

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50214; File No. SR-Amex-2004-49)

August 18, 2004

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change to Allow Amex Hearing Officers to Preside Over Default and Settlement Proceedings Without Empanelling Members of the Hearing Board to Serve on an Amex Disciplinary Panel

On June 28, 2004, 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 amend Section 1(b)9 of article V of the Amex Constitution, and Rule 2(b) of the Amex Rules of Procedure in Disciplinary Matters, to allow Amex hearing officers to preside over default and settlement proceedings without empanelling members of the Hearing Board to serve on an Amex Disciplinary Panel. The proposed rule change was published for comment in the Federal Register on July 15, 2004.³ The Commission received no comments on the proposal. This order approves 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 49991 (July 9, 2004), 69 FR 42472.

securities exchange⁴ and, in particular, the requirements of Section 6(b) of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(7) of the Act,⁶ in that it is designed to provide a fair and efficient procedure for the disciplining of members and persons associated with members. Moreover, the Commission finds the proposed rule change furthers the objectives of Section 6(b)(5) of the Act⁷ 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, 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.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁸, that the

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(7).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(2).

proposed rule change (SR-Amex-2004-49) 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

⁹ 17 CFR 200.30-3(a)(12).