

interest equal to the higher of (1) the Federal Funds Effective Rate plus 0.5% or (2) the corporate base rate of Bank One from time to time. The aggregate amount of commercial paper notes and revolving credit loans under the Credit Agreement may not exceed \$60 million. Arnold is currently obligated under the Credit Agreement to pay a facility fee of 10 basis points per annum on each lending bank's commitment.

IP&L is obligated under the Fuel Lease to make quarterly lease payments ("Basic Rent"), consisting of a "Quarterly Lease Charge," which, for any calendar quarter, is the sum of the aggregate of the "Daily Lease Charges," plus a "Burn-Up Charge," which is the portion of the Nuclear Fuel that is consumed in producing heat during the quarterly rent period. The Daily Lease Charge for any calendar day is equal to the sum of (1) an accrual for all interest expense and amortization of debt discount with respect to all commercial paper issued by and all revolving credit loans obtained by Arnold under the Credit Agreement which are outstanding at the close of business of such day, (2) an accrual for such day with respect to all commitment fees and other fees, costs and expenses (including issuing agent's fees) of Arnold under the Credit Agreement, and (3) a charge determined by dividing (x)  $\frac{1}{4}$ th of 1% of the "Stipulated Loss Value" of the Nuclear Fuel (essentially Arnold's unrecovered cost of the Nuclear Fuel purchased and leased to IP&L) at the close of business on such day by (y) 365. The Fuel Lease and Arnold's current financing arrangements were all in place at the time Alliant became a registered holding company in 1998.

IP&L requests authorization to enter into an amendment to the Fuel Lease to reflect certain proposed changes to the financing arrangements by which Arnold will finance the cost of Nuclear Fuel. Specifically, authorization is requested for Arnold to issue from time to time during the term of the Lease Agreement up to \$30 million of senior secured notes ("Notes") under one or more note purchase agreements with banks, insurance companies or other institutional lenders. Each Note will have a maturity date of between one year and seven years from the date of issuance and bear interest on the unpaid principal prior to maturity or default at a rate not to exceed 400 basis points over the yield to maturity of a U.S. Treasury security having a comparable term. Each Note may be subject to redemption at IP&L's option upon payment of a premium equal to the excess, if any, of (a) the net present value of the future stream of payments

under the Note as if held to maturity, discounted at a rate determined pursuant to the applicable note purchase agreement, over (b) the principal amount of the Note. Under the Fuel Lease, as amended, the calculation of the "Daily Lease Charge" will be modified to reflect accruals for interest on and placement fees and other expenses relating to the Notes.

In connection with the foregoing, IP&L and Bank One, NA will enter into an amended Credit Agreement under which the aggregate commitments of the lending banks will be reduced from \$60 million to \$30 million. Under the amended Credit Agreement, the facility fee will be increased from 10 basis points per year to 15 basis points per year on each lending bank's commitment. The interest rate options applicable to borrowings under the Credit Agreement will remain unchanged.

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. 34-48382; File No. SR-Amex-2003-71]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Elimination of the Minor Floor Violation Disciplinary Committee

August 20, 2003.

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 July 25, 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 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 Amex proposes to amend Amex Rule 590 to eliminate its Minor Floor Violation Disciplinary Committee

("MFVDC" or "Committee") and to transfer the MFVDC's responsibilities to the Exchange's Enforcement Department. The text of the proposed rule change is available at the Office of the Secretary, the Amex and at 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, 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.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange has had a Minor Rule Violation Fine Plan since 1976 that provides a simplified procedure for the resolution of specified rule violations. Codified in Amex Rule 590, the Minor Rule Violation Fine Plan has three distinct sections: Part 1 ("General Rule Violations"), which covers more substantive matters; Part 2 ("Floor Decorum"), which covers Floor Decorum and operational matters; and Part 3 ("Reporting Violations"), which covers the late submission of routine reports.

The Exchange's Enforcement Department and MFVDC<sup>3</sup> currently divide responsibility for administering Part 1 of Amex Rule 590. The Enforcement Department enforces those rules enumerated in paragraph (g) of Part 1 of Amex Rule 590, and the MFVDC enforces the rules enumerated in paragraph (h) of Part 1 of Amex Rule 590. The rules that currently may be enforced by the MFVDC follow:

Failure to comply with the Exchange's Auto-Ex Policy relating to signing on and off the Auto-Ex system  
Failure to comply with the Exchange's rules regarding openings. (Amex Rules 108(a) and (b) and 950(b))

<sup>3</sup> The Exchange established the MFVDC in 1993. See Securities Exchange Act Release No. 32989 (September 29, 1993), 58 FR 52122 (October 6, 1993) (SR-Amex-92-11). The structure of the Committee recently changed to include two floor members, two members of the Amex staff and one representative of an upstairs member firm.

