

or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

### III. Discussion and Commission Findings

After careful consideration, 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<sup>8</sup> and, in particular, the requirements of Section 6 of the Act.<sup>9</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>10</sup> which requires, among other things, that the rules of a national securities 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 of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,<sup>11</sup> which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transaction in securities. Amex represented that quotation for and last-sale information regarding the futures contracts held by USNG, including the future contracts underlying the Benchmark Index are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represented that real-time futures data is available by subscription from Reuters and Bloomberg. The NAV of the Units is available at the Web site of the Exchange. The Commission believes that Amex's proposal is reasonable designed to promote transparency in the pricing of the Units, and to prevent trading when a reasonable degree of transparency cannot be assured. The

proposal also appears reasonably designed to prevent the misuse of information by specialists.

In support of this proposal, the Exchange has made the following representations:

(1) The Exchange represented that it currently has in place an Information Sharing Agreement with the NYMEX and ICE Futures for the purpose of providing information in connection with trading in or related to futures contracts traded on the NYMEX and ICE Futures, respectively. To the extent that USNG invests in Natural Gas Interests traded on other exchanges, the Amex represented that it will seek to enter into Information Sharing arrangements with those particular exchanges.

(2) Amex would distribute an information circular to Exchange members and member organizations, prior to the commencement of trading providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transaction in the Units. In addition, investors purchasing Units directly from USNG (by delivery of the Deposit Amount) would receive a prospectus from USNG. Amex members purchasing Units from USNG for resale to investors would deliver a prospectus to such investors.

(3) Amex submits that its surveillance procedures are adequate to deter and detect violations of Exchange rules relating to the trading of the Units. The surveillance procedures for the Units will be similar to those used for units of the United States Oil Fund, LP as well as other commodity-based trusts, trust issued receipts and exchange-traded funds. In addition, the surveillance procedures will incorporate and rely upon existing Amex surveillance procedures governing options and equities.

(4) Amex represents that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A-3 under the Act.<sup>12</sup>

This order is conditioned on Amex's adherence to these representations.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-Amex-2006-112), as modified by Amendment No. 1, be, and is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-7486 Filed 4-19-07; 8:45 am]

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55636; File No. SR-Amex-2007-32]

#### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Shorten the Minimum Required Time Periods Required Between Tape Indications and Openings or Reopenings

April 16, 2007.

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 March 30, 2007, 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 and II below, which Items have been prepared by the Amex. The Exchange has filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 the Amex Rules regarding openings and halts in trading to shorten the minimum time periods required between tape indications and openings or reopenings. The Exchange has designated this proposal as non-controversial and has requested that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>5</sup>

The text of the proposed rule change is available on the Amex's Web site at <http://www.amex.com>, the Office of the Secretary, the Amex and at the Commission's Public Reference Room.

<sup>8</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

<sup>12</sup> See 17 CFR 240.10A-3.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> 17 CFR 240.19b-4(f)(6)(iii).

## 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. 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

Specialists in equity-traded securities<sup>6</sup> are responsible for ensuring that their specialty securities open for trading as close to the opening bell as possible, and reopen for trading after a trading halt as soon as possible. After a trading halt, the specialist must strive to open or reopen a security in a manner that is not only timely, but is also fair and orderly.

Ordinarily, before the opening bell, the specialist will assess existing market conditions and consider the balance of supply and demand for a security as reflected by orders represented in the market. Under certain conditions, he or she may provide this information to the market in the form of price indications that are published on the consolidated tape. In the event of a delayed opening, or the reopening of trading in a security after a trading halt, the specialist may be required to assess market conditions prior to the delayed opening or reopening, and publish a price indication to the market accordingly, while providing market participants with sufficient time to react and participate as they deem appropriate.

Current rules require minimum time periods as long as ten minutes between a specialist's dissemination of a price indication and the delayed opening or reopening of trading. Technological developments have increased the speed of communication since these rules were introduced, and market conditions may change substantially within the time periods now required between the indication and the opening or resumption of trading. Accordingly, the Exchange is proposing an amendment to

the rules to provide flexibility to react quickly, when appropriate, by reducing the minimum amount of time required between indications and delayed openings or reopenings after a trading halt.

Amex Rule 119-AEMI (governing indications, openings and reopenings) currently provides that the specialist may not open or reopen a stock that has been the subject of a halt or delayed opening until ten minutes have elapsed following the first indication. Where there is more than one indication, a minimum of five minutes must elapse from the last indication, provided that at least ten minutes has elapsed since the first indication. The Exchange proposes that these minimum time periods be shortened from ten minutes to three minutes after the first indication, and from three minutes to one minute after the last indication, provided that a minimum of three minutes have elapsed since the first indication.

