

other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: March 6, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47450; File No. SR-Amex-2003-02]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to an Extension of the Interim Intermarket Linkage Program

March 5, 2003.

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 January 27, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in items I and II below, which items have been prepared by the Amex. The Exchange submitted Amendment No. 1 to the proposed rule change on March 4, 2003.<sup>3</sup> The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,<sup>4</sup> and rule 19b-4(f)(6) thereunder,<sup>5</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, as amended, from interested persons.

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

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

<sup>3</sup> See letter to Jennifer Lewis, Division of Market Regulation, Commission, from Jeffrey P. Burns, Assistant General Counsel, Amex, dated March 4, 2003 ("Amendment No. 1"). In Amendment No. 1, Amex proposes that the extension of its interim linkage expire on January 31, 2003.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6). The Amex requests that the Commission waive the 30-day operative delay. The Amex provided the Commission with notice of its intention to file this proposal on January 22, 2003.

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

The Amex proposes to extend until January 31, 2003, the pilot program providing for the implementation of "interim linkages" with the other option exchanges.

#### 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

The purpose of this proposed rule change is to request an extension of the "interim" intermarket options linkage.<sup>6</sup> Currently, the Exchange is operating the interim linkage on a pilot basis pursuant to Amex rule 940. The interim linkage utilizes the Exchange's existing systems to facilitate the sending and receiving of order flow between Amex specialists and their counterparts on the other option exchanges as an interim step towards development of a permanent linkage in the options market.<sup>7</sup> The Exchange now proposes that the interim linkage remain in effect on a pilot basis until January 31, 2003.

For the reasons stated above, the Amex requests an extension of the pilot program until January 31, 2003.

<sup>6</sup> On January 31, 2002, the Commission extended the Exchange's Interim Linkage until December 31, 2002. See Securities Exchange Act Release No. 45373 (January 31, 2002), 67 FR 5860 (February 7, 2002) (File No. SR-Amex-2002-03). The Commission previously approved the Interim Linkage, on a pilot basis, for all options exchanges. See Securities Exchange Act Release Nos. 43904 (January 30, 2001), 66 FR 9112 (February 6, 2001) (File Nos. SR-ISE-00-15 and SR-CBOE-00-58); 43986 (February 20, 2001), 66 FR 12578 (February 27, 2001) (File No. SR-PCX-2001-10); 44271 (May 7, 2001), 66 FR 26887 (May 15, 2001) (File No. SR-Amex-2001-20); and 44311 (May 16, 2001), 66 FR 28768 (May 24, 2001) (File No. SR-Phlx-2001-52).

<sup>7</sup> The Commission approved the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage in July 2000. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of section 6(b)(5),<sup>9</sup> in particular, because it should prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

##### B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change 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

No written comments were solicited or received with respect to the proposed rule change.

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

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; (3) does not become operative for 30 days from the date of filing, or such shorter date as the Commission may designate, if consistent with the protection of investors and the public interest; and (4) the Exchange provided the Commission with notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and rule 19b-4(f)(6)<sup>11</sup> thereunder.

A proposed rule change filed under rule 19b-4(f)(6)<sup>12</sup> does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The Amex has requested, in order to permit the uninterrupted operation of the interim linkage, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in

<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).

rule 19b-4(f)(6)(iii).<sup>13</sup> The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will permit operation of the interim options linkage to continue uninterrupted.<sup>14</sup>

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 foregoing, including whether the proposed rule change, as amended, 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. 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 Amex. All submissions should refer to File Number SR-Amex-2003-02 and should be submitted by April 3, 2003.

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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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47446; File No. SR-Amex-2002-105]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC To Amend Amex Rule 17 to Provide for "Cash" In Addition to "Next Day" Settlement of Transactions in Rights and Warrants During the Trading Days Prior to Expiration

March 5, 2003.

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 December 12, 2002, 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 Amex filed an amendment to the proposed rule change on January 23, 2003.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons.

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

The Amex proposes to amend Amex rule 17 to provide for "cash" in addition to "next day" settlement of transactions in rights and warrants during the trading days prior to expiration. The text of the proposed rule change is below. Text in brackets indicates material to be deleted, and text in italics indicates material to be added.

\* \* \* \* \*

#### Transactions in Rights and Warrants

Rule 17. (a) Unless otherwise directed by the Exchange, dealings on the Exchange in an issue of rights or warrants shall cease in accordance with the following procedure:

(1) Dealings in an issue of rights shall cease at the close of business on the

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

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

<sup>3</sup> See letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated January 21, 2003, replacing Form 19b-4 in its entirety ("Amendment No. 1"). In Amendment No. 1, the Amex made corrections to rule text in Amex rule 17(b) to allow for "cash" settlement as well as "next day" settlement for all transactions in an issue of rights during the three business days preceding the final day for dealings on the Exchange and made corresponding changes and corrections to its discussion in the rule filing.

business day preceding the expiration date thereof, if such rights are exercisable in the New York City metropolitan area, and at such time in advance of the expiration date as may be announced by the Exchange, if such rights are exercisable outside such area; and

(2) Dealings in an issue of warrants shall cease, in the case of book-entry warrants, at the close of business on their expiration date, and for all other warrants at the close of business on the last business date preceding their expiration date.

(b) During the three business days preceding the final day for dealings therein on the Exchange, all transactions in an issue of rights shall be made only "next day[.]" or for "cash". On the final day for dealings therein on the Exchange, all transactions in an issue of rights shall be made only for "cash."

(c) During the three final business days for trading in an issue of warrants, dealings on the Exchange shall be made only for "cash." During the three preceding business days dealings on the Exchange shall be made only "next day[.]" or for "cash".

\* \* \* Commentary

See rule 179 for treatment of orders on a specialist's book during the final days for dealings in rights or warrants.

\* \* \* \* \*

#### 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 Exchange included statements concerning the purpose of and basis for the proposed rule change, as amended, 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 Exchange 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

Amex rule 17(b) currently provides that transactions in rights during the three trading days preceding the last trading session must be settled on a "next day" basis. Amex rule 17(c) currently provides that transactions in warrants during the three trading days preceding the last three trading sessions (*i.e.*, the fourth, fifth and sixth trading sessions prior to expiration) must only

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> For purposes of accelerating the implementation of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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