IV. Commission's Findings and Order Granting Accelerated Approval of 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 securities exchange and, in particular, with Section 6(b)(5)[5] and Section 11(b)[6] of the Act. The Commission believes that the amendments to rule 109 should further the objectives of Section 6(b)(5) and Section 11(b) through pilot program procedures designed to allow stops, in minimum fractional change markets, under limited circumstances that provide the possibility of price improvement to customers whose orders are granted stops.

In the orders approving the pilot procedures,[7] the Commission asked the Amex to study the effects of stopping stock in a minimum fractional change market. The Exchange has submitted to the Commission several monitoring reports regarding the amendments to Rule 109. The Commission believes that the monitoring reports, especially the latest report, provide useful information regarding the effectiveness of the program during the pilot period. The Commission, however, finds that additional time is necessary to evaluate carefully and comprehensively the information provided by the Exchange and the Amex's use of its pilot procedures. Accordingly, the Commission believes that it is reasonable to extend the pilot program until October 21, 1995, to avoid compromising the benefit that investors might receive under Rule 109, as amended, while the Commission is considering whether to permanently approve the pilot program.[8]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission. No comments were received at that time.

[5] 15 U.S.C. 78f (1988 & Suppl. V 1993).

[6] 15 U.S.C. 78k (1988).

[7] *See supra,* note 1.

[8] *See* Securities Exchange Act Release No. 35909 (June 28, 1995), 60 FR 34562 (July 3, 1995) (notice of filing of proposed rule change relating to permanent approval of Amex's pilot program for stopping stock in a minimum fractional change market).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Amex–95–27) is hereby approved on a pilot basis until October 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–18603 Filed 7–27–95; 8:45 am]

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[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36014; File No. SR–Amex–95–19]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Temporary Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Amendments to Rule 170 Pertaining to Specialists' Liquidating Transactions

July 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 24, 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 and II below, which Items have been prepared by the self-regulatory organization. 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 requests permanent approval of a pilot program that amends Exchange Rule 170 to permit a specialist to effect a liquidating transaction on a zero minus tick, in the case of a ''long'' positions, or zero plus tick, when covering a ''short'' position, without Floor Official approval. The pilot program also amends Rule 170 to set forth the affirmative action that specialists are required to take subsequent to effecting various types of liquidating transactions. In the alternative, the Exchange is proposing a one year extension of the pilot program.

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 self-regulatory organization 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 III below. The self-regulatory organization 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 22, 1994, the Commission approved, on a one year pilot basis, amendments to Exchange Rule 170 to permit a specialist to effect a liquidating transaction on a zero minus tick, in the case of a ''long'' position, or a zero plus tick, when covering a ''short'' position, without Floor Official approval.[3] The amendments also set forth the affirmative action that specialists are required to take subsequent to effecting various types of liquidating transactions.

During the course of the pilot program, the Exchange has monitored compliance with the requirements of the Rule, and our findings in this regard have been forwarded to the Commission under separate cover. We believe that the amendments have provided specialists with flexibility in liquidating specialty stock positions in order to facilitate their ability to maintain fair and orderly markets, particularly during unusual market conditions. In addition, the specialist's concomitant obligation to participate as dealer on the opposite side of the market after a liquidating transaction has been strengthened.

The Exchange is therefore proposing approval of the amendments to Rule 170. In the alternative, the Exchange is requesting an extension of the pilot program for an additional one year period, if the Commission feels that further study and monitoring of the effects of the pilot program are necessary.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] The Commission approved the pilot program in Securities Exchange Act Release No. 33957 (April 22, 1994), 59 FR 22188 (April 29, 1994) (''1994 Approval Order''). On April 21, 1995, the Commission granted a three month extension to the pilot program, ending on July 21, 1995. Securities Exchange Release No. 35635 (April 21, 1995), 60 FR 20780 (April 27, 1995).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, protect investors and the public interest. The proposed rule change is also consistent with Section 11(b) of the Act which allows exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.

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

The proposed rule change will impose no burden on competition.

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 with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–95–19 and should be submitted by August 18, 1995.

IV. Commission's Findings and Order Granting Accelerated Approval of 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 securities exchange, and, in particular, with Sections 6(b)(5) and 11 of the Act.[4] 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, remove impediments to and perfect the mechanism of a free and open market, and, in general, protect investors and the public interest. The Commission also believes that the proposal is consistent with Section 11(b) of the Act and Rule 11b–1 thereunder,[5] which allow exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.

Under the pilot program, a specialist may liquidate a position by selling stock on a direct minus tick or by purchasing stock on a direct plus tick only if such transactions are reasonably necessary for the maintenance of a fair and orderly market and only if the specialist has obtained the prior approval of a Floor Official. Liquidations on a zero minus or a zero plus tick, which previously required Floor Official approval, can be effected under the pilot procedures without a Floor Official's approval, but continue to be subject to the restriction that they be effected only when reasonably necessary to maintain a fair and orderly market. In addition, the specialist must maintain a fair and orderly market during the liquidation.

After the liquidation, a specialist is required to re-enter the market on the opposite side of the market from the liquidating transaction to offset any imbalances between supply and demand. During any period of volatile or unusual market conditions resulting in a significant price movement in a specialist's specialty stock, the specialist's re-entry into the market must reflect, at a minimum, his or her usual level of dealer participation in the specialty stock. In addition, during such periods of volatile market conditions or unusual price movements, re-entry into the market following a series of transactions must reflect a significant level of dealer participation.

