

the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. For the reasons and upon the facts set forth above, applicants state that the requested order meets the standards set forth in Section 26(b) and should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42966; File No. SR-Amex-00-03]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Reporting of Options Transactions

June 20, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 22, 2000, the American Stock Exchange LLC ("Amex" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change relating to the reporting of options transactions. The Amex filed Amendment 1 to this proposal on June 12, 2000.<sup>3</sup> The proposed rule change, as amended, is 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 Exchange has filed with the Commission a proposed rule change adopting a new rule, Amex Rule 992, to require the reporting of options transactions within 90 seconds. The text

of the proposed rule change, as amended, is set forth below. Additions are in italics.

#### Trade Reporting Rules

Section 9. Miscellaneous Provisions Applicable to Options

*Rule 992.*

(a) *A member or member organization initiating an options transaction, whether acting as principal or agent, must report or ensure the transaction is reported within 90 seconds of the execution to the Amex Options Market Data System for dissemination to the Options Price Reporting Authority.*

(b) *Transactions not reported within 90 seconds after execution shall be designated as late. A pattern or practice of late reporting without exception circumstances may be considered conduct inconsistent with just and equitable principles of trade.*

#### 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 Amex 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to adopt a new rule, Amex Rule 992, to require options transactions reporting within 90 seconds. The Amex represents that it is Exchange policy that any member initiating an options transaction on the floor of the Exchange, whether acting as principal or agent, must ensure that the trade is properly reported or "printed on the tape."<sup>4</sup>

The reporting of options transactions is currently handled by the Amex Options Display Book ("AODB").<sup>5</sup> The

AODB handles the execution processing of orders routed to it both electronically and manually. Orders routed electronically are either executed automatically by the Exchange's Auto-Ex system or executed by the specialist through the AODB. These options transactions are immediately reported to the Amex Option Market Data System, which processes all Amex trades, and the Options Price Reporting Authority, which disseminates trade information to the Amex's members and the investing public through vendors. Orders manually routed to the Exchange through a floor broker and executed in the trading crowd are reported to the specialist or his clerk for entry into the AODB and processed in the same manner as electronically routed and executed trades.<sup>6</sup>

Although Amex estimates that 60-70% of options transactions are electronically routed and executed orders that are immediately reported and printed on the tape, the Exchange believes that the adoption of a specific options trade reporting rule is appropriate, particularly for those orders routed and executed manually. Under the proposed rule, transactions not reported within 90 seconds after execution will be designated as late. Patterns or practices of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade.<sup>7</sup>

###### 2. Statutory Purpose

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general and furthers the objectives of Section 6(b)(5),<sup>9</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

upon what was once a paper-based specialist's book.

<sup>6</sup> An example of such a trade is one that does not include either the specialist or a customer limit order as a party to the trade.

<sup>7</sup> In Amendment No. 1, the Amex clarified that a failure to report a single options transaction within 90 seconds would be considered a violation of the proposed options rule. See Amendment No. 1, *supra* note 3.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Letter from Claire P. McGrath, Vice President and Special Counsel, Derivative Securities, Amex to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated June 9, 2000. ("Amendment No. 1"). In Amendment No. 1, the Exchange clarified the proposed rule text and confirmed that a member's failure to report an options transaction within 90 seconds would be considered a violation of proposed Amex Rule 992.

<sup>4</sup> The Exchange represents that this is currently an informal policy of the Exchange, which Amex is seeking to codify by adopting Amex Rule 992, as proposed in this filing. Voice Mail Message from Scott G. Van Hatten, Legal Counsel, Derivative Securities, Amex, to Melinda R. Diller, Attorney, Division, Commission, on March 28, 2000.

<sup>5</sup> According to the Exchange, the AODB is an electronic order book and execution-processing system that was adopted to replace and improve

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

The Exchange does not believe that the proposed rule change will impose any burden on competition 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*

The Exchange neither solicited nor received written comments with respect to the proposed rule change.

