

contacts with the NRC reminding MTA of the need to transfer the gauge to an authorized recipient. If MTA had aggressively responded to the Notice of a Violation issued by the NRC on September 7, 1994, or the telephone call from Mr. Walt Pasciak on August 29, 1994, the security violation could have either been prevented, or corrected, or identified if the gauge was already missing.

MTA's failure to do so is considered particularly egregious. Even if MTA had not received a copy of the 1992 Order, it had several conversations with NRC staff regarding the status of the gauge between August 1992 and November 1994, and had received the September 7, 1994 Notice of Violation which provided prior opportunities to prevent or correct this violation. If MTA had promptly acted to locate and transfer the gauge to an authorized recipient at that time, the security violation and subsequent loss of the gauge might have been prevented. Therefore, no mitigation is warranted for these factors.

With respect to the duration factor, while MTA contends that its office is typically a secure location, and the gauge being out of its locked storage cabinet is not as risky a situation as it might seem, MTA's action to remove the gauge from its secure location without taking appropriate measures for an extended period, as the RSO recollects, provided an appropriate basis for escalating the penalty on this factor. Therefore, no mitigation of this factor is warranted.

Escalation of the penalty by 200% to emphasize the importance of maintaining a valid license is no longer warranted due to MTA's assertion that they do not intend to possess any NRC licensed material in the future. Therefore, the penalty is reduced to \$2,000.

Furthermore, notwithstanding MTA's contention, the NRC does not consider the penalty excessive, particularly given the fact that the security violation resulted in a loss or theft of radioactive material.

NRC Conclusion

The NRC has concluded that MTA did not provide an adequate basis for mitigation of the civil penalty to \$500. Given the significance of the failure to maintain security of radioactive materials, and the loss of the gauge that occurred in this case, a civil penalty in the amount of \$2,000 should be imposed.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Deadline for Submission of Petitions in the 1995 Annual GSP Review

AGENCY: Office of the United States
Trade Representatives.

ACTION: Notice of the 1995 Annual GSP
Review.

SUMMARY: The notice announces the deadline for the submission of petitions in the 1995 Annual GSP Review.

FOR FURTHER INFORMATION CONTACT:
GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 518, Washington, DC 20506. The telephone number is (202) 395-6971.

SUPPLEMENTARY INFORMATION:

I. Announcement of 1995 Annual GSP Review

The GSP regulations (15 CFR 2007.3 *et seq.*) provided for annual review, unless otherwise specified by **Federal Register** notice. Notice is hereby given that, in order to be considered in the 1995 Annual GSP Review, all petitions to modify the list of articles eligible for duty-free treatment under the GSP and requests to review the GSP status of any beneficiary developing country must be received by the GSP Subcommittee no later than 5 p.m., Wednesday, June 14, 1995. Petitions submitted after the deadline will not be considered for review and will be returned to the petitioner. The GSP provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP is authorized by Title V the Trade Act of 1974, as amended ("Trade Act") (19 U.S.C. 2461 *et seq.*), and was implemented by Executive Order 11888 of November 24, 1975, and modified by subsequent Executive Orders and Presidential Proclamations.

A. 1995 Annual GSP Review

Interested parties or foreign governments may submit petitions: (1) To designate additional articles as eligible for GSP; (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; (3) to waive the competitive need limits for individual beneficiary developing countries with respect to specific GSP eligible articles; (4) to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in sections 502(b) or 502(c) of the Trade Act (19 U.S.C. 2462 (b) and (c)); and, (5) to otherwise modify GSP coverage.

B. Identification of Product Requests With Respect to the Harmonized Tariff Schedule of the United States

The Harmonized Tariff Schedule of the United States (HTS) was implemented by the United States on

January 1, 1989, and replaces the former Tariff Schedules of the United States nomenclature. All product petitions must include a detailed description of the product and the HTS subheading in which the product is classified.

C. Submission of Petitions and Requests

Petitions to modify GSP treatment should be addressed to GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW., Room 518, Washington, DC 20506. All such submissions must conform with the GSP regulations, which are set forth at 15 CFR 2007. These regulations were published in the **Federal Register** on Tuesday, February 11, 1986 (FR 5035). The regulations are printed in "A Guide to the U.S. Generalized System of Preferences (GSP)" (August 1991) ("GSP Guide"). Information submitted will be subject to public inspection by appointment only with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and other qualifying information submitted in confidence pursuant to 15 CFR 2007.7. An original and fourteen (14) copies of each petition must be submitted in English. If the petition contains business confidential information, an original and fourteen (14) copies of a nonconfidential version of the submission along with an original and fourteen (14) copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either "public version" or "nonconfidential").