In our 1994 Approval Order,[6] the Commission asked the Amex to submit a report setting forth the criteria developed by the Exchange to determine whether liquidating transactions effected by specialists pursuant to the pilot were necessary and appropriate in connection with fair and orderly markets. The Commission also asked the Amex to provide information regarding the Exchange's monitoring of liquidating transactions effected by specialists on any destabilizing tick. In addition, the Commission asked the Amex to provide the following information in its report: (1) a review of all liquidating transactions effected by specialists on any destabilizing ticks; (2) a review of liquidating transactions by specialists to determine that the required Floor Official approval was obtained where necessary; and (3) a review of liquidating transactions in light of dealer participation levels and re-entry into the market in terms of timing and support.

In April 1995, the Commission extended the pilot program for three months to give the Exchange additional time to prepare the report discussed above and submit the data to the Commission for its consideration of whether the pilot program should be granted permanent approval.[7] The Exchange submitted the report in May 1995. After reviewing the data, the Commission agrees with the Exchange that the pilot generally is working well. In particular, the Commission believes the report indicates that specialist generally are entering the aftermarket after effecting liquifying transactions when appropriate and that the Exchange has developed surveillance procedures that enable it to monitor specialists' reliquifying activity.

The Commission believes, however, that further monitoring of the pilot is necessary before permanent approval can be granted. In this regard, the Exchange should continue to emphasize the requirements of the rule, including the necessity for floor official approval of specialists' purchases and sales on direct plus or minus ticks, and that such transactions can only be effected if reasonably necessary for the maintenance of fair and orderly markets. In addition, where proper procedures are not followed, the Amex should take appropriate disciplinary action.

The Commission has therefore decided to extend the pilot program for one year. During the one year extension, the Commission expects the Amex to continue to monitor compliance with the pilot program procedures and report any non-compliance with the rule and the action the Amex has taken as a result of such non-compliance. The Amex should prepare an additional report as described above and submit the data to the Commission for its consideration of whether the pilot

[4] 15 U.S.C. 78f and 78k (1988).

[5] 17 CFR 240.11b–1 (1994).

[6] *See supra* note 3.

[7] *See supra* note 3.

program should be granted permanent approval.[8]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the Exchange proposes to continue using the identical procedures contained in the pilot program. The rule change that implemented the pilot program was published in the **Federal Register** for the full comment period,[9] and no comments were received. Furthermore, the Commission approved a similar rule change for the NYSE also without receiving comments on the proposal.[10]

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change is approved on an accelerated basis for a one year period ending on July 21, 1996.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–18600 Filed 7–27–95; 8:45 am]

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[8] The Commission requests that this report be submitted by April 1996, along with any requests for extension or permanent approval of the pilot.

[9] *See* Securities Exchange Act Release No. (August 25, 1993), 58 FR 45926 (August 31, 1993).

[10] *See* Securities Exchange Act Release No. 31797 (January 29, 1993), 58 FR 7277 (February 5, 1993).

[11] 15 U.S.C. 78s(b)(2) (1988).

[Release No. 34–36004; File No. SR–BSE–95–13]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Incorporated Relating to a Nine Month Extension of a Pilot Program for Stopping Stock in Minimum Variation Markets

July 21, 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 July 12, 1995, the Boston Stock Exchange, Incorporated (''BSE'' 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 self-regulatory organization. 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 seeks a nine month extension of its pilot program regarding stopping stock in minimum variation markets.[1]

II. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 III below. The self-regulatory organization 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the Commission approved pilot provision regarding the execution of stopped orders in minimum variation markets for an additional nine months. The pilot provision expires on July 21, 1995, and this proposal would extend the pilot until April 21, 1996.

The pilot rule requires the execution of stopped orders in minimum variation markets (a) after a transaction takes place on the primary market at the stop price or higher in the case of a buy order (lower in the case of a sell order), (b) after the applicable Exchange share volume is exhausted or (c) at any time prior to (a) or (b) if filled at an improved price.[2] In no event will a stopped order be executed at a price inferior to the stop price. The Exchange states that, as in the case of greater than minimum variation markets, the proposed rule will continue to benefit customers because they might receive a better price than the stop price, yet it also protects prior-entered same-price limit orders on the book.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it furthers the objectives to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, 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 Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either soliciteed or received.

III. Solicitation of Comments

Interested persons are invited to submit written data; views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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

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[1] The Commission initially approved the BSE's proposal to codify procedures for stopping stock and to establish a separate pilot program for stopping stock in minimum variation markets in Securities Exchange Act Release No. 35068 (Dec. 8, 1994), 59 FR 64717 (Dec. 15, 1994) (File No. SR–BSE–94–09) (''1994 Pilot Approval Order''). The Commission subsequently extended the BSE's pilot program in Securities Exchange Act Release No. 35474 (Mar. 10, 1995), 60 FR 14471 (Mar. 17, 1995) (File No. SR–BSE–95–03) (''March 1995 Pilot Approval Order'').

[2] The Commission notes that, in certain narrow circumstances, a BSE specialist may execute a stopped order before limit order interest on the Exchange is exhausted. To do so, however, the specialist must make the determination that such action is necessary, in his or her professional judgment, to prevent an execution that would create a new high or new low, a double up or down tick or an out-of-range print.

Moreover, the specialist must follow certain procedures designeed to ensure that the BSE's limit order book is adequately protected. First, the specialist must split any contra-side order flow between the stopped order and limit orders with priority at the better price. In addition, if the specialist elects to fill a stopped order at a price better than the stop price before it is otherwise due an execution, he or she must allocate an equal number of shares, up to a maximum of 500 shares, to orders at that price on the limit order book. Finally, if any portion of a stopped order remains unexecuted at the end of the trading day, the specialist must fill such order in its entirety and, as described above, allocate an appropriate number of shares to the book.