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

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

Failure to comply with the Exchange's delayed opening policy. (Amex Floor Transaction Handbook, Part IV, B.3.(g))

Failure to comply with the Exchange's procedures for stopping orders. (Amex Rule 109 and 950(o))

Failure to properly mark or identify and represent Floor orders as required under Exchange rules:

1. Amex Rule 111, Commentary .04; Amex Rule 114, Commentary .09; and Amex Rule 153(g) (which are made applicable to options by Amex Rule 950(a)).
2. Amex Rule 950(c) & (d); 957(d); Amex Rule 958, Commentary .09; and Amex Rule 958A(b)).

Failure to comply with requirements relating to block sized cross transactions. (Amex Rule 126(g), Commentaries .01 and .02)

Failure to comply with the Exchange's procedures for executing "cross" transactions. (Amex Rule 151 which is made applicable to options by Amex Rule 950(a))

Failure to comply with Exchange procedures regarding stop orders. (Amex Rules 154, Commentary .04 and 950(f))

Violation of the Exchange's rules regarding orders left with specialists. (Amex Rules 154 and 950(f))

Failure to comply with the "2, 1, 1/2 Point Rule". (Amex Rules 154, Commentary .08 and 950(f), Commentary .04)

Failure to comply with the Exchange's rules regarding the execution of orders. (Amex Rules 156 and 950(g))

Failure by specialists to obtain Floor Official approval when establishing, increasing or liquidating a position. (Amex Rule 170, Commentaries .01 and .02)

Failure to obtain Exchange approval, or failure to comply with the terms of approval, for member or member firm proprietary electronic devices or systems used on the Exchange Floor. (Amex Rule 220)

Violation of Intermarket Trading System (ITS) rules relating to Pre-Opening Applications (Amex Rule 232) and Trade Throughs, Locked Markets, and the Block Trade Policy (Amex Rule 236).

Failure to comply with the Exchange's "facilitation" policy. (Amex Rule 950(d), Commentary .02)

Failure to comply with the Exchange's "solicitation" policy. (Amex Rule 950(d), Commentary .03)

Failure to quote options markets within the maximum quote spread differentials. (Amex Rules 950(n),

Commentary .10; 958(c)(i); and 958(c)(ii))

Failure to comply with the Exchange's rules regarding the announcement of trader orders. (Amex Rule 958, Commentary .09)

Failure to comply with the Exchange's modified firm quote rule. (Amex Rule 958A)

Part 1 of Amex Rule 590 allows the Enforcement Department and the Committee to issue abbreviated "written statements" to persons who may have violated the specified rules identifying the rules violated, the act or omission constituting the violation, and the amount of the fine. The issuance of a "written statement" by the Enforcement Department or MFVDC does not constitute a finding of guilt. Persons receiving a written statement may plead "no contest" and return the statement to the Exchange with the specified fine. In the alternative, persons who are charged under the Plan may contest the fine and receive a hearing before an Exchange Disciplinary Panel. The Exchange is not required to use Amex Rule 590 to impose a fine for a violation of the rules enumerated in the rule and is free to pursue disciplinary action under Article V of the Amex Constitution or Amex Rule 345.

In this filing, the Exchange is proposing to eliminate the MFVDC and to transfer its responsibilities to the Exchange's Enforcement Department so that responsibility for initiating disciplinary action under Part 1 of the Minor Rule Violation Fine Plan will rest exclusively with the Amex enforcement staff. The Exchange currently has one rule filing pending with the Commission that would add a violation to paragraph (h) of Part 1 of Amex Rule 590.<sup>4</sup> This filing is being amended to transfer this violation to the list of rules that may be the subject of Enforcement Department action under paragraph (g) of Part 1 of Amex Rule 590. In connection with the elimination of the MFVDC, the Amex also is proposing to eliminate reference to the Committee wherever it appears in the Exchange's rules.<sup>5</sup>

<sup>4</sup> SR-Amex-2002-09 would add to the list of violations that may be sanctioned by the MFVDC, "Failure to use best efforts to attempt to ensure that the next Auto-Ex execution is appropriately allocated to the price improving registered options trader. (Amex Rule 933, Commentary .04(d))." See Amendment No. 9 to Amex-2002-09. Amex proposes to transfer this rule to the list of rules enforced by the Enforcement Department under paragraph (g) of Part 1 of Amex Rule 590.

