

Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. If an FCM furnishes records pertaining to a fund's assets at the request of the Commission or its staff, the records will be kept confidential to the extent permitted by relevant statutory or regulatory provisions. The rule does not require these records be retained for any specific period of time. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days after this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: November 30, 2006.

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6-20805 Filed 12-7-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Securities Act of 1933, Release No. 8757/ December 4, 2006; Securities Exchange Act of 1934, Release No. 54865/ December 4, 2006]

### Order Approving Public Company Accounting Oversight Board Budget and Annual Accounting Support Fee for Calendar Year 2007

The Sarbanes-Oxley Act of 2002 (the "Act") established the Public Company Accounting Oversight Board ("PCAOB")

to oversee the audits of public companies and related matters, to protect investors, and to further the public interest in the preparation of informative, accurate and independent audit reports. The PCAOB is to accomplish these goals through registration of public accounting firms and standard setting, inspection, and disciplinary programs. Section 109 of the Act provides that the PCAOB shall establish a reasonable annual accounting support fee, as may be necessary or appropriate to establish and maintain the PCAOB. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act. Under Section 109(f), the aggregate annual accounting support fee shall not exceed the PCAOB's aggregate "recoverable budget expenses," which may include operating, capital and accrued items. Section 109(b) of the Act directs the PCAOB to establish a budget for each fiscal year in accordance with the PCAOB's internal procedures, subject to approval by the Securities and Exchange Commission (the "Commission").

On July 18, 2006, the Commission amended its Rules of Practice related to its Informal and Other Procedures to add a rule that facilitates the Commission's review and approval of PCAOB budgets and accounting support fees.<sup>1</sup> The new budget rule provides, among other things, a timetable for the preparation and submission of the PCAOB budget and for Commission actions related to each budget, a description of the information that should be included in each budget submission, limits on the PCAOB's ability to incur expenses and obligations except as provided in the approved budget, procedures relating to supplemental budget requests, requirements for the PCAOB to furnish on a quarterly basis certain budget-related information, and a list of definitions that apply to the rule and to general discussions of PCAOB budget matters.

Although the new budget rule will not take effect until the budget process for fiscal year 2008, the PCAOB staff and the Commission staff used their best efforts to substantially comply with the timetable and other requirements in the new rule for the PCAOB budget submission for 2007. Accordingly, in March 2006 the PCAOB provided the

Commission with a narrative description of its program issues and outlook for the 2007 budget year, and in April the Commission staff provided to the PCAOB staff economic assumptions and budgetary guidance for the 2007 budget year. The PCAOB subsequently delivered a preliminary budget and budget justification to the Commission. The staff from the Commission's Offices of the Chief Accountant, Executive Director and Information Technology dedicated a substantial amount of time to the review and analysis of the PCAOB's programs, projects and budget estimates, reviewed the PCAOB's estimates of 2006 actual spending, and attended several meetings with management and staff of the PCAOB to develop an understanding of the PCAOB's budget and operations. During the course of the Commission's review, the Commission staff relied upon representations and supporting documentation from the PCAOB. Also, substantially as provided in the new rule, there was a "pass back" from the Commission to the PCAOB. The PCAOB approved its 2007 budget on November 30, 2006 and submitted that budget for Commission approval.

After considering the above, the Commission did not identify any proposed disbursements in the 2007 budget adopted by the PCAOB that are not properly recoverable through the annual accounting support fee, and the Commission believes that the aggregate proposed 2007 annual accounting support fee does not exceed the PCAOB's aggregate recoverable budget expenses for 2007.

As part of its review of the 2007 PCAOB budget, the Commission notes that the PCAOB has reaffirmed its commitments, among other things, to build upon its 2007 goals and objectives to develop a comprehensive multi-year strategic plan that is integrated with the PCAOB budget process; to have the auditors of its 2007 annual financial statements opine on the PCAOB's internal control over financial reporting; to devote staff resources to train both PCAOB staff and the public on revisions to the standard for auditing internal control over financial reporting; and to comply with the new Commission rule related to the PCAOB budget approval process in connection with its budget for 2008. The Commission also recognizes that the PCAOB, upon the arrival of Chairman Olson in mid 2006, appropriately has undertaken reviews in a number areas, including its compensation, recruiting and information technology programs. Because of the potential significance of those reviews, during 2007 the PCAOB

<sup>1</sup> 17 CFR 202.11. See Release No. 33-8724 (July 18, 2006) [71 FR 41998 (July 24, 2006)].

should supplement the quarterly reports made available to the Commission under the new budget rule with periodic reports on the progress and results of those reviews and with monthly reports showing variances of actual or estimated expenditures from budgeted amounts, to the extent such progress reports and monthly reports are prepared for internal purposes.

