

clearing agency in the near future.<sup>9</sup> As a result of the foregoing, the Commission believes that it is appropriate to temporarily approve GSCC's registration as a clearing agency until August 31, 1999.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with Section 19(a)(1) of the Act.<sup>10</sup> Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the amended application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. All submissions should refer to File No. 600-23 and should be submitted by March 25, 1999.

*It is therefore ordered* pursuant to Section 19(a) of the Act, that GSCC's registration as a clearing agency (File No. 600-23) be and hereby is temporarily approved through August 31, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41098; File No. SR-Amex-98-44]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Amended, by the American Stock Exchange LLC To Increase to Fifty, the Maximum Permissible Number of Equity and Index Option Contracts in an Order Executable Through AUTO-EX

February 24, 1999.

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

<sup>9</sup> A detailed discussion of the appropriate standard(s) of liability of a clearing agency to its members will be set forth in that future notice.

<sup>10</sup> 15 U.S.C. 78s(a)(1).

<sup>11</sup> 17 CFR 200.30-3(a)(16).

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 9, 1998, the American Stock Exchange LLC ("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 Exchange. On December 31, 1998, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> On February 2, 1999, the Exchange submitted Amendment No. 2 to the proposed rule change.<sup>4</sup> The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change, as amended.

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

The Amex proposes to increase the maximum permissible number of equity and index option contracts in an order executable through the AUTO-EX system to 50. The text of the proposed rule change is available at the Office of the Secretary, 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 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 the statements may be examined at the places specified in item III below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

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

<sup>3</sup> See Letter from Scott G. Van Hatten, Legal Counsel, Derivative Securities, Amex, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), SEC, dated December 31, 1998 ("Amendment No. 1"). In Amendment No. 1, the Amex represents that its systems capacity is sufficient to accommodate the anticipated increased number of automatic executions.

<sup>4</sup> See Letter from Scott G. Van Hatten, Legal Counsel, Derivative Securities, Amex, to Richard Strasser, Assistant Director, Division, SEC, dated February 1, 1999 (Amendment No. 2). In Amendment No. 2, the Exchange requests that the Commission find good cause to grant accelerated approval of the proposal.

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

In 1985, the Exchange implemented the AUTO-EX system, through which public customer market and marketable limit orders are executed automatically in options at the best bid or offer displayed at the time the order is entered into the Amex Order File ("AOF"). There are, however, limitations on the number of options contracts that can be entered into or executed by these systems. AOF, which handles limit orders routed to the specialist's book as well as orders routed to AUTO-EX, currently allows for the entry of orders of up to 50 option contracts. AUTO-EX, however, is only permitted to execute automatically equity option orders of 20 contracts or less and index option orders of 30 contracts or less,<sup>5</sup> thus market and marketable limit orders of more than 20 or 30 contracts are routed by AOF to the specialist's book.

The Amex is now proposing to increase the maximum permissible number of equity and index option contracts in an order that can be executed through the AUTO-EX system to 50 contracts. Thus, the maximum permissible size of an option order—50 contracts—will be equivalent for both orders entered into the specialist's book and those executed through AUTO-EX. The Amex proposes that this increase in permissible order size to 50 contracts for AUTO-EX be done on a case by case basis for an individual option class, or for all option classes when two floor governors or senior floor officials deem such an increase appropriate. The Amex currently anticipates, however, that the ability to execute orders of up to 50 contracts in AUTO-EX will only occur during high volume, and/or high volatility emergency situations. At all other times, the order size for AUTO-EX will remain at 20 contracts for equity options, and 30 contracts for index options (or such larger size currently in effect for certain index options).

The Amex indicates that AUTO-EX has been extremely successful in enhancing execution and operational efficiencies during emergency situations and during other, non-emergency situations for certain option classes. Automatic executions of orders for up to

<sup>5</sup> While the maximum permissible number of contracts in an index option order executable through AUTO-EX is generally 30 contracts, there are a few exceptions. (i.e., in the Major Market Index, 50 contract orders may be automatically executed and in the Institutional, Japan and S&P MidCap 400 Indexes, 99 contract orders may be automatically executed.)

50 contracts during such high volume situations will help alleviate the backlogging of orders in the systems and allow for the quick, efficient execution of public customer orders. The Exchange represents that the existing system is sufficient to implement the increase in order size.

The Amex indicates that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to improve impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *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 on the proposed rule change.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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. 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 to inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-98-

44 and should be submitted by March 25, 1999.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 of the Act. Section 6(b)(5)<sup>6</sup> of the Act states that the rules of an exchange must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating securities transactions. These rules also must help to remove impediments to and perfect the mechanism of a free and open market. The Commission believes that increasing to 50 the number of option contracts executable through the Exchange's AUTO-EX order execution system will enable the Exchange to more effectively and efficiently manage increased order flow in actively traded option classes consistent with its obligations under the Act. The Commission also believes, based on representations by the Exchange, that the increase will not expose the Exchange's AUTO-EX system to risk of failure or operational break-down.

Pursuant to Section 19(b)(2),<sup>7</sup> the Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of notice thereof in the **Federal Register**.<sup>8</sup> The Commission believes accelerated approval is appropriate to permit the Exchange to immediately increase the size of orders executable through AUTO-EX to respond to the types of emergency situations discussed above.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed change, as amended, (SR-Amex-98-44) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41100; File No. SR-Amex-98-31]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 by the American Stock Exchange LLC Relating to Options on the Cure for Cancer Common Stock Index

February 24, 1999.

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 give that on August 14, 1998, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change. The Exchange submitted Amendment No. 1 to its proposal on January 28, 1999,<sup>3</sup> and Amendment No. 2 on February 24, 1999.<sup>4</sup> The proposed rule change, as amended, is described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 trade options on the Cure for Cancer Common Stock Index ("Index"), a new index

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

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

<sup>3</sup> In Amendment No. 1, the Exchange amended its eligibility standard for component securities by adding an additional level of trading volume. Further, the Exchange amended its maintenance criteria by raising the percentage of the index that must satisfy Rule 915, clarifying that the Commission has agreed to a specific component of the index satisfying the standard set forth in Amex Rule 916 instead of Amex Rule 915, and specifying that 90% of the weight of the index must have a minimum monthly trading volume of 500,000 shares and 10% of the weight of the index must have a minimum trading volume of 350,000 shares for each of the last six months. See Amended Rule 19b-4 Filing ("Amendment No. 1").

<sup>4</sup> In Amendment No. 2, the Exchange specified its procedure for rebalancing the index in the event of certain types of corporate events, raised its eligibility standard for component securities by raising the level of trading volume required for initial eligibility, clarified that Cell Pathways, Inc. currently satisfies the initial options eligibility criteria of Amex Rule 915, and clarified that the Exchange will maintain the index consistent with its original purpose. Further, the Exchange specified that stock replacements and the handling of non-routine corporate actions will be announced at least ten business days in advance whenever possible. See Letter from Scott Van Hatten, Legal Counsel, Amex, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"). Commission, dated February 23, 1999 ("Amendment No. 2").