

without reference to the amounts waived or remitted pursuant to condition 2. Adjusted fees then will be reduced by the amount waived pursuant to condition 2. If the amount waived pursuant to condition 2 exceeds adjusted fees, the Investment Advisers also will reimburse the Investing Portfolio in an amount equal to such excess.

4. Each of the Investing Portfolios will invest uninvested cash in, and hold shares of, a Money Market Portfolio only to the extent that the Investing Portfolio's aggregate investment in such Money Market Portfolio does not exceed the greater of 5% of the Investing Portfolio's total net assets or \$2.5 million.

5. Each Investing Portfolio will vote its shares of each Money Market Portfolio in the same proportion as the votes of all other shareholders in such Money Market Portfolios entitled to vote on the matter.

6. As shareholders of a Money Market Portfolio, the Investing Portfolios will receive dividends and bear their proportionate shares of expenses on the same basis as other shareholders of such Money Market Portfolios. A separate account will be established in the shareholder records of each of the Money Market Portfolios for each of the Investing Portfolios.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-36821; File No. SR-Amex-96-06]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to a Pilot Program for Execution of Odd-Lot Orders**

February 8, 1996

Pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 5, 1996, the American Stock Exchange, Inc. ("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 prepared by the self-regulatory organization. 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 Exchange proposes to extend for six months its existing pilot program under Amex Rule 205 requiring execution of odd-lot market orders at the prevailing Amex quote with no differential charged.<sup>2</sup>

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.

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

**1. Purpose**

The Commission has approved, on a pilot basis extending to February 8, 1996, amendments to Amex Rule 205 to require execution of odd-lot market orders at the Amex quote with no odd-lot differential charged.<sup>3</sup> The Commission initially approved these odd-lot pricing procedures as a pilot program in January 1989<sup>4</sup> and subsequently extended it eleven times.<sup>5</sup>

<sup>2</sup> The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program, which expires on February 8, 1996, to continue without interruption.

<sup>3</sup> Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR-Amex-95-03).

<sup>4</sup> Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR-Amex-88-23).

<sup>5</sup> See Securities Exchange Act Release Nos. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR-Amex-95-03); 34949 (Nov. 8, 1994), 59 FR 58863 (approving File No. SR-Amex-94-47); 34496 (Aug. 8, 1994), 59 FR 41807 (approving File No. SR-Amex-94-28); 33584 (Feb. 7, 1994), 59 FR 6983 (approving File No. SR-Amex-93-45); 32726 (Aug. 9, 1993), 58 FR 43394 (approving File No. SR-Amex-93-24); 31828 (Feb. 5, 1993), 58 FR 8434 (approving File No. SR-Amex-93-06); 30305 (Jan. 20, 1992), 57 FR 4653 (approving File No. SR-

Under the pilot procedures, odd-lot market orders with no qualifying notations are executed at the Amex quotation at the time the order is represented in the market, either by being received at the trading post or through the Exchange's Post Execution Reporting ("PER") system.<sup>6</sup> Enhancements to the PER system have been implemented to provide for the automatic execution of odd-lot market orders entered through PER. For the purposes of the pilot program, limit orders that are immediately executable based on the Amex quote at the time the order is received, at the trading post or through PER, are executed in the same manner as odd-lot market orders.

In approving prior extensions to the Exchange's odd-lot pilot program, the Commission has expressed interest in the feasibility of the Exchange utilizing the Intermarket Trading System ("ITS") best bid or offer, rather than the Amex bid or offer, for purposes of the Exchange's odd-lot pricing system. In its most recent request for an extension of the pilot program, the Exchange stated that it had determined to proceed with a systems modification to provide for execution of odd-lot market orders at the ITS best bid or offer.<sup>7</sup>

In September 1995, the Commission approved amendments to Amex Rule 205 to accommodate the prospective modifications to the Exchange's odd-lot pricing system.<sup>8</sup> As amended, Amex Rule 205 would provide that odd-lot market orders to buy (sell) are filled at the "adjusted ITS offer" ("adjusted ITS bid"), which would be defined in Amex Rule 205, Commentary .04, as the lowest offer (highest bid) disseminated by the Amex or by another ITS participant market.<sup>9</sup> Where quotation information is

Amex-92-04); 29922 (Nov. 8, 1991), 56 FR 58409 (approving File No. SR-Amex-91-30); 29186 (May 19, 1991), 56 FR 22488 (approving File No. SR-Amex-91-09); 28758 (Jan. 10, 1991), 56 FR 1656 (approving File No. SR-Amex-90-39); 27590 (Jan. 5, 1990), 55 FR 1123 (approving File No. SR-Amex-89-31).

