

supervisory responsibility for the general management and investment of each Portfolio's securities portfolio, and subject to review and approval by the Board, will (a) set the Portfolio's overall investment strategies; (b) evaluate, select, and recommend Managers to manage all or part of a Portfolios assets; (c) when appropriate, allocate and reallocate a Portfolio's assets among multiple Managers; (d) monitor and evaluate the performance of Managers; and (e) implement procedures reasonably designed to ensure that the Managers comply with the relevant Portfolio's investment objectives, policies, and restrictions.

6. Each Portfolio relying on the requested relief will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, any such Portfolio will hold itself out as employing the Adviser/Manager structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility to oversee the Managers and recommend their hiring, termination and replacement.

7. No Director or officer of the Funds or officer or director of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that director or officer) any interest in a Manager except for (a) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Manager or an entity that controls, is controlled by or is under common control with a Manager.

8. Within 90 days of the hiring of any new Manager, the Adviser will furnish shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, the Adviser will furnish the unitholders of the sub-account) with respect to the appropriate Portfolio all information about the new Manager that would be included in a proxy statement. Such information will include any changes caused by an addition of a new Manager. To meet this condition, the Adviser will provide shareholders (or, if the Portfolio serves as a funding medium for any sub-account) with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45176; File No. SR-Amex-2001-105]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC, Relating to a Six-Month Extension of Automatic Execution for Exchange Traded Funds

December 20, 2001.

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 December 13, 2001, the American Stock Exchange LLC ("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 proposed rule change has been filed by the Amex as a "non-controversial" rule change under rule 19b-4(f)(6)³ under the Act. 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 seeks a six-month extension of Amex Rule 128A to continue its pilot program for the automatic execution of orders for Exchange Traded Funds ("ETFs"). 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 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

On June 19, 2001, the Commission approved the Exchange's proposal, adopted as Amex Rule 128A, to permit the automatic execution of orders for Exchange Traded Funds ("ETFs") on a six-month pilot program basis.⁴ The Exchange now seeks to extend the pilot program for another six months.

Since 1986, the Exchange has had an automatic order execution feature ("Auto-Ex") for eligible orders in listed options. The Chicago Board Options Exchange, Philadelphia Stock Exchange, and Pacific Exchange established similar automatic option order execution features at about the same time as the Amex, and the newest options exchange, the International Securities Exchange, also features automatic order execution. Auto-Ex, accordingly, has been a standard feature of the options markets for a number of years.

In 1993, the Amex commenced trading Standard and Poor's Depository Receipts® ("SPDRs®"), the first ETF to be listed and traded on the Exchange. ETFs are individual securities that represent a fractional, undivided interest in a portfolio of securities. Currently, approximately 100 ETFs are listed on the Amex. Like an option, an ETF is a derivative security, and, according to the Amex, its price is a function of the value of the portfolio of securities underlying the ETF. Thus, as is the case with options, the Exchange asserts that it is not the price discovery market for ETFs, and that the price discovery market is the market or markets where the underlying securities trade.

The Exchange is now proposing to extend its current Auto-Ex technology to ETFs listed under Amex Rules 1002, 1002A, and 1202 for an additional six months. The Amex represents that this will provide investors that send eligible orders to the Exchange with faster executions than they otherwise would receive. The Exchange believes that many investors desire rapid executions in trading securities that are priced derivative since the value of the underlying instruments may fluctuate during order processing. The Amex,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ See Securities Exchange Act Release No. 44449 (June 19, 2001), 66FR 33724 (June 25, 2001) ("June Release"), approving File No. SR-Amex-2001-29.

moreover, will continue under the pilot extension to incorporate a price improvement algorithm into Auto-Ex for ETFs, and thus to provide investors with better execution prices on their orders. The price improvement algorithm works in the following manner:

When the Amex establishes the National Best Bid or Offer ("NBBO"),⁵ Auto-Ex is programmed to execute eligible incoming ETF orders at the Amex Published Quote ("APQ") plus a programmable number of trading increments with respect to the Amex bid, and less a programmable number of trading increments in the case of the Amex offer. For example, if the APQ were 90.10 to 90.20, and the APQ constituted the NBBO, incoming sell orders might be automatically executed at 90.12 (the Amex bid plus two ticks) and incoming buy orders might be executed at 90.18 (the Amex offer less two ticks).

