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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-49331; File No. SR-Amex-2004-15]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to Disclosure of Independent Director Determinations**

February 27, 2004.

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 February 23, 2004, the American Stock Exchange LLC (the “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 Amex. On February 26, 2004, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> Amex has filed the proposed rule change as a “non-controversial” rule change under Rule 19b-4(f)(6) under the Act,<sup>4</sup> 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 Amex proposes to amend section 802 of the Amex *Company Guide* to specify that a listed company must disclose those directors that its board of directors has determined to be independent. The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

<sup>1</sup> 15 U.S.C. 78s(b)(1).<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Letter from Claudia Crowley, Vice President, Listing Qualifications, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated February 26, 2004. Amendment No. 1 made a technical correction to the text of the proposed rule change to reflect a revision that was made in File No. SR-Amex-2004-06. See Securities Exchange Act Release No. 49295 (February 23, 2004).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).**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 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. The Amex 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**

On December 1, 2003 the Commission approved comprehensive enhancements to the corporate governance requirements applicable to listed companies in order to promote accountability, transparency, and integrity by such companies, including the changes required by Commission Rule 10A-3<sup>5</sup> with respect to listed company audit committees.<sup>6</sup> Among other things, these enhancements require that for most listed companies at least a majority of the directors on the company’s board of directors must be independent as defined in section 121A of the *Amex Company Guide*. Small business issuers are required to maintain a board of directors comprised of at least 50% independent directors.<sup>7</sup> In order to provide increased disclosure to investors, the Exchange is proposing to amend section 802 of the Amex *Company Guide* to specify that a listed company must disclose in its annual meeting proxy statement (or in its next annual report on SEC Form 10-K or equivalent if the issuer does not file an annual proxy statement) those directors that the board of directors has determined to be independent pursuant to section 121A of the Amex *Company Guide*.

**2. Statutory Basis**

The Amex believes that the proposed rule change, as amended, is consistent

<sup>5</sup> 17 CFR 240.10A-3.

<sup>6</sup> See Securities Exchange Act Release No. 48863 (December 1, 2003), 68 FR 68432 (December 8, 2003) (order approving File No. SR-Amex-2003-65).

<sup>7</sup> The disclosure required in the proposed rule change will apply equally to small business issuers. Telephone conference between Claudia Crowley, Vice President, Listing Qualifications, Amex, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission, on February 25, 2004.

with section 6(b) of the Act<sup>8</sup> in general and furthers the objectives of section 6(b)(5) of the Act,<sup>9</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 foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

**C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others**

The Exchange did not receive any written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change has been filed by the Amex as a “non-controversial” rule change pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>11</sup>

Consequently, because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, and the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, it has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

Pursuant to Rule 19b-4(f)(6)(iii),<sup>12</sup> a proposed “non-controversial” rule change does not become operative for 30 days after the date of filing, or such shorter time as the Commission may

<sup>8</sup> 15 U.S.C. 78f(b).<sup>9</sup> 15 U.S.C. 78f(b)(5).<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).<sup>11</sup> 17 CFR 240.19b-4(f)(6).<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

designate if consistent with the protection of investors and the public interest. The Amex has requested that the Commission waive the 30-day operative delay and the five-business day pre-filing requirement to permit the Exchange to implement the proposal immediately.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The revision contained in the proposed rule change relating to disclosure of independent director determinations is substantially identical to a rule change by the National Association of Securities Dealers, Inc. that was recently approved by the Commission.<sup>13</sup> In addition, waiving the 30-day operative delay will ease implementation of the new rule and assure consistent application of corporate governance disclosure requirements between listing markets. For these reasons, the Commission designates the proposed rule change to be effective and operative upon filing with the Commission.<sup>14</sup> The Commission also waives the five business day pre-filing requirement.

At any time within 60 days of the filing of the 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.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, as amended, 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-Amex-2004-15. 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, comments

<sup>13</sup> See Securities Exchange Act Release No. 48745 (November 4, 2003), 68 FR 64154 (November 12, 2003) (approval of File Nos. SR-NYSE-2002-33, SR-NASD-2002-77, SR-NASD-2002-80, SR-NASD-2002-138, SR-NASD-2002-139, and SR-NASD-2002-141).

<sup>14</sup> For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

should be sent in hardcopy or by e-mail but not by both methods. 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 at 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 the File No. SR-Amex-2004-15 and should be submitted by March 25, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-305]

#### WTO Dispute Settlement Proceeding Regarding Egypt—Measures Affecting Imports of Textile and Apparel Products

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice that on December 23, 2003, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), the United States requested consultations with Egypt regarding the import duties that Egypt applies to textile and apparel products. USTR believes the duties Egypt actually applies (on a "per article" basis) greatly exceed the *ad valorem* bound rates that Egypt agreed to apply in the Uruguay Round of WTO negotiations.

USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or

before March 26, 2004, to be assured of timely consideration by USTR.

**ADDRESSES:** Submit comments to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: Egypt Textile and Apparel Dispute. Telephone: (202) 395-3582.

**FOR FURTHER INFORMATION CONTACT:** Jason Kearns, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (DSU). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meeting in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

#### Major Issues Raised by the United States

On December 23, 2003, the United States requested consultations with the Government of Egypt pursuant to Articles 1 and 4 of the DSU, Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), and Article 7 of the Agreement on Textiles and Clothing (ATC) regarding the tariffs applied to textile and apparel products and the Decree of the President of the Arab Republic of Egypt No. 469 of the year 2001 ("Decree No. 469") and any amendments, related regulations or other implementing measures.

In the Uruguay Round, Egypt agreed to remove a general prohibition on the importation of apparel and made-up textile products by January 1, 2002. It also agreed to bind its duties under HS Chapters 61 (articles of apparel and clothing, knitted and crocheted) and 62 (articles of apparel and clothing, not knitted or crocheted) at an *ad valorem* rate of 46 percent in 2003, 43 percent in 2004 and 40 percent thereafter. Moreover, it agreed to bind its duties under HS Chapter 63 (other made up

<sup>15</sup> 17 CFR 200.30-3(a)(12).