acquisition, directly or indirectly, of the equity securities or assets of the subsidiary, either by purchase or by receipt of a dividend. The purchasing nonutility subsidiary in any transaction structured as an intrasystem sale of equity securities or assets may execute and deliver its promissory note evidencing all or a portion of the consideration given. Each transaction would be carried out in compliance with all applicable laws and accounting requirements.

The requested authorization would enable the Emera Group to consolidate similar businesses and to participate effectively in authorized nonutility activities, without the need to apply for or receive additional Commission approval. Those restructurings would be undertaken in order to eliminate corporate complexities, to combine related business segments for staffing and management purposes, to eliminate administrative costs, to achieve tax savings, or for other ordinary and necessary business purposes. Any new entity formed under the authority requested may be a corporation, partnership, limited liability company or other entity in which Emera, directly or indirectly, might have a 100% interest, a majority equity or debt position, or a minority debt or equity position. These entities would engage only in businesses to the extent the Emera Group is authorized, whether by statute, rule, regulation or order, to engage in those businesses. Emera does not seek authorization to acquire an interest in any nonassociate company as part of the authority requested in this application and states that the reorganization will not result in the entry by the Emera Group into a new, unauthorized line of business.

Emera requests authorization to make expenditures on Development and Administrative Activities, as defined above, in an aggregate amount of up to $150 million. Emera proposes a ''revolving fund'' concept for permitted expenditures on those activities. Thus, to the extent a nonutility subsidiary in respect of which expenditures for Development or Administrative Activities were made subsequently becomes an EWG, FUCO or qualifies as an ''energy-related company'' under rule 58, the amount so expended will cease to be considered an expenditure for Development and Administrative Activities, but will instead be considered as part of the ''aggregate investment'' in that entity in accordance with rule 53 or 58, as applicable.

Canadian Energy Related Subsidiaries

The Acquisition Order authorized Emera to invest in various businesses located in Canada that are energy related and retainable nonutility businesses under section 11 of the Act. In particular, the Acquisition Order authorized Emera to invest up to $300 million to organize or acquire companies engaged in the nonutility businesses in which Emera was then engaged and in certain other nonutility energy related businesses specifically described below without obtaining additional Commission authorization under the Act for each individual acquisition. Those businesses would derive substantially all their revenues from Canada or the U.S., or derive revenues from both countries. Emera requests a continuation of this authorization.

The specific nonutility businesses in which Emera proposes to invest include, in addition to its current nonutility businesses:

(i) Energy management services and other energy conservation related businesses,

(ii) The maintenance and monitoring of utility equipment,

(iii) The provision of utility related or derived software and services,

(iv) Engineering, consulting and technical services, operations and maintenance services,

(v) Brokering and marketing electricity and other energy commodities and providing services such as fuel management, storage and procurement; and

(vi) Oil and gas exploration, development, production, gathering, transportation, storage, processing and marketing activities, and related or incidental activities.

EWG and FUCO Investments

Emera seeks authorization to issue and sell securities for the purpose of funding investments in EWGs and FUCOs in an aggregate amount not to exceed the EWG–FUCO Investment Limit. Emera does not satisfy the conditions of rule 53(a) because its FUCO investment exceeds 50% of its consolidated retained earnings. As of December 31, 2003, Emera had consolidated retained earnings of $235.5 million and an investment of $642.7 million in NSPI. Consequently, the additional authorization requested and Emera's current investment in EWGs and FUCOs could result in an aggregate investment of approximately $2.64 billion.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–13277 Filed 6–10–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49813; File No. SR–Amex–2004–45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC to Extend a Pilot Program Under Which It Lists Options on Selected Stocks Trading Below $20 at One-Point Intervals Until June 5, 2005

June 4, 2004.

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 June 4, 2004, 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 Amex. 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

Amex proposes to extend its pilot program under which it lists options on selected stocks trading below $20 at $1 strike price intervals (''Pilot Program'') until June 5, 2005.[3] The text of the proposed rule change is available at the Office of the Secretary, Amex, and the Commission.