If the Amex does not establish the NBBO, Auto-Ex is programmed to execute eligible incoming ETF orders at or better than the NBBO up to a specified number of trading increments relative to the APQ.⁶ Auto-Ex executes an eligible order at the improved price relative to the APQ unless such execution would result in a trade-through with respect to the price of an away market that is a participant in the Intermarket Trading System ("ITS"). If a trade-through would result, the order is routed to the specialist for electronic processing through the Amex Point of Sale ("POS") Book.⁷

For example, assume that Auto-Ex is programmed to execute the order at the Amex bid plus two ticks. If the Amex bid were 90, and an away ITS market were bidding 90.01, an incoming sell order would be automatically executed on the Amex at 90.02. Continuing with this example, if the away market were bidding 90.02, an incoming sell order

would be automatically executed on the Amex at 90.02 (matching the away market). If the away market were bidding 90.03, the incoming sell order would not be automatically executed. Instead, it would be routed to the specialist for electronic processing through the Amex POS Book.

The amount of price improvement that the system provides—both when the Amex establishes the NBBO and when it does not—is determined by the Auto-Ex Enhancements Committee ("Committee") upon the request of a specialist, and may differ among ETFs. The Committee consists of the Exchange's four Floor Governors and the Chairmen (or their designees) of the Specialists Association, Options Market Makers Association and the Floor Brokers Association, respectively. The Exchange anticipates that the amount of price improvement will vary among securities based upon such factors as the width of the spread, the volatility of the basket of securities underlying the ETF, and liquidity of available hedging vehicles. The amount of price improvements may be adjusted intraday by the Committee.

As detailed in Amex Rule 128A, Auto-Ex for ETFs with price improvement is unavailable when the spread is at a specified minimum and maximum variation, which may be adjusted security to security. The Committee will determine, upon the request of a specialist, the minimum and maximum spreads at which Auto-Ex is unavailable. As further provided in the rule, Auto-Ex is also unavailable with respect to incoming sell orders when the Amex bid is for 100 shares, and similarly unavailable with respect to incoming buy orders when the Amex offer is for 100 shares.

Orders that are otherwise Auto-Ex eligible orders are also routed to the specialist, and not automatically executed, in situations where the specialist in conjunction with a Floor Governor or two Floor Officials determine that quotes are not reliable and the Exchange is experiencing communications or systems problems, "fast markets," or delays in the dissemination of quotes. Members and member organizations are notified when the Exchange has determined that quotes are not reliable prior to disengaging Auto-Ex.

Specialists and Registered Options Traders ("ROTS") that sign onto the system are automatically allocated the contra side of Auto-Ex trades for ETFs. Due to the automatic price improvement feature, the specialist and ROTS that sign onto Auto-Ex for ETFs are deemed to be on parity for purposes of allocating

the contra side of ETF Auto-Ex trades. Amex Rule 128A incorporates the following methodology for the allocation of the contra side to Auto-Ex ETF trades:

Number of ROTS signed on to Auto-Ex in a crowd	Approximate number of trades allocated to the specialist throughout the day ("target ratio") (percent)	Approximate number of trades allocated to ROTS signed on to Auto-Ex throughout the day ("target ratio") (percent)
1	60	40
2-4	40	60
5-7	30	70
8-15	25	75
16 or more	20	80

At the start of each trading day, the sequence in which trades are to be allocated to the specialist and ROTS signed onto Auto-Ex is randomly determined. Auto-Ex trades then are automatically allocated in sequence on a rotating basis to the specialist and to the ROTS that have signed onto the system so that the specialist and the crowd achieve their "target ratios" over the course of a trading session. If an Auto-Ex eligible order is greater than 100 shares, Auto-Ex divides the trade into lots of 100 shares each. Each lot is considered a separate trade for purposes of determining target ratios and allocating trades within Auto-Ex.

Round lot orders delivered to the post electronically for 2,000 shares or less are eligible for Auto-Ex for ETFs. Orders for an account in which a market maker in ETFs registered as such on another market has an interest are ineligible for Auto-Ex for ETFs. If orders for such market makers were eligible for Auto-Ex with price improvements, the Exchange represents, Amex specialists and ROTS would be unable to make markets with the proposed liquidity for other investors. (Orders from Amex Registered Trade are ineligible for Auto-Ex for ETFs pursuant to Commentaries .04 and .05 to Rule 111 and Amex Rule 950(c).)

