

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-48172; File No. SR-Amex-2003-34)

July 14, 2003

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the American Stock Exchange LLC, Relating to Indications, Openings and Re-Openings

On April 23, 2003, the American Stock Exchange LLC ("Amex" or "Exchange"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to codify and revise the Exchange's policies regarding tape indications and re-openings in stocks that are subject to a trading halt (other than "circuit breaker" or "equipment changeover" halts). Notice of the proposed rule change was published for comment in the Federal Register on May 12, 2003.³ No comments were received on the proposed rule change.

In 1997, the Commission approved the Exchange's policies regarding indications, openings and re-openings.⁴ To make them more accessible to members and member organizations, the Exchange has proposed to codify these policies as new Rule 119. The Exchange would also update its rules on re-opening trading in a stock after a post-opening trading halt to conform them to those of the New York Stock Exchange ("NYSE"). The Exchange's current policy on re-openings requires a minimum of 10 minutes to elapse between the first price indication and the re-opening, and a minimum of five minutes to elapse after the last indication, provided in all cases that the minimum 10 minutes has elapsed since the first indication. The Exchange proposes to shorten these minimum time periods to five minutes after

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Release No. 34-47796 (May 5, 2003), 68 FR 25400.

⁴ See Release No. 34-38549 (April 28, 1997), 62 FR 24519 (1997).

the first indication, and three minutes after the last indication, provided that a minimum of five minutes has elapsed since the first price indication.

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.⁵ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁶ which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The Commission notes that Amex's codification of the previously approved policies will result in greater transparency of Exchange procedures. Further, the Commission notes that Amex's proposal to shorten the minimum time periods that must elapse between indications and re-openings would conform Amex's procedures to those in effect at the NYSE,⁷ which the Commission believes strike a reasonable balance between preserving the price discovery process and providing timely opportunities for investors to participate in the market.

⁵ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

⁶ 15 U.S.C. 78f(b)(5).

⁷ See NYSE Rule 123D(1); Release No. 34-47104 (December 30, 2002), 68 FR 597 (January 6, 2003).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-Amex-2003-34) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland
Deputy Secretary

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).