

2. Rule 3a-5(b)(3)(i) under the Act, in relevant part, defines a "company controlled by the parent company" to mean any corporation, partnership, or joint venture that is not considered an investment company under section 3(a) of the Act, or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules and regulations under section 3(a) of the Act. The Bank does not fit, and after the proposed Merger and Conversion still will not fit, within the definition of "company controlled by the parent company" because it derives its non-investment company status from section 3(c)(3) of the Act. Consequently, the outstanding securities of a COC LLC would be owned by a company that does not meet the requirements of rule 3a-5(b)(1)(i) under the Act. In addition, to the extent a Finance Subsidiary makes loans to or makes or holds investments in the Bank, that Finance Subsidiary would not meet the definition of a "finance subsidiary" under rule 3a-5 because it would be financing an entity that does not meet the definition of a company controlled by the parent company as required by rule 3a-5(b)(1)(ii) under the Act. The COC LLCs also do not fit within the definition of "company controlled by the parent company" because they would, after giving effect to requested relief, be exempted by order under section 6(c) of Act rather than by the rules or regulations under section 3(a) of the Act. Consequently, a COC Trust that holds or makes investments in securities of a COC LLC would not meet the requirement in rule 3a-5(a)(6) under the Act.

3. Applicants request exemptive relief to permit the Finance Subsidiaries to finance the operations of the Bank, which is excluded from the definition of investment company by virtue of section 3(c)(3), and to permit the Bank to own all outstanding voting ownership interests of each COC LLC. In addition, Applicants request exemptive relief to permit each Finance Subsidiary to make loans to or make or hold investments in a COC LLC that relies on an order issued under section 6(c) of the Act. Applicants state that neither the Bank nor the Finance Subsidiaries will engage primarily in investment company activities, and that each Finance Subsidiary's primary business purpose will be to engage in financing activities that will provide funds for COFC and the Bank.

4. Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or

transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that its exemptive request meets the standards set out in section 6(c) of the Act.

#### Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following condition:

Each Finance Subsidiary will comply with all of the provisions of rule 3a-5 under the Act, except: (1) the Bank will not meet the portion of the definition of "company controlled by the parent company" in rule 3a-5(b)(3)(i) under the Act solely because it is excluded from the definition of investment company under section 3(c)(3) of the Act; and (2) each Finance Subsidiary will be permitted to make loans to or make or hold investments in corporations, partnerships, and joint ventures that do not meet the portion of the definition of "company controlled by the parent company" in rule 3a(b)(3)(i) under the Act solely because (i) they are excluded from the definition of investment company under section 3(c)(3) of the Act or (ii) they are a COC LLC that does not meet the definition of "company controlled by the parent company" in rule 3a-5(b)(3)(i) under the Act solely because it is relying on an order issued under section 6(c) of the Act.

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

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

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#### SECURITIES AND EXCHANGE COMMISSION

##### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 14, 2002:

A closed meeting will be held on

Tuesday, January 15, 2002, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries

will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Tuesday, January 15, 2002, will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and  
Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: January 8, 2002.

**Jonathan G. Katz,**  
*Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45241; File No. SR-Amex-2002-01]

##### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by the American Stock Exchange LLC To Extend for an Additional 90 Days its Pilot Program Relating to Facilitation Cross Transactions

January 7, 2002.

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 January 3, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is

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

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