Amex Rule 128A also stipulates that Auto-Ex eligible orders for any account in which the same person is directly or indirectly interested may be entered only at intervals of 30 seconds or more between the entry of each such order in an ETF. The Exchange indicates that Amex specialists and ROTS are willing to provide Auto-Ex with price improvement for orders of a certain size. If persons were allowed to enter more than one Auto-Ex eligible order for an account in which they had a direct or indirect interest at intervals of less than

⁵ The term "establish" as used in this context of Amex Rule 128A means that the APQ is currently at the NBBO, regardless of whether or not the Amex was the first exchange to be at that price. See June Release.

⁶ The number of trading increments designated for price improvement when the Amex establishes the NBBO may be different than the number of increments designated for price improvement when the Amex does not establish the NBBO. *Id.*

⁷ Once an order that is Auto-Ex eligible is sent to the Exchange, the person that initiated the order has no control over its execution. This is the case regardless of whether the order is executed by Auto-Ex or is executed by the specialist because Auto-Ex is unavailable. If the order is routed to the specialist for handling because Auto-Ex is unavailable, the specialist does not know if the order is for the account of a broker-dealer or for the account of a customer. This information is in the Exchange's order processing system and is unavailable to the specialist.

30 seconds, according to the Exchange, Amex specialists and ROTs would be unable to make markets with the proposed liquidity for all investors. Under Rule 128A, members and member organizations are responsible for establishing procedures to prevent orders for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 30 seconds with respect to an ETF.

The specialist may request the Exchange to increase the maximum size of Auto-Ex eligible orders. Under Amex Rule 128A, such requests are reviewed by the Committee, which approves, disapproves, or conditionally approves such requests. The rule directs the Committee to balance the interests of investors, the specialist, ROTs in the crowd, and the Exchange in determining whether to grant a request to increase the size of Auto-Ex eligible orders.

The Committee also may consider requests from the specialist or ROTs to reduce the size of Auto-Ex eligible orders, balancing the same interests that it would consider in reviewing a request to increase the size of Auto-Ex eligible orders. The Committee is not permitted, however, to reduce the size of Auto-Ex eligible orders below 2,000 shares.

In addition, under Rule 128A the Committee may delegate its authority to one or more Floor Governors. The rule provides, however, that the Committee must meet promptly to review a Floor Governor's decision in the event that a Floor Governor acts pursuant to delegated authority.

Amex Rule 128A further provides that in the event of system problems or unusual market conditions, a Floor Governor is permitted to reduce the size of Auto-Ex eligible orders below 2,000 shares or increase the size of Auto-Ex eligible orders up to 5,000 shares. Any such change is temporary and lasts only until the end of the unusual market condition or the correction of the system problem. Members and member organizations will be notified when the size of Auto-Ex eligible orders is adjusted due to the system problems or unusual market conditions.

Rule 128A also provides that the Chairman and Vice Chairman of the Exchange, acting jointly, determine which ETFs are eligible for Auto-Ex.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) of the Act in particular, 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 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 and dealers.

The proposed rule change will allow the Auto-Ex for ETFs pilot program to continue for an additional six months. The proposal also facilitates the comparison and settlement of trades since Auto-Ex transactions result in "locked-in" trades. Auto-Ex for ETFs, moreover, automatically provides investors with price improvement on their orders.

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

That Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposal, if fact, will enhance competition among markets and market makers and thereby benefit investors by allowing the Exchange to continue to provide Auto-Ex for ETFs with price improvement.

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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative until 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Amex provided the Commission with notice of its intent to file the proposed rule change within a time designated by the Commission.⁸ The proposed rule change has therefore become effective pursuant to section

19(b)(3)(A) of the Act⁹ and rule 19b-4(f)(6) thereunder.¹⁰

The Amex has requested that the Commission waive the usual pre-operative waiting period. The Commission believes the pilot program provides beneficial services to investors, and finds it consistent with the protection of investors and the public interest to accelerate the operative date so that the pilot can continue uninterrupted and those benefits do not lapse. Thus, the Commission designates December 20, 2001, as the operative date of the proposed rule change.¹¹ The pilot extension will expire June 19, 2002.

At any time within 60 days of the filing of this proposal rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether it 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 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 in 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-2001-105, and should be submitted by January 22, 2002.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 17 CFR 240.19b-4(f)(6).