<sup>5</sup> The MFVDC is mentioned in Commentaries .04 and .06 to Amex Rule 26. These Commentaries concern the calculation of performance ratings for option and ETF specialists.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>6</sup> in general and furthers the objectives of Section 6(b)(1),<sup>7</sup> 6(b)(6),<sup>8</sup> and 6(b)(7)<sup>9</sup> in particular in that it will enhance the ability of the Exchange to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange; it will help ensure that members and persons associated with members are appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the rules of the Exchange; and it will provide a fair procedure for the disciplining of members and persons associated with members.

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

The proposed rule change will impose no burden on competition 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

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

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 such 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 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(1).

<sup>8</sup> 15 U.S.C. 78f(b)(6).

<sup>9</sup> 15 U.S.C. 78f(b)(7).

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-2003-71 and should be submitted by September 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 03-22032 Filed 8-27-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48388; File No. SR-CSE-2003-09]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Cincinnati Stock Exchange, Inc. Relating to Market Order Exposure Requirements

August 21, 2003.

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 August 7, 2003, The Cincinnati Stock Exchange, Inc. ("CSE" 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 CSE. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(i) of the Act,<sup>3</sup> and Rule 19b-4(f)(1)<sup>4</sup> thereunder, as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, 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 CSE is proposing to amend CSE Rule 11.9(u), Interpretation .01, concerning market order exposure requirements ("Market Order Exposure Requirement"). The proposed rule change would modify the rule language in light of the current \$0.01 minimum price variation and codify certain of the Exchange's stated policies and interpretations contained in CSE Regulatory Circulars.<sup>5</sup>

The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].<sup>6</sup>

\* \* \* \* \*

Rule 11.9(u), Interpretations and Policies

\* \* \* \* \*

#### .01 Market Order Exposure Requirement

(a) Consistent with his or her agency responsibility to exercise due diligence, a member must comply with the following procedures which provide the opportunity for public agency buy/sell market orders in securities other than Nasdaq/NM securities to receive a price lower/higher than the disseminated national best offer/bid.

Except under unusual market conditions or if it is not in the best interests of the customer, [when the spread between the national best bid and offer is greater than the minimum price variation a member must either immediately execute the market order at an improved price or expose the market order on the Exchange for a minimum of fifteen seconds in an attempt to improve the price.] *Preferencing Dealers must immediately price improve or expose for a minimum of five seconds in an attempt to improve the price:*

*1. market orders with sizes less than or equal to 1000 shares when the NBBO at time of order receipt is more than 5 cents (\$0.05) wide;*

*2. market orders with sizes between 1001 shares and 5000 shares when the*

<sup>5</sup> See Regulatory Circulars 01-07, 99-03, 98-06, 97-07 and 96-04.

<sup>6</sup> At the request of the Exchange, the Commission has revised the proposed rule change to insert the word "wide" at the end of clauses (a)1, (a)2 and (a)3. Telephone conversation between John Polise, Senior Special Counsel, Joseph P. Morra, Special Counsel and Ann E. Leddy, Attorney, Division of Market Regulation, Commission, and Jeffrey T. Brown, Senior Vice President, Regulation and General Counsel, Exchange (August 20, 2003).

*NBBO at time of order receipt is more than 10 cents (\$0.10) wide; and*

*3. market orders with sizes above 5000 shares when the NBBO at time of order receipt is more than 15 cents (\$0.15) wide.*

(b) *to assist Preferencing Dealers in satisfying their obligations under the rule, the following exceptions apply:*

#### 1. Unusual Market Conditions

*Unusual market conditions include the following conditions:*

- i. The NBBO is more than 1 dollar (\$1.00) wide at receipt;*
- ii. the market is locked or crossed at receipt or becomes that way during exposure;*
- iii. when circuit breakers have been activated;*
- iv. during and immediately after the opening (a period not to exceed 5 minutes);*
- v. immediately prior to the close (a period not to exceed 5 minutes);*
- vi. when the Exchange has declared a fast market; and*
- vii. when non-firm markets exist.*

#### 2. Best Interests of the Customer

*In order to protect the best interests of the customer, the following orders may require unique handling subject to the application of a member's brokerage judgment and experience as required by CSE Rule 12.10, Best Execution:*

- i. block size market orders as defined in the Intermarket Trading System Plan;*
- ii. odd-lot orders;*
- iii. contingent orders;*
- iv. a market order for a quantity that exceeds the existing NBBO size;*
- v. NBBO moves in direction of market order stop price; and*
- vi. Primary market trades at market order stop price.*

\* \* \* \* \*

### 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 CSE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CSE 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

The purpose of the proposed rule change is to amend CSE Rule 11.9(u),

<sup>10</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)(i).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).