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. Amex has prepared

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 48024 (June 12, 2003), 68 FR 36617 (June 18, 2003)(''Pilot Program Approval Order'').

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

The purpose of the proposed rule change is to extend the Pilot Program for a one-year period through June 5, 2005. The Pilot Program permits the Amex to select a total of five (5) individual stocks on which options series may be listed at $1 strike price intervals. To be eligible for the Pilot Program, an underlying stock must close below $20 in its primary market on the previous trading day. If selected, the Amex may list $1 strike prices at $1 intervals from $3 to $20, however, a $1 strike price may not be listed that is greater than $5 from the underlying stock's closing price in the primary market on the previous day. The Amex may also list $1 strikes on any other option class designated by another options exchange that employs a similar Pilot Program approved by the Commission. The Pilot Program prohibits the Amex from listing $1 strikes on any series of individual equity option classes that have greater than nine (9) months until expiration. In addition, the Exchange is also restricted from listing any series that would result in strike prices being $0.50 apart.

To date, the Amex believes that the Pilot Program has been beneficial to investors and the options market by providing investors with greater flexibility in the trading of equity options that overlie stocks trading below $20. In this manner, options investors are able to better tailor their strategies through the availability of $1 strikes. Amex has conducted a study into the impact that $1 strikes has made on the participating Pilot Program classes (''Report'').[4] The Report provides data regarding the Pilot Program as required in the Pilot Program Approval.[5] As the data indicates, the $1 strikes exhibited higher volume and open interest than the ''standard'' strike intervals. Specifically, the four (4) option classes selected by the Amex for $1 strikes had a trading volume of 582,927 contracts, while the ''standard'' strikes for the same option classes had a trading volume of 520,364 contracts. Of even greater significance, is the difference in open interest between the $1 strikes and ''standard'' strikes. As of May 18, 2004, $1 strikes open interest totaled 581,444 versus 282,713 for ''standard'' strikes. Given the limited nature of the Pilot Program, the Amex submits that the impact on systems has been minimal.

2. Statutory Basis

Amex believes the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanisms of a free and open market.

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

Amex believes that 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 rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (f)(6) of Rule 19b–4[9] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and Amex has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. 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.

Under Rule 19b–4(f)(6)(iii) of the Act,[10] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest and Amex is required to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. Amex has requested that the Commission accelerate the 30-day operative date to June 5, 2004, so that the Pilot Program may continue without interruption after it would have otherwise expired on June 5, 2004. The Commission, consistent with the protection of investors and the public interest, has determined to accelerate the 30-day operative date to June 5, 2004,[11] and, therefore, the proposal is effective and operative on that date.[12]

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.* Please include File Number SR–Amex–2004–45 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission,

[4] Amex attached the Pilot Program Report as an exhibit to this proposed rule change. Copies of the Pilot Program Report are available at Amex and the Commission's Public Reference Room.

[5] *See* Pilot Program Approval Order, *supra* note 3.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of accelerating the 30-day operative period for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] In the event that Amex proposes to extend the Pilot Program beyond June 5, 2005, expand the number of options eligible for inclusion in the Pilot Program, or seek permanent approval of the Pilot Program, it should submit a Pilot Program report to the Commission along with the filing of such proposal. The report must cover the entire time the Pilot Program was in effect, and must include: (1) Data and written analysis on the open interest and trading volume for options (at all strike price intervals) selected for the Pilot Program; (2) delisted options series (for all strike price intervals) for all options selected for the Pilot Program; (3) an assessment of the appropriateness of $1 strike price intervals for the options the Amex selected for the Pilot Program; (4) an assessment of the impact of the Pilot Program on the capacity of the Amex's, OPRA's, and vendors' automated systems; (5) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Amex addressed them; (6) any complaints that the Amex received during the operation of the Pilot Program and how the Amex addressed them; and (7) any additional information that would help to assess the operation of the Pilot Program. The Commission expects the Amex to submit a proposed rule change at least 60 days before the expiration of the Pilot Program in the event the Amex wishes to extend, expand, or seek permanent approval of the Pilot Program.

