBOR").

The underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of securities pursuant to this Declaration will not exceed 700 basis points of the principal or face amount of the securities being issued or gross proceeds of the financing.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**  
Deputy Secretary.

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#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48818; File No. SR-Amex-2003-28]

#### **Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change by the American Stock Exchange LLC Relating to the Elimination of the 10-Second Interval at Which Persons May Enter Auto-Ex Eligible Orders for Exchange-Traded Funds**

November 21, 2003.

#### **I. Introduction**

On April 16, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to eliminate the 10-second "speed bump" on the entry of Auto-Ex eligible orders for Exchange-Traded Funds ("ETFs") and Trust-Issued Receipts ("TIRs"), while allowing it to be reinstated if conditions warrant its reintroduction. On May 7, 2003, Amex submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> On June 3, 2003, Amex

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

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

<sup>3</sup> See letter from William Floyd-Jones, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission dated May 6, 2003 ("Amendment No. 1").

submitted Amendment No. 2 to the proposed rule change.<sup>4</sup> The proposed rule change, as amended by Amendment Nos. 1 and 2 was published for comment in the **Federal Register** on June 16, 2003.<sup>5</sup> The Commission received one comment letter with respect to the proposal.<sup>6</sup> On October 3, 2003, the Amex filed Amendment No. 3 to the proposed rule change.<sup>7</sup> This Order approves the proposed rule change; grants accelerated approval to Amendment No. 3 to the proposed rule change; and solicits comments from interested persons on Amendment No. 3.

## II. Description of the Proposal and Amendment Nos. 1 and 2 Thereto

On June 19, 2001, the Commission approved the Exchange's proposal to permit the automatic execution ("Auto-Ex") of orders for Exchange Traded Funds ("ETFs") on a six-month pilot program basis.<sup>8</sup> The Exchange extended the pilot several times for an additional six months, most recently on July 2, 2003.<sup>9</sup> As part of an extension of the Auto-Ex for ETFs pilot the Exchange reduced, from 30 seconds to 10 seconds, the interval at which member firms could enter orders on the same side of the market for any account in which the same person is directly or indirectly interested.<sup>10</sup> The Exchange now proposes to eliminate the 10-second "speed bump" for all ETFs. The Exchange also proposes to amend Amex Rule 128A to clarify that Auto-Ex for ETFs applies to both ETFs and TIRs.

The Exchange's rules currently provide that Auto-Ex eligible orders on the same side of the market in an ETF for any account in which the same person is directly or indirectly interested may only be entered at intervals of 10 seconds or more. According to the Exchange, order flow providers have objected to this interval

since it requires them to block their customers from entering any Auto-Ex eligible orders on the same side of the market in the Exchange's order routing systems for the affected security within 10 seconds. Accordingly, the Exchange proposes to eliminate the speed bump in ETFs and TIRs while allowing it to be reinstated on a temporary basis if conditions warrant its reintroduction.

The Exchange states that the Auto-Ex Enhancements Committee ("Committee"), upon the request of a specialist, would review a request to reinstate the 10-second speed bump. The Committee consists of the Exchange's four Floor Governors and the Chairmen (or their designees) of the Specialists Association, Options Market Makers Association and the Floor Brokers Association. According to the Exchange, this Committee currently reviews requests to change various Auto-Ex parameters. (See Commentaries .02 and .04 to Amex Rule 128A.) Under Amendment No. 2, which was included in the Notice, the Exchange proposed to give members and member organizations ten business days' notice prior to reintroducing the 10-second speed bump to allow them to implement internal procedures to comply with this requirement. The Exchange also proposed to notify members and member organizations of the reintroduction of the 10-second speed bump through Amex Notices, which are distributed on the Exchange Floor and posted on the Exchange's "Amex Trader" Web site.

## III. Comment Summary

The Commission received one comment letter on the proposed rule change. The commenter supported the elimination of the 10-second speed bump, but opposed the requirement of only ten business days' notice for reinstatement of the speed bump.<sup>11</sup> Specifically, the commenter noted that reinstatement of the speed bump with just ten business days' notice is an insufficient amount of time to prepare internal systems to comply with the reinstated speed bump. The commenter suggested that the Exchange provide a 60 to 90 day reinstatement period. On October 3, 2003, the Exchange submitted Amendment No. 3 in response to the comment letter. In particular, the Exchange amended the proposal to give members and member organizations 30 calendar days' notice prior to reintroducing the 10-second speed bump to allow them to implement

internal procedures to comply with the reinstated requirement.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 3 to the proposed rule change, including whether Amendment No. 3 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-2003-28 and should be submitted by December 23, 2003.

## V. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b) of the Act.<sup>12</sup> Specifically, the Commission finds that approval of the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,<sup>13</sup> in that it is designed to facilitate transactions in securities; 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to 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 Commission believes that the proposed rule change should benefit investors by allowing the entry of multiple Auto-Ex eligible orders on the same side of the market without

<sup>4</sup> See letter from William Floyd-Jones, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission dated June 2, 2003 ("Amendment No. 2").

<sup>5</sup> See Securities Exchange Act Release No. 48004 (June 9, 2003), 68 FR 35741 (June 16, 2003) ("Notice").

<sup>6</sup> See letter to Jonathan G. Katz, Secretary, Commission, from Patrick K. Blackburn, Executive Vice President and Lawrence J. Hanson, Senior Vice President, ABN AMRO Incorporated, dated June 30, 2003.

