

American Stock Exchange LLC ("Amex") since May 8, 1999. The Issuer represented that it will maintain its listing on the Amex.

The Issuer's application relates solely to the Securities' withdrawal from listing on the BSE and shall not affect its listing on the Amex or its obligation to be registered under section 12(b) of the Act<sup>3</sup>.

Any interested person may, on or before August 12, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46235; File No. SR-Amex-2001-55]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Amending Exchange Rule 175 To Limit Specialists' Affiliations

July 19, 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 July 30, 2001, the American Stock Exchange LLC ("Amex" 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 Exchange proposes to amend Amex Rule 175 to prohibit Amex specialists from maintaining affiliations with persons that engage directly or indirectly in primary market making activities in the same security on another national securities exchange or facility of a national securities association.

The text of the proposed rule change appears below. New text is in *italics*.

##### Rule 175. Specialist Prohibitions

Paragraphs (a) through (c)—No change.

*(d) No specialist or his member organization or any member, limited partner, officer, or approved person thereof shall act as a specialist or function in any capacity involving primary market making responsibilities on another national securities exchange or facility of a national securities association with respect to a security as to which the specialist is registered as such.*

Guidelines for Specialists' Specialty Stock Option Transactions Pursuant to Rule 175. 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 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 states that in recent years member organizations that serve a market making function on the floor of the Exchange as specialists have grown in size and have become active on other United States markets. Similarly, market makers whose beginnings were in other markets have grown in size and have become active on the Exchange as market makers or specialists. The Exchange believes that while, generally, this has been a positive development for investors in that larger pools of capital

are available for trading on the Exchange and other markets, questions have arisen as to whether a specialist on the Amex could act as the specialist or perform primary market making responsibilities in its Amex specialty securities on another market.

The Exchange believes that an Amex specialist or its affiliates should not act as a specialist or perform primary market making responsibilities on another market with respect to its Amex specialty securities.<sup>3</sup> The Exchange also believes that such affiliations raise competitive and conflict of interest concerns that cannot be ameliorated through internal controls, such as the Amex's Rule 193 information fire-wall procedures. Thus, having the same firm, or affiliates thereof, act as a primary market maker in the same security in two or more markets may tend to limit competition across markets. The Exchange asserts that a primary market maker may not be as vigorous in competing against a primary market maker on another marketplace that is part of the same firm or an affiliated entity. While the possible presence of other, non-affiliated market makers on one or both exchanges may help mitigate this competitive concern, the Exchange believes that the consistent presence of such market makers would vary from one security or market to another and is not assured.

The Exchange further believes that fulfilling primary market making responsibilities on more than one market poses conflict of interest issues for a firm. For example, according to the Exchange, it is perfectly appropriate in the context of Amex Rule 193 for the management of a member firm that operates an Amex specialist as well as other broker-dealer activities to allocate resources and assign personnel within the firm. The Exchange believes that if such a firm were to have an Amex specialist and a primary market maker in the same security on another market, these permissible resource allocation decisions could impact the competitive capabilities of the Amex specialist or the market maker on the other exchange to the possible detriment of the respective market makers and investors.

Therefore, the Exchange believes that codifying the Exchange's existing policy of prohibiting Amex specialists from being affiliated with a person that performs primary market making responsibilities in another United States market would maintain competition in the trading of securities because no

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

<sup>4</sup> 17 CFR 200.30-3(a)(1).

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

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

<sup>3</sup> According to the Exchange, the term "specialty security" includes Exchange-Traded Funds, options, equities, and Security Futures Products.

individual specialist unit would be permitted to trade the same security as a primary market maker on more than one market.

## (2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>4</sup> in general and furthers the objectives of section 6(b)(5) of the Act,<sup>5</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 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, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The Exchange believes that the proposed rule change would impose no burden on competition and, in fact, will tend to strengthen and maintain competition. The Exchange further believes that competition among markets (and, as the result, the interests of investors) would be adversely impacted if a firm were permitted to act as the primary market maker in more than one market in the same security. The Exchange believes also that it is virtually impossible for a firm that acts as a primary market maker in the same security in more than one market to compete with itself, and that resource allocation decisions by the firm would tend to strengthen the capabilities of one of the market making operations to the detriment of the other(s). The prospect of the same or related firms posting inconsistent quotes and providing varying executions in different markets also may raise other concerns. As a result, the Exchange believes that it is appropriate and in the interests of promoting competition among markets and protecting the interests of investors to prohibit Amex specialists and their affiliates from acting in a primary market making capacity in the same security on another national securities exchange or facility of a national securities association.

### *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 Exchange 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 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 filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2001-55 and should be submitted by August 16, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-46233; File No. SR-CHX-2002-19]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Membership Dues and Fees**

July 19, 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 hereby is given that on June 28, 2002, the Chicago Stock Exchange, Inc. ("CHX") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which the CHX has prepared. 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 CHX proposes to amend its membership dues and fees schedule effective through July 31, 2002, to provide for continued assessment of a marketing fee in instances where transactions in a subject issue meet certain criteria, described below. The text of the proposed rule change is available at the CHX 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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 proposed change to the CHX fee schedule would provide for continued assessment of a marketing fee, in an amount equal to \$.01 per share,

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>6</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.