⁸ The Commission has granted Amex's request to designate a time period shorter than five days prior to filing for notice of its intent to file.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45180; File No. SR-Amex-2001-65]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Implementation of Quick Trade

December 20, 2001.

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 August 22, 2001, the American Stock Exchange LLC ("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 Exchange. On October 19, 2001, and December 4, 2001, respectively, the Amex filed Amendment Nos. 1 and 2 to the proposed rule change.³ 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 Amex proposes to implement Quick Trade, an enhancement to the Amex Order File and Amex Options Display Book.

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 Exchange 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

Currently, for orders executed through the specialist's book (known as the Amex Order Display Book or AODB) in which registered options traders are some or all of the contra-parties, the specialist or his clerk must manually allocate the contracts to those participating registered options traders. For option classes with large trading crowds, this can be a very time consuming process that can delay the processing of trades. As the Exchange continues to develop a number of competitive initiatives to further enhance the processing of customer option orders, it is now proposing to develop and implement Quick Trade, an enhancement to the Amex Order File (AOF) and AODB that will automate the process of allocating trades to participating registered options traders.

Quick Trade would provide for the efficient allocation of executed contracts as set forth below. Registered options traders would be able to log onto the Quick Trade ("QT") wheel through AOF. While registered options would not be required to participate in QT, they would be encouraged to sign on and remain on QT throughout the trading day. Each registered options trader signed on to QT would have the ability to advise the specialist prior to the usage of QT on any given trade that he does not want to receive an allocation through QT. In such a situation and in the situation where a registered options trader not signed on to QT wishes to participate in a given trade, the specialist would be unable to use QT to allocate the trade and the allocation would occur using the same manual process used today.

At the opening and throughout the trading day the QT wheel⁴ would be activated to allocate contracts among

registered options traders and the specialist in accordance with specific ratios set forth below.

ALLOCATION RATIO

Number of traders on Quick Trade	Approximate number of contracts allocated to the specialist (In percent)	Approximate number of contracts allocated to the traders (as a group) (In percent)
1	60	40
2-4	40	60
5-7	30	70
8-15	25	75
16 or more	20	80

The QT wheel would provide for the automatic allocation of contracts to the specialist and registered options traders at various times during the trading day when QT is used for the following four AODB features. Registered options traders who have signed on to QT would be allocated trades whenever QT is used for any of these four AODB functions:⁵

- Quick Opening for pre-opening quantity allocations by class;
- Block Window for post-opening quantity allocations by series;
- The Auto-Match feature for executions when there is an imbalance; and
- Sweep of the Book allocation of contracts from multiple order executions.

Quick Openings

A specialist opens trading in each option series by establishing an opening price for that series and executing all market and marketable limit orders at this price. If after all opening orders have been executed an imbalance exists, QT would automatically allocate the imbalance of executed contracts to the specialist and the registered options traders signed on to QT in accordance with the ratios set forth above.

Block Window

The Block Window permits a specialist, in situations when there are limit orders on the book at various prices, to execute such limit orders at a single price. For example, the specialist has limit orders on the book to sell at

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposal was originally filed pursuant to Section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A) and Rule 19b-4(f)(5) thereunder, 17 CFR 240.19b-4(f)(5). Amendment No. 1 converted the filing to a proposal submitted pursuant to Section 19(b)(2) under the Act, 15 U.S.C. 78s(b)(2). Amendment No. 2 made various clarifying changes to the proposal that are incorporated in the description herein.

⁴ A rotational wheel is necessary because the allocation of the contracts in a trade exactly according to the percentages set forth in the accompanying table is not always possible, as in the case, for example, where the percentages would yield a fractional value for each trader. Telephone conversation between Claire P. McGrath, Vice President and Special Counsel, Amex, and Ira L. Brandriss, Special Counsel, Division of Market Regulation ("Division"), Commission, on October 17, 2001.

⁵ As indicated above, the specialist would have the ability to determine on a trade-by-trade basis whether to use QT or to allocate the contracts manually. However, once QT was turned on, it would be assumed to remain on, and would be used to allocate contracts in all four of the functions designated below unless the specialist informed the crowd that he was turning it off. Telephone conversation between Claire P. McGrath, Amex, and Ira L. Brandriss, Division, Commission, on November 21, 2001.