

contemplated by condition 6 above, by the sole shareholder before offering shares of the Future Company to the public.

8. No director or officer of the Company or the Advisor will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such director or officer) any interest in a Manager except for: (i) ownership of interest in the Advisor or any entity that controls, is controlled by or is under common control with the Advisor; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Manager or an entity that controls, is controlled by, or is under common control with a Manager.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-29934 Filed 11-21-96; 8:45 am]

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Agency Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 25, 1996.

A closed meeting will be held on Tuesday, November 26, 1996, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 26, 1996, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Opinions.

At times, changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: November 20, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-30085 Filed 11-20-96; 3:52 pm]

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[File No. 500-1]

Omnigene Diagnostics, Inc., Order of Suspension of Trading

November 19, 1996.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of OmniGene Diagnostics, Inc. ("ODI"), because of questions regarding the accuracy of assertions by ODI, and by others, in documents sent to, and statements made to, market-makers of the stock of ODI, other broker-dealers, and to investors concerning, among other things, ODI's alleged ownership and other rights as to certain patents and trademarks, ODI's sales, past and projected, ODI's operations and facilities, and the number of freely traded shares of ODI common stock.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EST, November 20, 1996 through 11:59 p.m. EST, on December 4, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-30023 Filed 11-20-96; 12:41 pm]

BILLING CODE 8010-01-M

[Release No. 34-37958; File No. SR-Amex-96-42]

November 15, 1996.

Self-Regulatory Organizations; Notice of Filing of, and Order Granting Accelerated Approval to, Proposed Rule Change by the American Stock Exchange, Inc. Relating to a Pilot Program for Execution of Specialists' Liquidating Transactions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),¹ notice is hereby given that on November 12, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange submitted Amendment No. 1 on November 15, 1996.² The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

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

The Amex is proposing permanent approval of the pilot program that amended Exchange Rule 170 to permit a specialist to effect a liquidating transaction on a zero minus tick,³ in the case of a "long" position, or a zero plus tick,⁴ when covering a "short" position, without Floor Official approval. The pilot program also amended Rule 170 to set forth the affirmative action that specialists are required to take subsequent to effecting various types of liquidating transactions. In the alternative, the Exchange is requesting a three-month extension of the pilot program.

The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

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 self-regulatory organization 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 III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² See letter from Claudia Crowley, Special Counsel, Amex, to Anthony P. Pecora, Attorney, Division of Market Regulation, SEC, dated November 15, 1996, Amendment No. 1 removed a footnote detailing the Amex's perception of how this rule is supposed to be enforced.

³ A zero minus tick is a price equal to the last sale where the last preceding transaction at a different price was at a higher price.

⁴ A zero plus tick is a price equal to the last sale where the last preceding transaction at a different price was at a lower price.

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

1. Purpose

On September 19, 1996, the Commission approved an extension until November 15, 1996 of a pilot program that amended Exchange Rule 170 to permit a specialist to effect a liquidating transaction on a zero minus tick, in the case of a "long" position, or a zero plus tick, when covering a "short" position, without Floor Official approval.⁵ The amendments also set forth the affirmative action that specialists are required to take subsequent to effecting various types of liquidating transactions.

During the course of the pilot program, the exchange has monitored compliance with the requirements of the Rule, and its findings in this regard have been forwarded to the Commission under separate cover. The Amex believes the amendments have provided specialists with flexibility in liquidating specialty stock positions in order to facilitate their ability to maintain fair and orderly markets, particularly during unusual market conditions. In addition, the specialist's concomitant obligation to participate as a dealer on the opposite side of the market after a liquidating transaction has been strengthened.

The Exchange is therefore proposing permanent approval of the amendments to Rule 170 or, in the alternative, a three-month extension of the pilot program.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁶ in general and furthers the objectives of Section 6(b)(5)⁷ in particular in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, protect investors and the public interest. The Exchange also believes the proposed rule change is consistent with Section 11(b) of the Act⁸ which allows exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.

⁵ Securities Exchange Act Release No. 37704 (Sept. 19, 1996), 61 FR 50525 (approving File No. SR-Amex-96-33) ("September 1996 Approval Order").

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78k(b).

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

The Exchange believes the proposed rule change will impose no burden on competition.

