

Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 5, 2004.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04-607 Filed 1-12-04; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting Notice of Application of One Liberty Properties, Inc. To Withdraw Its Common Stock, \$1.00 par Value, From Listing and Registration on the American Stock Exchange LLC File No. 1-11083

January 7, 2004.

One Liberty Properties, Inc., a Maryland corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its Common Stock Exchange LLC ("Amex" or "Exchange").

The Board of Directors of the Issuer unanimously approved a resolution on December 15, 2003 to withdraw the Issuer's Security from listing on the Amex and to list the Security on New York Stock Exchange ("NYSE"). The Issuer states that it is taking such action to avoid the direct and indirect costs and the division of the market resulting from dual listing on Amex and NYSE.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in the State of Maryland, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Issuer's application relates solely to the withdrawal of the Securities from listing on the Amex and from registration under Section 12(b) of the Act<sup>3</sup> shall not affect its obligation to be registered under Section 12(g) of the Act.<sup>4</sup>

Any interested person may, on or before February 3, 2004, 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 Amex 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>5</sup>

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49022; File No. SR-Amex-2001-46]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the American Stock Exchange LLC Relating to the Adoption of a Facilitation Rule and Member Firm Guarantee for Index Shares

January 5, 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 July 11, 2001, 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. On November 7, 2001, Amex filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On September 24, 2003, Amex filed Amendment No. 2 to the proposed rule change.<sup>4</sup> On December 4, 2003,

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

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See letter from Claire P. McGrath, Vice President and Special Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 5, 2001. In Amendment No. 1, Amex increased the proposed participation guarantee for member firms facilitating transactions in Portfolio Depository Receipts and Index Fund Shares from 30% or 40% of the facilitation trade to 40% or 50% of the facilitation trade.

<sup>5</sup> See letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated September 23, 2003. In Amendment No. 2, which replaced the original

Amex filed Amendment No. 3 to the proposed rule change.<sup>5</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Amex proposes to adopt a facilitation rule and a member firm participation guarantee for member firms facilitating transactions in Portfolio Depository Receipts and Index Fund Shares and to codify the Exchange's policy prohibiting the use of non-public information received during the facilitation process. The text of the proposed rule change, as amended, is set forth below. *Italics* indicate material to be added.

\* \* \* \* \*

### Rule 1000 Portfolio Depository Receipts

(a) through (b) No change.

\* \* \* Commentary

.01 through .04 No change.

.05 (1) *Facilitation Orders*—A member who holds both an order for a public customer of a member organization and a facilitation order may cross such orders if:

(a) the member organization discloses on its order ticket for the public customer order which is subject to facilitation, all the terms of such order, including, if applicable, any contingency involving options or other related securities; and

(b) the member requests bids and offers for the shares subject to facilitation, then discloses the public customer order and any contingency respecting such order which is subject to facilitation and identifies the order as being subject to facilitation; and

(c) after providing an opportunity for such bids and offers to be made, the member, on behalf of the public customer whose order is subject to facilitation, either bids above the highest bid or offers below the lowest offer in the market. After all other market participants are given an opportunity to accept the bid or offer made on behalf of the public customer whose order is subject to facilitation, the member may cross all or any remaining

filing and previous amendment, Amex clarified the specialist's allocation of executed shares in facilitation transactions and made other, minor changes.

<sup>5</sup> See letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated December 3, 2003. In Amendment No. 3, Amex made a technical correction to the proposed rule text.

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

<sup>2</sup> 17 CFR 240.12d2-2(d).

<sup>3</sup> 15 U.S.C. 781(b).

<sup>4</sup> 14 U.S.C. 781(g).