Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in the application will be approved by a majority of the outstanding voting securities of the Fund, as defined in the Act, or in the case of a Fund whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholders prior to offering shares of the Fund to the public.

2. Any Fund 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, each Fund relying on the requested order will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has the ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of any new Subadviser, shareholders of the relevant Fund will be furnished all information about the Subadviser that would be contained in a proxy statement, except as modified by the order to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Subadviser. The Adviser will meet this condition by providing shareholders, within 90 days of the hiring of a Subadviser, an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, a majority of the Trust's Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then existing Independent Trustees.

6. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Trust's Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Trust's Board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. Independent counsel knowledgeable about the Act and the duties of Independent Trustees will be engaged to represent the Trust's Independent Trustees. The selection of such counsel will be within the discretion of the Independent Trustees.

8. The Adviser will provide the Trust's Board, no less frequently than quarterly, with information about the Adviser's profitability for each Fund relying on the relief requested in the application. The information will reflect the impact on profitability of the hiring or termination of Subadvisers during the applicable quarter.

9. Whenever a Subadviser to a particular Fund is hired or terminated, the Adviser will provide the Trust's Board with information showing the expected impact on the Adviser's profitability.

10. The Adviser will provide general management services to the Trust and the Funds, including overall supervisory responsibility for the general management and investment of each Fund's securities portfolio, and, subject to review and approval by the Board, will (a) set each Fund's overall investment strategies, (b) evaluate, select and recommend Subadvisers to manage all or a part of a Fund's assets, (c) allocate and, when appropriate, reallocate a Fund's assets among multiple Subadvisers, (d) monitor and evaluate the performance of Subadvisers, and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with the relevant Fund's investment objective, policies and restrictions.

11. No trustee or officer of the Trust or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such person) any interest in a Subadviser, 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 Subadviser or an entity that controls, is controlled by or is under common control with a Subadviser.

12. Each Fund will disclose in its registration statement the respective Aggregate Fee Disclosure.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2458 Filed 1–31–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45333: File No. SR–AMEX–2001–56]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to the Recording of Images, Sound or Data on the Trading Floor

January 25, 2002.

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 1, 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. The Amex filed an amendment to its proposal on January 15, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article II, Section 3 of the Amex Constitution, to control the recording of images, sound or data on the Trading Floor. The text of the proposed rule change is available at the principal offices of 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 discussed

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

[2] 17 CFR 240.19b–4.

[3] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission (January 14, 2002) (''Amendment No. 1''). In Amendment No. 1, the Amex limited its proposed rule language to recording of images, sound or data ''on the Trading Floor'' (rather than ''on the premises of the Exchange.'')

any comments it received on the proposed rule change. The test 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

Images and sounds from the Trading Floor are a powerful symbol of the Amex and a valuable asset. The recording of images, sound or data on the Trading Floor also may disrupt the conduct of business. Thus, for example, when recording is allowed on the Trading Floor (as in the Media Booth), the Exchange takes precautions to ensure that trading is not disturbed.

To protect the Amex, the Exchange is proposing that any person that wishes to record images, sound or data on the Trading Floor must first receive written permission from the Exchange to do so. Such permission may be granted on such terms and conditions as the Exchange deems appropriate. The Exchange believes that the proposed rule change is desirable to protect both the Exchange's rights and its interests in ensuring the orderly conduct of business.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[4] in general, and section 6(b)(5) of the Act,[5] in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 are 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 burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

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

The Exchange has neither solicited nor received written comments on 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 designate 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 Exchange consents, the Commission will:

(A) By order approve such 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 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 Exchange. All submissions should refer to File No. SR–AMEX–2001–56 and should be submitted by February 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

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[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45341; File No. SR–CBOE–00–42]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Eliminating the Obligation of Designated Primary Market Makers to Accord Priority to Non-Public Customer Orders

January 25, 2002.

I. Introduction

On August 29, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities 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 eliminate the obligation of Designated Primary Market Makers (''DPMs'') to accord priority to non-public customers over the DPMs' principal transactions. The proposed rule change was published for comment in the **Federal Register** on December 4, 2001.[3] The Commission received no comments on the proposal. On January 8, 2002, the CBOE submitted Amendment No. 1 to the proposed rule change.[4] On January 16, 2002, the CBOE submitted Amendment No. 2 to the proposed rule change.[5] This order approves the proposal, as amended by Amendment No. 2. The Commission also solicits comment on Amendment No. 2 from interested persons.

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45013 (November 26, 2001), 66 FR 63083.

[4] *See* letter from Steve Youhn, Legal Department, CBOE to Kelly Riley, Senior Special Counsel, Division of Market Rgulation (''Division''), Commission, dated January 7, 2002 (''Amendment No. 1''. In Amendment No. 1, the CBOE proposed a definition of ''public customer orders.''

[5] *See* letter from Steve Youhn, Legal Department, CBOE to Kelly Riley, Seniro Special Counsel, Division, Commission, dated January 14, 2002 (''Amendment No. 2''). In Amendment NO. 2 CBOE proposed to define the term ''public customer'' in proposed Interpretation .03 of CBOE Rule 8.85. Amendment No. 2 supersedes and replaces Amendment No. 1 in its entirety. Telephone conversation between Steven Youhn, Legal Division, CBOE, and Kelly Riley, Senior Special Counsel, Division, Commission, on January 14, 2002. On January 18, 2002, CBOE consented to an extension of time for Commission action until January 25, 2002. *See* letter from Steve Youhn, Legal Department, CBOE, to Kelly Riley, Senior Special Counsel, Division, Commission, dated January 18, 2002.