<sup>7</sup> See letter from William Floyd-Jones, Associate General Counsel, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated October 3, 2003 ("Amendment No. 3").

<sup>8</sup> See Securities Exchange Act Release No. 44449 (June 19, 2001), 66 FR 33724 (June 25, 2001), (SR-Amex-2001-29).

<sup>9</sup> See Securities Exchange Act Release No. 48126 (July 2, 2003), 68 FR 41189 (July 10, 2003).

<sup>10</sup> See Securities Exchange Act Release No. 47105 (December 30, 2002), 68 FR 592 (January 6, 2003).

<sup>11</sup> See ABN AMRO Letter.

<sup>12</sup> 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

regard to any "time-out" between entry of those orders, while affording the Exchange the option to reinstate the 10-second speed-bump if circumstances warrant such reintroduction. The Commission believes that 30 days is an appropriate period of time for members and member organizations to accommodate potential reinstatement of the 10-second speed bump.

## VI. Accelerated Approval of Amendment No. 3

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the amendment is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.<sup>14</sup> In Amendment No. 3, Amex addresses the concern raised in the comment letter by increasing the required notice of reinstatement of the 10-second speed bump from ten business days to 30 calendar days. As noted above, the Commission believes that this time period is appropriate. The Commission further believes that acceleration of the amendment will allow the Amex to remove the speed-bump without delay, thereby enabling entry of multiple Auto-Ex eligible orders on the same side of the market without a 10-second "time-out."

## VII. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) of the Act.<sup>15</sup> *It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>16</sup> that Amendment No. 3 be approved on an accelerated basis, and that the proposed rule change (SR-Amex-2003-28) be approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48827; File No. SR-CBOE-2001-04]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc., To Adopt a New Rule Regarding Nullification and Adjustment of Transactions

November 24, 2003.

#### I. Introduction

On February 14, 2001, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposed rule change to adopt an obvious error trading rule, CBOE Rule 6.25. On August 15, 2003, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> On September 12, 2003, the Exchange submitted Amendment No. 2 to the proposed rule change.<sup>4</sup> On September 26, 2003, the Exchange submitted Amendment No. 3 to the proposed rule change.<sup>5</sup> On September 29, 2003, the proposed rule change, as amended, was granted partial accelerated approval on a pilot basis and published for comment in the **Federal Register** on October 6, 2003.<sup>6</sup> The Commission did not receive

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

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

<sup>3</sup> See Letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated August 14, 2003 ("Amendment No. 1"). Amendment No. 1 replaced the original proposed rule change in its entirety.

<sup>4</sup> See Letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated September 11, 2003 ("Amendment No. 2"). In Amendment No. 2, the CBOE replaced proposed subparagraph (a)(5) of CBOE Rule 6.25, relating to erroneous quotes in the underlying market, with language substantially similar to CBOE Rule 43.5(b)(4).

<sup>5</sup> See Letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated September 26, 2003 ("Amendment No. 3"). In Amendment No. 3, the CBOE requested accelerated effectiveness of paragraphs (a)(3), (b), (c), (d), and (e) of proposed CBOE Rule 6.25. The CBOE also requested that paragraphs (a)(3), (b), (c), (d), and (e) of proposed CBOE Rule 6.25 operate as a pilot program until December 1, 2003.

<sup>6</sup> See Securities Exchange Act Release No. 48556 (September 29, 2003), 68 FR 57716 ("Notice and Partial Approval Order"). In the Notice and Partial Approval Order, the Commission granted accelerated approval to paragraphs (a)(3), (b), (c), (d), and (e) of proposed CBOE Rule 6.25 on a pilot basis.

any comments on the proposed rule change. On November 17, 2003, the CBOE filed Amendment No. 4 to the proposed rule change.<sup>7</sup> This order approves the proposed rule change, as amended; grants accelerated approval to Amendment No. 4; and solicits comments from interested persons on Amendment No. 4.

## II. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change and 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.<sup>8</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5)<sup>9</sup> of the Act, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.<sup>10</sup>

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an "obvious error" may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether such an "obvious error" has occurred should be based on specific and objective criteria and subject to specific and objective procedures. The Commission believes that the CBOE's

<sup>7</sup> See Letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated November 14, 2003 ("Amendment No. 4"). In Amendment No. 4, the Exchange: (1) Amended paragraphs (a)(1)(i) and (c) of proposed CBOE Rule 6.25 to include a reference to the Hybrid Opening System ("HOSS"); (2) defined the term "average trade" in proposed CBOE Rule 6.25(a)(4) based on the definition currently used in CBOE Rule 43.5; (3) requested permanent approval of paragraphs (a)(3), (b), (c), (d), and (e) of CBOE Rule 6.25; (4) deleted CBOE Rule 6.8(d)(iii); (5) amended CBOE Rule 6.20, Interpretation .05 to clarify that trades subject to adjustment or nullification pursuant to CBOE Rule 6.25 shall be subject to the procedures set forth in CBOE Rule 6.25; and (6) made technical corrections to the proposed rule text.

<sup>8</sup> For a description of the proposed rule change, see Notice and Partial Approval Order, *supra*, n. 6.

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

<sup>10</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

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

<sup>16</sup> 15 U.S.C. 78s(b)(2).

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