

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-7135; 34-35368 File No. 265-20]

Advisory Committee on the Capital Formation and Regulatory Processes

AGENCY: Securities and Exchange Commission.

ACTION: Notice.

SUMMARY: The Chairman of the Commission, with the concurrence of the other members of the Commission intends to establish the Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes ("Committee"), which will advise the Commission regarding the informational needs of investors and the regulatory costs imposed on the U.S. securities markets.

The first meeting of the Committee will be held on March 6, 1995 in room 1C30 at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 10:00 a.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265-20. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Meridith Mitchell, Special Counsel, Office of the General Counsel, at 202-942-0890; Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., the Securities and Exchange Commission has directed publication of this notice that Chairman Arthur Levitt, with the concurrence of the other members of the Commission, intends to establish the "Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes." Chairman Levitt certifies that he has determined that the creation of the Committee is necessary and in the public interest.

The Committee's charter directs the Committee to assist the Commission in evaluating the efficiency and effectiveness of the regulatory process and the disclosure requirements relating to public offerings of securities, secondary market trading and corporate reporting, and in identifying and

developing means to minimize costs imposed by current regulatory programs, from the perspective of investors, issuers, the various market participants, and other interested persons and regulatory authorities.

To achieve the Committee's goals, members will be appointed that can represent effectively the varied interests affected by the range of issues to be considered. The Committee's membership may include, among others, persons who can represent investors, issuers, market participants, independent public accountants, regulators and the public at large. The Commission expects that the Committee's members will represent a variety of viewpoints and have varying experience, and that the Committee will be fairly balanced in terms of points of view, backgrounds and tasks. The Chairman of the Committee will be Commissioner Steven M.H. Wallman.

The Committee will conduct its operations in accordance with the provisions of the Federal Advisory Committee Act. The duties of the Committee will be solely advisory. Determinations of action to be taken and policy to be expressed with respect to matters upon which the Advisory Committee provides advice or recommendations shall be made solely by the Commission.

The Committee will meet at such intervals as are necessary to carry out its functions. It is expected that meetings of the full Committee generally will occur no more frequently than nine times; meetings of subgroups of the full Advisory Committee will likely occur more frequently. The Securities and Exchange Commission will provide necessary support services to the Committee.

The Committee will terminate at the end of one year from the date of its establishment unless, prior to such time, its charter is renewed in accordance with the Federal Advisory Committee Act, or unless the Chairman, with the concurrence of the other members of the Commission, determines that continuance of the Committee is no longer in the public interest.

Fifteen days after publication of this notice in the **Federal Register**, a copy of the charter of the Committee will be filed with the Chairman of the Commission, the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Commerce. A copy of the charter will also be furnished to the Library of Congress and placed in the Commission's Public Reference Room for public inspection.

Furthermore, upon establishment of the Committee, and in accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the first meeting of the Committee will be held on March 6, 1995 in room 1C30 at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 10:00 a.m. The meeting will be open to the public. The purpose of this meeting will be to discuss general organizational matters, to plan the progression of the Committee's work, and to begin discussion of the effects of the current regulatory scheme on capital formation in the United States.

Dated: February 13, 1995.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 95-4058 Filed 2-16-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35360; File No. SR-Amex-94-50]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Proposed Commentary .02 to Rule 60

February 13, 1995.

Introduction

On November 14, 1994, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "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 the Amex's agreement with the New York Stock Exchange ("NYSE") whereby the NYSE will not be held liable for damages sustained by an Amex member's or member organization's use of any NYSE system, service, or facility.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35146 (December 23, 1994), 60 FR 516 (January 4, 1995). No comments were received on the proposal.