Based on the foregoing, the Commission has determined that the PCAOB's 2007 budget and annual accounting support fee are consistent with Section 109 of the Act. Accordingly,

It is ordered, pursuant to Section 109 of the Act, that the PCAOB budget and annual accounting support fee for calendar year 2007 are approved.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E6-20878 Filed 12-7-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54851; File No. SR-Amex-2006-48]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 Thereto Modifying the Exchange's Independent Director and Audit Committee Corporate Governance Standards

November 30, 2006.

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 May 17, 2006, 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 and II below, which Items have been substantially prepared by the Exchange. Amex filed Amendment No. 1 with the Commission on September 25, 2006.<sup>3</sup> The Commission is publishing this

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

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

<sup>3</sup> Amendment No. 1 replaced and superseded the original filing in its entirety. Amendment No. 1 clarified certain details of the Exchange's initial proposal, and conformed it with recent revisions to the corporate governance standards of The NASDAQ Stock Market LLC ("Nasdaq"). See Securities Exchange Act Release No. 54583 (October 6, 2006), 71 FR 60782 (October 16, 2006) (approving SR-NASDAQ-2006-021) ("Nasdaq Corporate Governance Order").

notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposal on an accelerated basis.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 121 of the Amex Company Guide ("Company Guide") to clarify and modify certain corporate governance standards applicable to companies listed on the Amex, including the definition of "independent director," and audit committee requirements. The text of the proposed rule change is below.<sup>4</sup> Proposed new language is in *italics*; proposed deletions are in [brackets].

\* \* \* \* \*

### Company Guide

#### Independent Directors and Audit Committee

##### Sec. 121. A. Independent Directors:

(1) Each [listed company] *issuer* must have a sufficient number of independent directors on its [B]board of [D]directors [(1)] (a) such that at least a majority of such directors are independent directors (subject to the exceptions set forth in Section 801 and, with respect to small business issuers, Section 121B(2)(c)), and [(2)] (b) to satisfy the audit committee requirement set forth below.

(2) "Independent director" means a person other than an *executive* officer or employee of the company [or any parent or subsidiary]. No director qualifies as independent unless the *issuer's* [B]board of [D]directors affirmatively determines that the director does not have a [material] relationship [with the listed company] that would interfere with the exercise of independent judgment in *carrying out the responsibilities of a director*. In addition *to the requirements contained in this Section 121A, directors serving on*, [ ] audit committees [members] must also comply with the *additional, more stringent* requirements set forth in Section [paragraph] 121B(2) below. The following is a non-exclusive list of persons who shall not be considered independent:

(a) a director who is, or during the past three years was, employed by the company [or by any parent or subsidiary of the company], other than prior employment as an interim *executive*

<sup>4</sup> With the Exchange's consent, a few technical spacing changes have been made to the text of the proposed rule change. Telephone conversation between Kristie Diemer, Special Counsel, Division of Market Regulation, Commission and Courtney McBride, Assistant General Counsel, Amex.

*officer* [Chairman or CEO\*] (*provided the interim employment did not last longer than one year*) (*See Commentary .08*);

(b) a director who accepted[s] or has an immediate family member who accepted[s] any [payments] *compensation* from the company [or any parent or subsidiary of the company] in excess of \$60,000 during *any period of twelve consecutive months within the three years preceding the determination of independence* [the current or any of the past three fiscal years], other than the following:

[(1)] (i) compensation for board or board committee service,

[(2)] payments arising solely from investments in the company's securities,

[(3)] (ii) compensation paid to an immediate family member who is [a non-executive] *an employee (other than an executive officer)* of the company [or of a parent or subsidiary of the company],

[(4)] (iii) compensation received for former service as an interim *executive officer* [Chairman or CEO] (*provided the interim employment did not last longer than one year*) (*See Commentary .08*), or [(5)] (iv) benefits under a tax-qualified retirement plan, or [(6)] non-discretionary compensation, [ ]

[(7)] loans permitted under Section 13(k) of the Exchange Act

(8) loans from a financial institution provided that the loans (i) Were made in the ordinary course of business, (ii) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with the general public, (iii) did not involve more than a normal degree of risk or other unfavorable factors, and (iv) were not otherwise subject to the specific disclosure requirements of SEC Regulation S-K, Item 404, or

(9) payments from a financial institution in connection with the deposit of funds or the financial institution acting in an agency capacity, provided such payments were (i) Made in the ordinary course of business, (ii) made on substantially the same terms as those prevailing at the time for comparable transactions with the general public, and (iii) not otherwise subject to the disclosure requirements of SEC Regulation S-K, Item 404.\* ]

(c) a director who is an immediate family member of an individual who is, or *at any time during* [has been in any of] the past three years *was*, employed by the company [or any parent or subsidiary of the company] as an executive officer; [\*]

(d) a director who is, or has an immediate family member who is, a