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

The Exchange has neither solicited nor received written comments with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-96-42 and should be submitted by December 13, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval to the Proposed Rule Change

The Commission finds that the Exchange's proposal to extend its pilot program concerning the execution of specialists' liquidating transactions until February 14, 1997, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)⁹ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission also believes the proposal is consistent with Section 11(b) of the

⁹ 15 U.S.C. 78f(b)(5).

Act¹⁰ and Rule 11b-1¹¹ thereunder, which allow exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.

The Exchange originally proposed to amend Amex Rule 170 in File No. SR-Amex-92-26.¹² The proposed rule change, filed as a one-year pilot program, amended Amex Rule 170 to permit specialists to "reliquidate" a dealer position by selling stock on a direct minus tick or by purchasing stock on a direct plus tick, but only if such transactions are reasonably necessary for the maintenance of a fair and orderly market and only if the specialist has obtained the prior approval of a Floor Official. Under the pilot program, a specialist also may sell "long" on a zero minus tick, or by purchasing on a zero plus tick to cover a "short" position, without Floor Official approval. Although liquidations on a zero minus or on a zero plus tick can be effected under the pilot procedures without a Floor Official's prior approval, such liquidations are still subject to the restriction that they be effected only when reasonably necessary to maintain a fair and orderly market. In addition, the specialist must maintain a fair and orderly market during the liquidation.

After the liquidation, the specialist is required to reenter the market on the opposite side of the market from the liquidating transaction to offset any imbalances between supply and demand. During any period of volatile or unusual market conditions resulting in significant price movement in a specialist's specialty stock, the specialist's re-entry into the market must reflect, at a minimum, his or her usual level of dealer participation in the specialty stock. In addition, during such periods of volatile or unusual price movements, re-entry into the market following a series of transactions must reflect a significant level of dealer participation.

In the 1994 Approval Order, the Commission requested that the Amex submit a report setting forth the criteria developed by the Exchange to determine whether any reliquidation by specialists

¹⁰ 15 U.S.C. 78k(b).

¹¹ 17 CFR 240.11b-1.

¹² See Securities Exchange Act Release No. 33957 (Apr. 22, 1994), 59 FR 22188 ("1994 Approval Order") (approving File No. SR-Amex-92-26). See also Securities Exchange Act Release No. 35635 (Apr. 21, 1995), 60 FR 20780 ("April 1995 Approval Order") (approving File No. SR-Amex-95-11); Securities Exchange Act Release No. 36014 (July 21, 1995), 60 FR 38870 ("July 1995 Approval Order") (approving File No. SR-Amex-95-19); Securities Exchange Act Release No. 37448 (July 17, 1996), 61 FR 38487 (approving File No. SR-Amex-96-19) ("July 1996 Approval Order"); September 1996 Approval Order, *supra* note 5.

were necessary and appropriate in connection with fair and orderly markets.¹³ The Commission also asked, among other things, that the Exchange provide information regarding the Exchange's monitoring of liquidation transactions effected by specialists on any destabilizing tick. In both of the 1995 approval orders, the Commission requested that the Amex continue to monitor the pilot and update its report where appropriate.¹⁴ In particular, the Commission asked the Amex to report any noncompliance with the Rule and the action the Amex took as a result of such noncompliance.

The Amex submitted its reports concerning the pilot program to the Commission in May 1995 and April 1996. As noted above, the Amex believes the pilot procedures appear to be working well in enabling specialists to reliquidate appropriately to meet the needs of the market. After reviewing the date, the Commission agrees with the Exchange that the pilot program generally is working well. In particular, the Commission believes the report indicates that specialists generally are entering the aftermarket after effecting liquidating transactions when appropriate.

Nevertheless, the Commission believes certain issues concerning the pilot program need to be revisited before permanent approval can be granted. In this regard, the Exchange should continue to emphasize the requirements of Amex Rule 170, including the necessity for Floor Official approval of specialists' purchases and sales on direct plus or minus ticks and that such transactions can only be effected if reasonably necessary for the maintenance of fair and orderly markets. In addition, where proper procedures are not followed, the Amex should take appropriate disciplinary action.¹⁵ Finally, the Amex should prepare an additional report as described above and submit the data to the Commission for its consideration of whether the pilot program should be granted permanent approval.¹⁶

¹³ See 1994 Approval Order, *supra* note 12.

¹⁴ See April 1995 Approval Order and July 1995 Approval Order, *supra* note 12.

