

The Commission believes that the proposed amendment to the OPRA Plan is consistent with the Act and has determined to substitute the provisions of this proposal for the modifications made by the Commission to OPRA's previous capacity allocation amendment.¹² Therefore, OPRA capacity should be allocated according to the terms of the capacity allocation set forth in this amendment.

The Commission finds good cause to accelerate the proposed OPRA Plan amendment prior to the date of publication in the **Federal Register**. The Commission notes that the proposed OPRA Plan amendment is intended to mitigate potential disruption to the orderly dissemination of options market information caused by the inability of the OPRA system to handle the anticipated quote message traffic. The Commission believes that approving the amendment will provide the options exchanges and OPRA with an immediate, short-term solution to a pressing problem, while giving the Commission and the options markets additional time to evaluate, and possibly implement, other quote mitigation strategies. In addition, the limited time frame of this capacity allocation program provides the Commission and the options exchanges with greater flexibility to modify the program, as necessary, to ensure the fairness of the allocation process to all of the options markets going forward. The Commission finds, therefore, that granting accelerated approval of the proposed OPRA Plan amendment is appropriate and consistent with Section 11A of the Act.¹³

V. Conclusion

It Is Therefore Ordered, pursuant to Rule 11Aa3-2 of the Act,¹⁴ that the proposed OPRA Plan amendment (SR-OPRA-00-05) is approved on an accelerated basis until the earlier of the date when OPRA implements a system upgrade that will increase its maximum message handling capacity to 8,000 mps or August 24, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42853; File No. SR-AMEX-00-19]

Self-Regulatory organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Establishment of an Interim Seat Allocation Program

May 30, 2000.

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 April 14, 2000, 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

Amex is filing with the Commission a proposed rule change to establish an Interim Seat Allocation Program that would allow a member or member organization designate one or more interim members. Thereafter, the member or member organization would be permitted to allocate temporarily its membership, with certain restrictions, to the interim member whenever the member or member organization's active member or nominee is absent from the trading floor. The text of the proposed rule change is available for inspection at the places specified in item IV below.

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 summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Active Exchange seats are assigned to a person not a firm. Consequently, when a person to whom a seat is assigned is absent from the trading floor, the seat cannot be used to participate in trading activities on the floor. In effect, at any given time, some measurable percentage of one of the Exchange's most valuable assets lies dormant and unavailable for use. Therefore, the Exchange is proposing an Interim Seat Allocation Program which would allow an active member (*i.e.* the person to whom the seat has been assigned and who actively participates in securities transactions on the floor of the Exchange) temporarily to allocate the membership to an interim member when the active member is absent from the trading floor. The active member would pay an interim member status annual fee of \$1,500 and a flat fee of \$250 for each allocation. A temporary allocation may be for a minimum of one day to a maximum of one year.

The interim member would have to be approved for membership in accordance with the Constitution and Rules of the Exchange. Once approved, and upon payment of the flat allocation fee and submission of the appropriate form to the Exchange's Membership Services Department, an interim member could be allocated the membership held by the active member. Contracts made on the trading floor of the Exchange by an interim member would be considered contracts made by the active member. The active member would also be responsible for all obligations to the Exchange and all obligations to other members resulting from Exchange transactions or transactions in other securities conducted by the interim member. The Exchange would require prior approval of the interim members by lessor.

The owner of the membership, rather than the interim member, would be deemed to be the member of the Exchange for purposes of participating in any distribution of the assets and funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution, or winding up of the Exchange's affairs. The owner of the membership or active member, as the case may be, rather than the interim member, would be the Participant in the Exchange's Gratuity Fund and entitled to the benefits described in Article IX of the Exchange Constitution. In addition, an interim member will not be permitted to vote the active member's

¹² See note 11 *supra*.

¹³ 15 U.S.C. 78k-1.

¹⁴ 17 CFR 240.11Aa3-2.

¹⁵ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

seat or serve on an Exchange committee in the place of the active member.³

If an interim member is not allocated the membership held by the active member within one year of approval by the Exchange's Membership Services Department, the individual's eligibility for interim membership would be terminated. To become eligible again for interim member status, the individual would have to requalify for membership pursuant to Article IV of the Exchange Constitution by repaying all fees, passing the test, and updating the application.

The Exchange believes that a confluence of competitive factors, such as the advent of the International Securities Exchange and the multiple listing of options, coupled with rising seat prices, make it critical for Exchange members to maximize their use of personnel and capital resources. This Interim Seat Allocation Program is an effort by the Exchange to assist its members in accomplishing that goal.

2. Statutory Basis

Amex believes that the proposed rule change would be consistent with the provisions of section 6(b) of the Act⁴ in general and would further the objectives of section 6(b)(5)⁵ in particular, because 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 does not believe that the proposed rule change would result in any burden on competition that is 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

Written comments were neither solicited nor received.

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 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 Commission, 450 Fifth Street, N.W., Washington, D.C. 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 Exchange. All submissions should refer to File No. SR-AMEX-00-19 and should be submitted by June 28, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42834; File No. SR-Amex-00-07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Amendment of Rule 126 on a Pilot Program Basis

May 26, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 3, 2000, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange 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 126 on a six month pilot program basis by adding a new Commentary .03 to implement a program for processing electronically transmitted orders for the common stock of business corporations admitted to dealings on the Exchange ("eQPrioritysm"). Below is the text of the proposed rule change, which is entirely new.

* * * * *

.03. Orders Delivered Electronically to the Specialist. At all times other than an opening or a reopening (Rule 108) or a block sold at a "clean-up" price (Rule 155), a round lot, regular way order for the common stock of a business corporation admitted to dealings on the Exchange that is sent to the specialist electronically and is executable according to its terms in whole or in part shall be handled in the following manner. Upon receipt of the electronic order by the specialist's order book, the specialist shall announce the order to the crowd and the order shall establish priority with respect to all other bids and offers. Once the specialist has announced the order, members who have bids or offers incorporated in the Amex Published quote ("APQ" shall not be permitted to withdraw or modify their interest except to provide price improvement (i.e., an execution between the APQ) to the incoming order.

³ Telephone conversation between Ivonne T. Lugo, Assistant General Counsel, Legal and Regulatory Division, Amex, and Michael Gaw, Attorney, Division of Market Regulation, Commission, on May 22, 2000.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.