

6. Before the termination of the Existing Agreement, the board of the Fund, including a majority of its independent trustees, will have approved the New Agreement as required by Section 15(c) of the 1940 Act.

#### Conclusion

For the reasons set forth above, Applicants submit that the exemptive relief requested is necessary and appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 97-3431 Filed 2-11-97; 8:45 am]

BILLING CODE 8010-01-M

#### [File No. 500-1]

#### **Twenty First Century Health, Inc.; Order of Suspension of Trading**

February 10, 1997.

It appears to the Securities and Exchange Commission that there is a lack of adequate and accurate current information concerning the securities of Twenty First Century Health, Inc. ("TFCH"), of Las Vegas, Nevada. Questions have been raised about publicly-disseminated information concerning, among other things: (1) TFCH's financial condition; (2) the existence, effectiveness, and marketability of a medical device for testing blood sugar purportedly licensed by TFCH; (3) the size of the market for that device; and (4) the ownership, value, and business of certain companies purportedly acquired by TFCH.

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 9:00 a.m. EST, February 10, 1997 through 11:59 p.m. EST, on February 24, 1997.

By the Commission.

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 97-3625 Filed 2-10-97; 12:46 pm]

BILLING CODE 8010-01-M

[Release No. 34-38243; File No. SR-Amex-97-02]

#### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by American Stock Exchange, Inc., Relating to Amendments to Rules 103 and 950 Regarding Intra-day Trading**

February 5, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 22, 1997, 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, II, and III 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**

Amex proposes to amend Exchange Rules 103 and 950 regarding new intra-day trading provisions. 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 IV 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 the Statutory Basis for, the Proposed Rule Change**

##### **1. Purpose**

Under Rule 103(c), an Amex Floor member, with certain exceptions, may not exercise discretion with respect to the choice of security to be bought or sold, the total amount of the security to be bought or sold, or whether the transaction shall be a purchase or sale. Currently, there are no provisions in Rule 103(c), or otherwise, specifically governing the practice of intra-day

trading. The term "intra-day trading" refers to the practice whereby a customer places orders on both sides of the market and attempts to profit by buying at the bid and selling at the offer.

The Exchange proposes to amend Rule 103 to add new intra-day trading provisions. These provisions will apply only when a Floor member simultaneously represents, for the same customer's account,<sup>2</sup> market or limit orders on both sides of a minimum variation market. Under the proposal, if a Floor member acquires a position on behalf of an intra-day trader's account, Rule 103(c)(2) will place certain restrictions on how the member can liquidate or cover that position during the same trading session. Specifically, the member will be required to obtain a new liquidating order (i.e., one entered subsequent to the acquisition of the contra-side position) from his or her customer. The new order must be time-recorded both upstairs and upon receipt on the Trading Floor.

Proposed Rule 103(c)(3) will thereafter require that the Floor member must execute the liquidating order entered pursuant to Rule 103(c)(2) before he or she can execute any other order for the same account on the same side of the market as that liquidating order. Pursuant to proposed Commentary .01 to Rule 103, the provisions of Rule 103(c) (2) and (3) will not apply, however, to the execution of: an order to liquidate or cover a position carried over from a previous trading session; a position assumed as part of a strategy relating to bona fide arbitrage; or a position assumed in reliance on the exemption for block positioners.

Proposed Commentary .02 to Rule 103 sets forth examples of how the provisions of Rule 103(c) (2) and (3) will operate, while proposed Commentary .03 to Rule 103 details the types of orders that a Floor member may handle simultaneously, without violating rule 103's prohibition against a member choosing whether a transaction will be a purchase or sale.

These new changes are intended to address trading situations where a Floor member, representing at the same time buy and sell orders at the minimum variation for the same customer, may be perceived as having a time and place advantage over other market participants in that he or she may be able to trade for the same customer without leaving the Trading Crowd. By requiring the entry of a new liquidating

<sup>2</sup> For purposes of this Rule, an "account" would be deemed to be any account in which the same person or persons is directly or indirectly interested.

<sup>1</sup> 15 U.S.C. § 78s(b)(1).

order, these amendments should minimize any such perceived advantage. It should be noted that the proposed changes will not apply to options trading, and Rule 950 will be amended accordingly. In addition, the proposed changes also will not apply to system orders.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>3</sup> of the Act in general and furthers the objectives of Section 6(b)(5)<sup>4</sup> in particular in that the rules are 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, to protect investors and the public interest.

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

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.*

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. 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 in the Commission's Public Reference Room in Washington, D.C. 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 No. SR-Amex-97-02 and should be submitted by [insert date 21 days from date of publication].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-3428 Filed 2-11-97; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-38238; File No. SR-AMEX-96-39]

### **Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Various Updates to Amex Trading Rules and Company Guide Section 402.**

February 4, 1997.

On October 16, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to incorporate various minor updates and clarifications into the Exchange's rules and *Company Guide*.

The proposed rule change was published for comment in the Federal Register on November 13, 1996.<sup>3</sup> No comments were received on the proposal. Subsequently, the Exchange clarified its rationale for the modification of Amex Rule 126, which governs order precedence.<sup>4</sup> This order approves the proposal.

The Exchange proposed that the following minor housekeeping changes be made:

A. Rule 135—delete the reference to sales sheets published by "Francis

Emory Fitch, Inc." because the Exchange no longer utilizes this company's service.

B. Rule 152—delete the reference to Rule 570 because Rule 570 was rescinded.

C. Rule 340—change the reference to the Exchange's "Market Operations Division" to the "Exchange."

D. Rule 171—remove the prohibition against specialist units of less than three natural persons to conform with a comparable NYSE provision.

E. Rule 904—change the reference to the Exchange's "Membership Compliance Division" to the "Exchange."

F. Rule 950—delete Rule 170 from the list of rules that are applicable in their entirety to option transactions because all of that rule's commentary is not applicable (paragraph (n) of Rule 950 already specifies which portions of Rule 170 are applicable).

G. Section 402 of the *Company Guide*—add Bloomberg Business News to the list of approved services for disclosure of material information.

In addition, the Exchange proposed a change to Amex Rule 126, which provides generally that the highest bid and lowest offer have priority in execution. When bids or offers are made at the same price, priority is determined by the time order in which they were placed. If bids and offers are made simultaneously at the same price, they are on parity and, as such, are entitled to share equally in an execution at the specified price. Amex Rule 108, which governs parity and priority at openings, contains similar provisions. In addition, Amex Rule 108 grants a specialist's agency limit orders a preference over other orders on parity whenever there is a substantial accumulation of orders on the book at a limit price equal to the proposed opening price. Under these circumstances, the specialist is entitled to execute its agency limit orders at the following percentages: 60% when there is one broker on parity, 40% when there are 2-5 brokers on parity, and 30% when there are 6 or more brokers on parity.

The Exchange believes that procedures similar to those contained in Amex Rule 108 should be utilized throughout the trading day. Thus, under the current proposal, when a specialist has a substantial accumulation of agency orders on its book and there are also floor brokers in the trading crowd that are on parity with those orders, the specialist's orders would be entitled to the same percentage of shares of the contra side order as is currently provided for in Amex Rule 108. The Exchange believes that keying the

<sup>5</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Securities Exchange Act Release No. 37924 (Nov. 6, 1996), 61 FR 58270.

<sup>4</sup> Letter from Claudia Crowley, Special Counsel, Amex, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, SEC, dated January 31, 1997.

<sup>3</sup> 15 U.S.C. § 78f(b).

<sup>4</sup> 15 U.S.C. § 78f(b)(5).