II. Background and Discussion

The proposed rule change emanates from several licensing agreements between the NYSE and Amex. For example, in 1993 the Amex licensed the NYSE electronic display book for

¹ 15 U.S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

equities. As part of that licensing agreement, the NYSE required that it be protected from liability for damages sustained by Amex members and member organizations using the display book on the Amex floor. Consequently, the Amex adopted a policy statement disclaiming NYSE liability for such damages.³

Most recently, the Amex entered into an agreement with the NYSE to integrate the Amex's Equity Intra-Day Comparison System ("IDC") into the NYSE's On-Line Comparison System ("OCS"), so that Amex equity and bond transactions can be compared through OCS. This will enable members to utilize the same computer terminal for the comparison of both Amex and NYSE securities and thus lessen the cost to the member firm community. The integration is being accomplished in two steps. Amex listed corporate bonds began to be compared through OCS on October 21, 1994, and equities are expected to be phased in by the end of the first quarter of 1995.

As the Amex may enter into additional agreements with the NYSE in the future relating to the use of other NYSE systems, services, or facilities by Amex member firms, this proposal would codify a liability disclaimer provision to cover not only the current situation involving the use of OCS, but also all future situations where Amex member firms are using other NYSE facilities in accordance with similar agreements with the NYSE.⁴ The Amex plans to disseminate proposed Commentary .02 to its Rule 60 to the membership, upon SEC approval.

The Commission notes that the Amex Constitution (Article IV, Section 2(e)) currently provides that the Exchange shall not be liable for any damages incurred by a member firm growing out of its use of the facilities afforded by the Exchange for the conduct of its business (which includes the use of the Exchange's trading systems), except as the Exchange may otherwise provide. Further, the NYSE Constitution has a similar provision regarding use of its facilities by its members. Finally, the Commission notes that the terms of the proposed Commentary are merely a codification of the contractual agreements between the Amex and the

NYSE wherein the Amex has agreed to disclaim NYSE's liability under the specified circumstances referred to herein.

The Commission believes that it is reasonable for the NYSE to be released from liability for injuries sustained by Amex members and member organizations using the NYSE's OCS. As noted above, the proposed rule change is similar to existing Amex and NSE rules that limit exchange liability. In addition, under similar circumstances, the Commission has allowed licensee exchanges to release licensors from certain liability for damages resulting from use of their product.⁵ Finally, the Commission wishes to emphasize that this disclaimer only affects NYSE liability for losses sustained by Amex members and member organizations using OCS and does not extend to customer-related losses.

III. Conclusion

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, with the requirements of Section 6(b).⁶ In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The Commission also finds that the proposal is consistent with Section 17A⁷ in that it furthers the use of new data processing and communications techniques that should result in more accurate clearance and settlement of securities transactions.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-Amex-94-50) is approved.

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

⁵ For example, the Commission has approved limited disclaimers of liability for licensors of the indexes underlying index options. See, e.g., Securities Exchange Act Release Nos. 31382 (October 30, 1992), 57 FR 52802 (November 5, 1992) (regarding options on Russell 2000 Index); and 19908 (June 24, 1983), 48 FR 30815 (July 5, 1983) (regarding options on Standard & Poor's 500 Stock Price Index).

⁶ 15 U.S.C. § 78f(b) (1988).

⁷ 15 U.S.C. 78q-1 (1988).

⁸ 15 U.S.C. § 78s(b)(2) (1988).

⁹ 17 CFR 200.30-3(a)(12) 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-4043 Filed 2-16-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35363; International Series Release No. 785 File No. SR-Amex-95-04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing of Warrants Based on the Value of the U.S. Dollar in Relation to the Mexican Peso

February 13, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 8, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Amex. 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 approve for listing and trading under section 106 of the Amex Company Guide ("Guide") warrants based on the value of the U.S. dollar in relation to the Mexican peso ("Mexican Peso Warrants"). 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discuss 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 Amex 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

Under section 106 (Currency and Index Warrants) of the Guide, the Exchange may approve for listing warrants based on the relation of the

³ See Securities Exchange Act Release No. 32140 (April 14, 1993), 58 FR 21327 (April 20, 1993).

⁴ The NYSE acknowledges that under New York State Common Law, a liability disclaimer such as the instant one does not insulate the NYSE from loss due to the gross negligence or willful misconduct. Conversation between Steve Abrams and Michael Simon, Milbank, Tweed, Hadley & McCloy, Counsel to NYSE, and Amy Bilbija, Attorney, Commission, dated December 2, 1994.