Petitioners are strongly advised to review the GSP regulations. Petitioners are reminded that submissions that do not provide all information required by § 2007.1 of the GSP regulations will not be accepted for review except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required. These requirements will be strictly enforced. Petitions with respect to competitive need waivers must meet the informational requirements for product addition requests in § 2007.1(c). A model petition format is available from the GSP Subcommittee and is included in the GSP Guide. Petitioners are requested to use this model petition format so as to ensure that all informational requirements are met. Furthermore, interested parties

submitting petitions that request action with respect to specific products should list on the first page of the petition the following information: (1) The requested action; (2) the HTS subheading in which the product is classified; and, (3) if applicable, the relevant beneficiary developing country.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35651; File SR-Amex-95-05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing and Trading of Indexed Term Notes Linked to the Real Estate Index

April 27, 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 16, 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. On April 4, 1995, the Exchange filed Amendment No. 1 to the proposal.¹ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, 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 107A of the Amex Company Guide ("Guide") intermediate-term, indexed notes ("Notes") whose value will be linked in part to changes in the level of the Real Estate Index ("Index"), a new index designed to reflect general movements in the underlying market for commercial real estate. The Index is calculated by combining the performance of two

¹ In Amendment No. 1, the Exchange proposes to: (1) clarify the name of the Real Estate Index; (2) specify that the Real Estate Index will be initialized at a value of 100; and (3) amend the formula for calculating the value of the Real Estate Index. See Letter from Claire McGrath, Managing Director and Special Counsel, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated April 4, 1995.

separate equity indexes—one comprised entirely of large, actively traded Real Estate Investment Trusts ("REIT50 Index"), and the other being the Russell 2000 Index, a broad-based index comprised of small capitalization stocks ("Russell 2000"). 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 the 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 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 107 (Other Securities) of the Guide, the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, and warrants. The Amex now proposes to list for trading under Section 107A of the Guide, intermediate-term, indexed notes, the value of which can be expected to fluctuate based on changes in the level of an index designed to reflect general movements in the underlying market for commercial real estate by combining the performance of two separate equity indexes—one comprised entirely of large, actively trade real estate investment trusts ("REITs"), *i.e.*, the REIT50 Index, and the other a broad-based index of small capitalization stocks, *i.e.*, the Russell 2000.

Background

According to the Exchange, by some estimates over half of the wealth in the United States and as much as one-fourth of total corporate value are in the form of real estate. In addition, the Exchange represents that studies of asset allocation demonstrate clear diversification benefits from allocating a portion of an investment portfolio to real estate as a separate asset class. Traditional investment in a diversified portfolio of commercial real estate, however, is not possible for most

investors, in the Exchange's opinion, because of high transaction costs, market illiquidity, and the extremely large investment required to purchase a pool of properties diversified across different property types and geographic regions.

The Exchange further represents that research has demonstrated that the performance associated with an index of REITs may be attributed partly to movements in the underlying real estate market and partly to the small capitalization nature of REIT securities. Therefore, by subtracting a portion of the returns associated with a broad-based small capitalization stock index from the returns generated by an index of REITs, the Exchange believes that an index can be generated that more closely reflects the performance of the underlying real estate market. The Exchange states that the proposed Notes are intended to use this method to provide an exchange-listed alternative for investors who wish to gain exposure to general movements in the real estate sector or whose portfolios are heavily weighted in real estate and wish to shed some of that exposure.

Note Structure

The proposed Notes will conform to the listing guidelines under Section 107A of the Guide which provide, in part, that such issues have: (1) a public distribution of at least one million trading units; (2) a minimum of 400 holders; and (3) a market value of not less than \$4 million.² The Notes will have a term of two to five years and may provide for periodic payments to holders. Upon maturity, holders will receive not less than 90% of the original issue price plus an amount in U.S. dollars equal to a participation rate (*i.e.*, a specified percentage) multiplied by the increase, if any, in the level of the Index at the time of the offering and the average of the closing Index level on the first ten days of the last twenty days preceding maturity ("Closing Index Level").³

The Notes may not be redeemed prior to maturity and holders of the Notes have no claim to the securities underlying the Index. Thus, holders will be able to liquidate their investment

² The proposal incorrectly indicates that Section 107A requires a market value of not less than \$20 million. Section 107A was recently amended to set the minimum market value to \$4 million. See Securities Exchange Act Release No. 34765 (September 30, 1994), 59 FR 51220 (October 7, 1994).

³ If the Closing Index Level is lower than the level of the Index at the time of the offering, holders will receive at least 90% of the original issue price. The minimum level that holders will receive at maturity will be set at the time of the offering of the Notes.