### **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 adequate 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 Amex consents, the Commission will:

A. By order approve the 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submissions, 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 persons, 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 Room. 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-00-03 and should be submitted by July 18, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-42967; File No. SR-MSRB-99-11]**

### **Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change To Amend Rule G-36**

June 21, 2000.

#### **I. Introduction**

On December 10, 1999, the Municipal Securities Rulemaking Board ("MSRB" or the "Board") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Rule G-36, on delivery of official statements, advance refunding documents and Forms G-36(OS) and G-36(ARD) to the Board or its designee. The proposed rule change was published for comment in the **Federal Register** on February 9, 2000.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposal.

#### **II. Description of the Proposal**

The Board has filed with the Commission a proposed rule change to amend Rule G-36, on delivery of official statements, advance refunding documents and Forms G-36(OS) and G-36(ARD) to the Board or its designee. Rule G-36 requires, among other things, that a broker, dealer or municipal securities dealer (a "dealer") acting as underwriter in a primary offering of municipal securities (with certain limited exceptions) send to the Board copies of the official statement and completed Form G-36(OS).

Originally, Rule G-36 applied to all primary offerings of municipal securities regardless of principal amount, other than primary offerings that qualified for exemption under paragraph (d)(1) of Rule 15c2-12 under

the Act.<sup>4</sup> The Board subsequently amended Rule G-36 to include certain categories of primary offerings that are exempt under Rule 15c2-12(d)(1).<sup>5</sup> For any primary offering subject to Rule G-36(c)(i), the underwriter currently is required to send two copies of the official statement, if one is prepared, in final form with two copies of Form G-36(OS), to the Board by the business day after the issuer delivers the municipal securities to the underwriter (the "bond closing").

As amended, the rule would require an underwriter in a primary offering subject to Rule G-36(c)(i) for which an official statement in final form is prepared by the issuer to send two copies of the official statement in final form, together with two copies of Form G-36(OS), to the Board by the later of (i) one business day after the bond closing or (ii) one business day after receipt of the official statement from the issuer.<sup>6</sup>

#### **III. Discussion**

The Commission finds that the proposed rule change is consistent with the requirements of the Act<sup>7</sup> and the rules and regulations thereunder applicable to the MSRB.<sup>8</sup> In particular, the Commission finds the amendments to MSRB Rule G-36 consistent with the requirements of Section 15B(b)(2)(C)<sup>9</sup> of the Act, which provides, in part, that the Board's rules shall:

be 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 regulating, clearing, settling, processing information with respect

<sup>4</sup> Originally, Rule G-36 applied to all primary offerings subject to Rule 15c2-12, as well as to Small Issue Securities for which an official statement in final form was prepared, but did not apply to Limited Offering Securities, Short-Term Securities and Puttable Securities.

<sup>5</sup> See Securities Exchange Act Release No. 32086 (March 31, 1993), 58 FR 18290 (April 8, 1993); "Delivery of Official Statements to the Board: Rule G-36," *MSRB Reports*, Vol. 12, No. 3 (September 1992) at 11. Thus, only primary offerings exempt from Rule 15c2-12 for which no official statement in final form is prepared and Limited Offering Securities remain exempt from Rule G-36. Currently, Small Issue Securities, Short-Term Securities, and Puttable Securities, are subject to Rule G-36(c)(1) where an official statement in final form has been prepared by or on behalf of the issuer.

<sup>6</sup> In contrast, Rule G-36(c)(i) currently requires that the underwriter send the official statement to the Board by the business day after the bond closing, regardless of whether the underwriter has in fact received the official statement by such day.

<sup>7</sup> In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> 15 U.S.C. 78s(b)(1).

<sup>12</sup> 17 CFR 240.19b-4.

<sup>13</sup> Securities Exchange Act Release No. 42374 (February 2, 2000), 65 FR 6427 (February 9, 2000).