450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–Amex–2004–45. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of 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–2004–45 and should be submitted on or before July 6, 2004.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–13278 Filed 6–10–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49814; File No. SR–CBOE–2004–33]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Frequency of Executions on the Hybrid Trading System

June 4, 2004.

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 19, 2004, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III 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.

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

The CBOE proposes to adopt a rule governing the frequency with which certain professional orders may be submitted for automatic execution in the Hybrid Trading System (''Hybrid''). Below is the text of the proposed rule change. Proposed new language is *italicized.*

* * * * *

Rule 6.13: CBOE Hybrid System's Automatic Execution Feature

(a) No change

(b) Automatic Execution

(i) Eligibility: Orders eligible for automatic execution through the CBOE Hybrid System may be automatically executed in accordance with the provisions of this Rule. This section governs automatic executions and split-price automatic executions. The automatic execution and allocation of orders or quotes submitted by market participants shall be governed by Rules 6.45A(c) and (d).

(A)–(B) No change

(C) Access:

(i)–(ii) No Change

(iii) 15-Second Limitation: With respect to orders eligible for submission pursuant to paragraph (b)(i)(C)(ii), members shall neither enter nor permit the entry of multiple orders on the same side of the market in an option class within any 15-second period for an account or accounts of the same beneficial owner. The appropriate FPC may shorten the duration of this 15-second period by providing notice to the membership via a Regulatory Circular that is issued at least one day prior to implementation.

(ii)–(iv) No change

(c)–(e) No change

* * * * *

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 CBOE 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 CBOE 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange represents that all of the floor-based options exchanges have rules generally restricting the entry of certain orders into their automatic execution systems to one order per 15 seconds per beneficial account.[3] CBOE has a 15-second rule applicable to its RAES system (see CBOE Rule 6.8(e)(iii)) but not to its Hybrid auto-ex system. The purpose of this rule filing is to adopt a 15-second rule applicable to certain professional orders entered for execution through CBOE's Hybrid system.

The Exchange proposes new CBOE Rule 6.13(b)(i)(C)(iii) to adopt rule language similar to that currently in effect in CBOE Rule 6.8(e)(iii).[4] As applied, the rule would prohibit members from entering or permitting the entry of multiple orders on the same side of the market in an option class within any 15-second period for an account or accounts of the same beneficial owner. The proposed language also allows the appropriate floor procedure committee (''FPC'') to shorten the duration of this 15-second timer by providing advance notice to the membership via Regulatory Circular. The timer may never exceed 15-seconds and, if shortened, would serve to allow the entry of more orders.

The Exchange also proposes to limit to whom the rule applies. The Exchange represents that while all of the floor-based options exchanges' rules, including CBOE Rule 6.8(e)(iii) broadly apply to all orders (*i.e.*, from customers and broker-dealers), the proposed amendment to CBOE Rule 6.13 would apply only to orders from options exchange market makers and stock exchange specialists, as defined in

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See, e.g.*, CBOE Rule 6.8(e)(iii), Amex Rule 933(e), PCX Rule 6.87(d)(2), and Phlx Rule 1080(c)(ii)(B)(3). NYSE Rule 1005 contains a 30-second limitation.

[4] There is one minor difference in the rule language of CBOE Rule 6.8 and that which is proposed in CBOE Rule 6.13: the use of the word ''issue'' in CBOE Rule 6.8 versus the use of the word ''class'' in CBOE Rule 6.13. ''Issue'' and ''class'' are synonymous, however, ''issue'' is not a defined term in CBOE's rules while ''class'' is.