¹⁵ All technical violations of this rule (e.g., failure to obtain the required Floor Official approval when such approval, if sought, would have been granted) should be referred to the Minor Floor Violation Disciplinary Committee, as required by Amex Rule 590. Also, as the Amex has indicated previously, all substantive violations of this rule (e.g., failure to properly reenter the market or failure to obtain the required Floor Official approval when such approval, if sought, would not have been granted) will be dealt with according to the Exchange's formal disciplinary procedures.

¹⁶ The Commission request that this report be submitted by January 7, 1997, along with any

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the Exchange proposes to continue using the identical procedures contained in the pilot program. These procedures have been published in the Federal Register on several occasions for the full comment period,¹⁷ and no comments have been received. Furthermore, the Commission approve a similar rule change for the NYSE also without receiving comments on the proposal.¹⁸ For these reasons, the Commission finds that accelerating approval of the proposed rule change is consistent with Section 19(b)(2) of the Act.¹⁹ Any requests to modify this pilot program, to extend its effectiveness, or to seek permanent approval for the pilot program also should include an update on the disciplinary actions taken for violations of these procedures.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁰ that the proposed rule change (SR-Amex-96-42), as amended, is approved for a pilot period ending on February 14, 1997.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.²¹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-29933 Filed 11-21-96; 8:45 am]

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[Release No. 34-37959; File No. SR-NSCC-96-16]

November 15, 1996.

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Fund/Serv Service

On August 15, 1996, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission")

requests for extension or permanent approval of the pilot.

¹⁷ See 1994 Approval Order, *supra* note 12; April 1995 Approval Order, *supra* note 12; July 1995 Approval Order, *supra* note 12; July 1996 Approval Order, *supra* note 12; September 1996 Approval Order *supra* note 5.

¹⁸ See Securities Exchange Act Release No. 31797 (Jan 29, 1993), 58 FR 7277 (approving File No. SR-NYSE-92-20).

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ *Id.*

²¹ 17 CFR 200.30-3(a)(12).

a proposed rule change (File No. SR-NSCC-96-16) under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ seeking to allow members to transfer assets within an individual retirement account ("IRA") to another mutual fund through NSCC's Fund/Serv.² On September 10, 1996, and on September 30, 1996, NSCC filed amendments to the proposed rule change.³ Notice of the proposal was published in the Federal Register on October 24, 1996.⁴ The Commission received one comment letter in response to the filing.⁵ On November 13, 1996, NSCC filed a third amendment to the proposed rule change.⁶ For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

I. Description

The proposed rule change will enable NSCC settling members and fund members to transfer between each other the value of mutual fund shares held in IRAs on an automated basis.⁷ Pursuant to this rule change, the member to whom the value of IRA mutual funds shares is to be transferred ("Receiving Fund Member") will initiate a transfer by submitting a transfer request to NSCC indicating the member from whom the value of IRA mutual fund shares is to be transferred ("Delivering Fund Member"). The transfer request should contain the CUSIP number, the customer Tax I.D. number, the customer account number, the customer account registration, and the plan type (e.g., IRA, IRA rollover, or Simplified Employee Pension IRA) as established at the Receiving Fund Member.

Upon receipt of the information from NSCC, the Delivering Fund Member

¹ 15 U.S.C. § 78(b)(1) (1988).

² Fund/Serv, which is part of NSCC's Mutual Fund Services, is an NSCC service that permits NSCC members to process and to settle on an automated basis mutual fund purchase and redemption orders and to transmit registration instructions.

³ Letters from Anthony H. Davidson, Associate Counsel, NSCC, to Christine Sibille, Special Counsel, Division of Market Regulation, Commission (September 6, 1996, and September 27, 1996).

⁴ Securities Exchange Act Release No. 37841 (October 18, 1996), 61 FR 55178.

⁵ Letter from Donald J. Boteler, Vice President, Operations and Training, Investment Company Institute, to Jonathan G. Katz, Secretary, Commission (November 1, 1996).

⁶ Letter from Anthony H. Davidson, Associate Counsel, NSCC, to Christine Sibille, Special Counsel, Division of Market Regulation, Commission (November 8, 1996). This amendment was a technical amendment that did not require republication of notice.

⁷ Currently, the mutual fund industry relies on telephonic and paper communications to process these transfers.