For a stock that is halted during the trading day, current rules require a minimum of five minutes between the first indication and the stock's reopening. Where there is more than one indication, a minimum of three minutes must elapse from the last indication, provided that at least five minutes have elapsed after the first indication. The Exchange proposes that these time periods be shortened from five minutes to three minutes after the first indication, and from three minutes to one minute after the last indication, provided that a minimum of three minutes has elapsed after the dissemination of the first indication.

If a stock is halted during the trading day due to an "equipment changeover," a minimum of five minutes must elapse following the halt before trading resumes. Should a significant order imbalance develop<sup>7</sup> or a regulatory condition occur (*i.e.*, news pending or news dissemination), current rules require a ten minute minimum halt period following the first indication before reopening for trading. The Exchange now proposes that the standard five minute period after an "equipment changeover" be shortened to one minute and the ten minute period be shortened to three minutes after an "equipment changeover" during which

a significant order imbalance or regulatory condition develops.

The Exchange further proposes amendments to Exchange Rule 118-AEMI, Trading in Nasdaq Securities, to conform the minimum time periods required for openings and reopenings in securities traded on the Amex on an unlisted trading privileges basis to those proposed for listed securities. Additionally, the Exchange proposes a housekeeping change where references to a "Floor Governor" in Rule 119-AEMI would be changed to "Senior Floor Official" reflecting that the authority granted to a Floor Governor can be exercised by a Senior Floor Official.<sup>8</sup>

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>9</sup> of the Act in general and furthers the objectives of Section 6(b)(5)<sup>10</sup> in particular in that it is designed 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 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

The proposed rule change will impose no 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

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder<sup>12</sup> because the proposal: (i) Does not significantly affect the protection of

<sup>8</sup> The Commission approved an amendment to Amex Rule 21 which provides that: "An Exchange Official who has been appointed as a Senior Floor Official has the same authority and responsibilities as a Floor Governor with respect to matters that arise on the Floor and require review or action by a Floor Governor or Senior Floor Official." See Securities Exchange Act Release 51503 (April 7, 2005), 70 FR 19534 (April 13, 2005) (SR-Amex-2004-65).

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> Equity-traded securities include stocks (both listed and those trading on an Unlisted Trading Privileges Basis), Exchange Traded Funds, and other securities that trade like equities. See Amex Rule 1A-AEMI(c).

<sup>7</sup> A "significant order imbalance" is one which would result in a reopening at a price change constituting the greater of 1% or two points away from the last previous sale in a stock selling at \$20 or more, one point or more away from the last previous sale in a stock selling at \$10 or more (but less than \$20), and one-half point or more away from the last previous sale in a stock selling at less than \$10. See Amex Rule 119-AEMI(3)(a).

investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>13</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay.<sup>14</sup> The Commission believes that such waiver is consistent with the protection of investors and the public interest because the proposed changes to the required minimum time periods between tape indications and openings and reopenings are substantially similar to a recently approved proposal submitted by the New York Stock Exchange LLC ("NYSE").<sup>15</sup> For this reason, the Commission designates the proposed rule change to be operative on April 2, 2007, as the Exchange proposed.<sup>16</sup>

At any time within 60 days of the filing of such 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 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. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2007-32 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2007-32. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2007-32 and should be submitted on or before May 11, 2007.

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

**Nancy M. Morris,**  
Secretary.

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**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55639; File No. SR-BSE-2007-15]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Existing BeX Fee Schedule

April 16, 2007.

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 April 2, 2007, the Boston Stock Exchange, Inc. ("BSE" 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 substantially prepared by the Exchange. The BSE has designated this proposal as one changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 BSE proposes to amend the Boston Equities Exchange ("BeX") fee schedule to provide for a credit in the amount of \$0.0027 to which Liquidity Providers would be entitled. The text of the proposed rule change is available at <http://www.bostonstock.com>, at the BSE, and at the Commission's Public Reference Room.

#### 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.

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

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

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

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> *Id.*

<sup>15</sup> The Commission recently approved a substantially similar proposal from the NYSE that included identical changes to the required minimum time periods between tape indications and openings and reopenings. See Securities Exchange Act Release No. 54530 (September 28, 2006), 71 FR 58645 (October 3, 2006) (SR-NYSE-2006-49).

<sup>16</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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