

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (67 FR 66433, October 31, 2002).

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

ANNOUNCEMENT OF CLOSED MEETING: Additional Meeting.

The Securities and Exchange Commission will hold an additional meeting during the week of November 4, 2002: An additional Closed Meeting will be held on Tuesday, November 5, 2002 at 4 p.m.

Commissioner Atkins, as duty officer, determined that no earlier notice thereof was possible. The subject matter of the Closed Meeting to be held on Tuesday, November 5, 2002, will be an investigation.

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), (6), (7), and (10) and 17 CFR 200.402(a)(5), (6), (7), and (10), permit consideration of the scheduled matter at the Closed Meeting.

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: November 5, 2002.

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46750; File No. SR-AMEX-2002-19]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 3, 4, and 5 Thereto Relating to Performance Evaluation Procedures for Specialists Trading Securities Pursuant to Unlisted Trading Privileges

October 30, 2002.

I. Introduction and Description of the Proposal

On March 14, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt Amex Rule 29, Market Quality Committee, to codify the Exchange's performance evaluation procedures for specialists trading securities admitted to dealings on an unlisted trading privileges ("UTP") basis. On May 6, 2002, Amex filed Amendment No. 1 to the proposed rule change,³ and, on May 28, 2002, Amex filed Amendment No. 2 to the proposed rule change.⁴ The proposed rule change, as amended by Amendment Nos. 1 and 2, was published in the *Federal Register* on July 19, 2002.⁵ The Commission received no comment letters on the proposal. On July 29, 2002, the Amex filed Amendment No. 3 to the proposed rule change,⁶ on October 11, 2002, the Amex filed Amendment No. 4 to the

proposed rule change,⁷ and, on October 15, 2002, the Amex filed Amendment No. 5 to the proposed rule change.⁸ This order approves the proposed rule change, as amended. In addition, the Commission is publishing notice to solicit comment on and is simultaneously approving, on an accelerated basis, Amendment Nos. 3, 4, and 5 to the proposal.

The Exchange is proposing a new program to evaluate and regulate UTP specialist performance. Under the proposal, as amended, a new committee, the Market Quality Committee, would administer the Exchange's program to evaluate and enhance UTP specialist performance. The Committee is proposed to consist of seven persons: the Chief Executive Officer of the Exchange, three members of the Exchange's senior management selected by the Chief Executive Officer, and three members selected by the Chief Executive Officer from among Exchange Officials, Senior Floor Officials and Floor Governors. The Committee would regularly evaluate UTP specialists to determine whether they have fulfilled standards relating to: (1) Quality of markets, (2) competition with other market centers, (3) administrative matters, and (4) willingness to promote the Exchange as a marketplace. The Committee also would review transfers

⁷ See letter from William Floyd-Jones, Assistant General Counsel, Amex, to Kelly McCormick-Riley, Division, Commission (October 10, 2002) ("Amendment No. 4"). In Amendment No. 4, the Exchange made non-substantive, technical corrections, provided the Exchange's rationale for matching the composition of the Market Quality Committee with that of the UTP Allocations Committee, and clarified that the Chief Executive Officer of the Exchange will designate the members that serve on the Market Quality Committee. With respect to the rationale for matching the composition of the Market Quality Committee with that of the UTP Allocations Committee, the Amex noted that it believes that the two committees serve closely related functions and that it is desirable for them to have overlapping memberships. The Exchange also stated that it believes that the UTP Allocations Committee structure has worked well in practice and it wishes to ensure that persons serving on the UTP Allocations Committee are available to serve on the Market Quality Committee as well.

⁸ See letter from William Floyd-Jones, Assistant General Counsel, Amex, to Kelly McCormick-Riley, Division, Commission (October 14, 2002) ("Amendment No. 5"). In Amendment No. 5, the Exchange specified that only Exchange Officials that do not spend a substantial portion of their time on the Floor may participate by telephone in meetings of the Market Quality Committee. These Exchange Officials that participate in meetings by telephone will be provided with all materials so that they can fully participate in Committee activities. See, e.g., Amex Rule 21, Appointment of Floor Officials. See also Securities Exchange Act Release No. 46061 (June 11, 2002), 67 FR 41547 (June 18, 2002) (permitting Amex Performance Committee members to attend meetings by telephone).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission (May 3, 2002) ("Amendment No. 1").

⁴ See letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission (May 24, 2002) ("Amendment No. 2").

⁵ See Securities Exchange Act Release No. 46196 (July 12, 2002), 67 FR 47579.

⁶ See letter from William Floyd-Jones, Assistant General Counsel, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission (July 26, 2002) ("Amendment No. 3"). In Amendment No. 3, the Exchange made non-substantive, technical corrections and changed the composition of the Amex Market Quality Committee to match that of the Amex UTP Allocations Committee (See Securities Exchange Act Release No. 45698 (April 5, 2002), 67 FR 18051 (April 12, 2002) ("UTP Allocations Committee Pilot Approval")).