<sup>6</sup> The PER system provides member firms with the means to electronically transmit equity orders, up to volume limits specified by the Exchange, directly to the specialist's post on the trading floor of the Exchange. Securities Exchange Act Release No. 34869 (Oct. 20, 1994), 59 FR 54016.

<sup>7</sup> See Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR-Amex-95-03).

<sup>8</sup> See Securities Exchange Act Release No. 36181 (Sept. 1, 1995), 60 FR 47194 (approving File No. SR-Amex-95-24).

<sup>9</sup> In order to protect against the inclusion of incorrect or stale quotations when determining the highest bid and lowest offer, Amex Rule 205, Commentary .04, contains seven criteria that must be met before a quotation in a stock from another ITS market center will be considered. If the ITS quotation fails to meet one of the specified criteria, the best bid or offer disseminated by the Exchange will be used. See Securities Exchange Act Release

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

not available (e.g., when quotation collection or dissemination facilities are inoperable) odd-lot market orders would be executed at the prevailing Amex bid or offer, or at a price deemed appropriate under prevailing market conditions. These procedures also will apply to odd-lot limit orders that are immediately executable based on the Amex quote at the time the order is received at the trading post or through PER.

As the exchange noted in SR-Amex-95-24, it will implement these amendments upon completion of the necessary systems enhancements by the Exchange and the Securities Information Automation Corporation ("SIAC"). Upon implementation of the amended rule, the Exchange will notify the Commission, as well as Exchange members and member organizations. In order to provide the additional time necessary to implement the systems enhancements, the Exchange proposes to extend the existing pilot program procedures under Amex Rule 205 for an additional six-month period.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) <sup>10</sup> of the Act in general and furthers the objectives of Section 6(b)(5) <sup>11</sup> and Section 11A(a)(1) <sup>12</sup> in particular in that it is designed to facilitate the economically efficient execution of odd-lot transactions and to improve the execution of customer's orders.

### *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 NW., 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 NW., 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-96-06 and should be submitted by March 7, 1996.

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

The Commission finds that the Exchange's proposal to extend its pilot program concerning the execution of odd-lot orders to August 8, 1996, 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 Section 6(b)(5) and Section 11A(a)(1) of the Act <sup>13</sup> because the Exchange's proposed pricing procedures are designed to facilitate transactions in odd-lot orders, to help ensure the economically efficient execution of these transactions, and, in general, to protect investors and the public interest. The Commission further believes the revised procedures should provide investors with more timely executions of their odd-lot orders and should produce execution prices that more accurately reflect market conditions than would otherwise be the case under the pre-pilot pricing procedures. <sup>14</sup>

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposed to continue using are identical to the

procedures that were published previously in the Federal Register for the full comment period and were approved by the Commission. <sup>15</sup>

Because some odd-lot orders may not be receiving the best available price under the current pilot pricing procedures, the Commission is concerned that the Exchange was unable to implement the new odd-lot pricing procedures that provide for odd-lot market orders to be filled at the ITS best bid or offer as planned. <sup>16</sup> The Commission encourages the Exchange to complete the systems modifications upon which implementation of the new odd-lot pricing procedures depend as soon as possible. To ensure that the Commission is adequately informed of the Exchange's progress towards such completion, the Commission requests that the Exchange, beginning May 1, 1996, and every month thereafter until the systems modifications are completed, report to the Commission on the progress of this project. Finally upon completion of the systems modifications, the Exchange should give advance notice to the Commission of the date when the new odd-lot pricing procedures are to be implemented.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, <sup>17</sup> that the proposed rule change (SR-Amex-96-06) is approved on a pilot basis for a six-month period ending on August 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. <sup>18</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

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No. 36181 (Sept. 1, 1995), 60 FR 47194 (approving File No. SR-Amex-95-24).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78k-1(a)(1).

<sup>13</sup> 15 U.S.C. 78f(b)(5) and 78K-1(a)(1).

<sup>14</sup> Prior to the 1989 pilot program, odd-lot market orders were routed to a specialist and held in accumulation in the PER system or by the specialist until a round-lot execution in that security took place on the Exchange. Subsequent to the round-lot execution, the off-lot order received the same price as the last Exchange round-lot transaction, plus or minus and odd-lot dealer differential. See Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR-Amex-88-23).

<sup>15</sup> See Securities Exchange Act Release No. 35344 (Feb. 8, 1995) 60 FR 8430.

<sup>16</sup> See Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (noting that the Exchange's current pricing formula does not include quotations from other markets).

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</sup> 17 C.F.R. 200.30-3(a)(12).