

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51367; File No. SR-Amex-2005-027)

March 14, 2005

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Use of Certain Consolidated Tape Association Financial Status Indicator Fields and Related Disclosure Obligations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ notice is hereby given that on February 25, 2005, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission” or “SEC”) the proposed rule change as 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 Amex proposes to utilize certain financial status indicator fields in the Consolidated Tape Association’s (“CTA”) Consolidated Tape System (“CTS”) and the Consolidated Quotation System (“CQS”) Low Speed and High Speed Tapes to identify Amex listed companies that: (i) are noncompliant with continued listing standards and/or (ii) are delinquent with respect to a required federal securities law periodic filing. The Amex also proposes to post a list of issuers subject to each indicator on its website. In addition, an indicator will be disseminated over the High Speed Tape with respect to an issuer that has filed or announced intent to file for reorganization relief under the bankruptcy laws (or an equivalent foreign law). Finally, the Amex proposes to amend Sections 401 and 1009 of the Amex Company Guide to explicitly clarify that issuance of a press release is required when a listed company is notified

¹ 15 U.S.C. 78s(b)(1).

that it is noncompliant with the applicable continued listing standards. The text of the proposed rule change is available on Amex's Web site (<http://www.amex.com>), the Amex's Office of the Secretary, and at the Commission's Public Reference Room.

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 Exchange 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 Exchange 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

To provide greater transparency and disclosure to the investing community, the Amex is proposing to utilize certain of the financial status indicator fields in CTS and CQS² to identify listed companies that (i) are noncompliant with continued listing standards and/or (ii) are delinquent with respect to a required federal securities law periodic filing. Once applicable, the indicator(s) will be disseminated as part of CTS and CQS messages to the High Speed Tape and CTS messages to the Low Speed Tape whenever an impacted issuer's trading symbol is transmitted with a quotation or trade. In addition, an indicator will be disseminated over the High Speed Tape with respect to a listed company that has filed or announced intent to file for

² CTS and CQS, which are operated by the CTA, collect last-sale prices and current bid/ask quotations, respectively, with associated volumes for all exchange-listed equities. All trades and quotations in Amex-listed equities, regardless of the market center on which such equities are traded or quoted, are reported to CTS and CQS and disseminated on Tape B (also known as Network B).

reorganization relief under the bankruptcy laws (or an equivalent foreign law).

It is anticipated that the Amex will begin utilizing the indicators during the second quarter of 2005. On the Low Speed Tape, the indicator “.BC” will be used to denote an issuer that is noncompliant and the indicator “.LF” will be used to denote an issuer that did not file a required periodic filing (e.g., Form 10-K, Form 10-Q or equivalent) on a timely basis (including any applicable extension period).³ Numerical notations corresponding to each indicator will be disseminated over the High Speed Tape. The applicable indicator(s) will be disseminated five days after a triggering event.⁴ Impacted issuers will receive prior notification from Amex Listing Qualifications staff by telephone and in writing regarding dissemination of the indicator(s) with the issuer’s trading symbol. The Amex will also post a list of issuers subject to each indicator on its website. It is anticipated that the website posting will begin by the end of the first quarter of 2005, prior to implementation of the CTA indicators. Dissemination of the particular indicators will cease under the following circumstances:

- “.BC” indicator – when and if the issuer regains compliance with the applicable continued listing standards;
- “.LF” indicator – when and if all requisite filings are made; and
- bankruptcy indicator – when and if the issuer emerges from bankruptcy

The Amex is also proposing to amend Sections 401 and 1009 of the Amex Company Guide to make explicit that issuance of a press release is required when a company receives staff

³ Filing of Form 12b-25 in accordance with Rule 12b-25 under the Act provides a 15-day extension for the filing of a Form 10-K and a five-day extension for the filing of a Form 10-Q. 17 CFR 240.12b-25.

⁴ In the case of the “.BC” indicator, the triggering event would be receipt of written notice from the staff of the Amex Listing Qualifications Department advising that the issuer is below the applicable continued listing standards.

notification that it is noncompliant. In this regard, listed companies are now required to file a Form 8-K pursuant to Item 3.01 when notified of noncompliance by the Amex and Section 402 of the Company Guide provides that issuance of a press release is required with respect to any event requiring the filing of a Form 8-K. However, to ensure that there is no confusion on the part of listed companies, the Amex believes that it is appropriate to amend Sections 401 and 1009 to explicitly clarify that listed companies are required to issue a press release, as well as file a Form 8-K, upon notice of noncompliance.

Neither the indicators nor the Company Guide revisions will replace or otherwise alter existing Amex or SEC requirements regarding required Form 8-K filings or disclosure obligations. An Amex issuer that is not in compliance with the applicable continued listing standards but receives an extension to continue its listing in conformance with an Exchange approved business plan is required to issue a press release in this regard, pursuant to Section 1009(e) of the Company Guide. In addition, an issuer that receives a staff delisting notice is required to issue a press release pursuant to Sections 401(g) and 1202(b) of the Company Guide. Moreover, the Amex will also continue to halt trading as appropriate in any issuer's securities if it appears that the issuer is unable to make or has not made adequate disclosure as mandated by Amex rules and the federal securities laws.⁵

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act⁶ in general and furthers the objectives of Section 6(b)(5)⁷ in particular in that it is designed to

⁵ See Section 1002 and 1003 of the Company Guide and Article II, Section 3 of the Amex Constitution.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

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, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

The proposed rule change will impose no 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

No written comments were solicited or received by the Exchange on this proposal.

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 Exchange 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, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) ; or
- Send an e-mail to rulecomments@sec.gov . Please include File Number SR–Amex–2005–027 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609.

All submissions should refer to File Number SR–Amex–2005–027. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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. Copies of the filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR–Amex– 2005–027 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority⁸

Margaret H. McFarland
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).