

Briefing on EEO Program (Public Meeting)  
2:30 p.m.

Briefing on Proposed Rulemaking to Add New Section 10 CFR 50.69, "Risk-Informed Categorization and Treatment of Structures, Systems, and Components for Nuclear Power Reactors" (Public Meeting)

This meeting will be webcast live at the Web address <http://www.nrc.gov>.

#### Week of November 4, 2002—Tentative

There are no meetings scheduled for the Week of November 4, 2002.

#### Week of November 11, 2002—Tentative

There are no meetings scheduled for the Week of November 11, 2002.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292.

**CONTACT PERSON FOR MORE INFORMATION:**  
R. Michelle Schroll (301) 415-1662.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: October 3, 2002.

**R. Michelle Schroll,**

*Acting Technical Coordinator, Office of the Secretary.*

[FR Doc. 02-25656 Filed 10-4-02; 10:48 am]

**BILLING CODE 7590-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46581; File No. SR-Amex-2002-50]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to Trading of Trust Issued Receipts and "Other Securities"

October 1, 2002.

#### I. Introduction

On May 31, 2002, the American Stock Exchange LLC ("Amex or Exchange") filed with the Securities and Exchange Commission ("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 relating to the trading by regular members in securities listed pursuant to Section 107 of the Amex Company Guide (Other Securities) and Amex Rule 1200 (Trust Issued Receipts). On July 8, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The amended proposed rule change was published for comment in the **Federal Register** on Wednesday, July 31, 2002.<sup>4</sup> The Commission received no comments on the proposed rule change.

#### II. Description of the Proposed Rule Change

The Amex proposed to amend Amex Rule 958, Commentary .10 relating to trading by regular members in Other Securities and Trust Issued Receipts. In its proposal, the Exchange noted that in 1992, the Commission approved Amex Rule 958, Commentary .10 relating to trading on the Floor in "derivative products," index warrants, and currency warrants.<sup>5</sup> Commentary .10 requires that these securities be traded by Registered Traders under Amex Rule 958, which relates to trading by Registered Options Traders ("ROTs"). Commentary .10 also states that index warrants and currency warrants may be traded by ROTs who are regular members. Options Principal Members ("OPMs") and Limited Trading Permit Holders ("LTPs") are permitted to trade derivative products under Amex Rule 958, but are not permitted to trade index or currency warrants. All of these securities must be traded under Amex Rule 958 only and cannot be traded by Registered Equity Traders ("RETs") or Registered Equity Market Makers ("REMMs") under Amex Rules 111 or 114.<sup>6</sup> The "derivative products" traded by Registered Traders under Amex Rule 958 include all

exchange-traded funds listed under Amex Rules 1000 and 1000A, including, for example, Nasdaq 100 Index Tracking Stock™, SPDRs®, DIAMONDS®, iShares™, and Select Sector SPDRs®.

Pursuant to Amex Rule 958, Commentary .10, regular members trading derivative products, index warrants, and currency warrants as ROTs are subject to continuous market making obligations. As such, ROTs receive market maker margin. OPMs and LTPs are also permitted to trade derivative products pursuant to Article I, Section 3 and Article IV, Section 1(h), respectively, of the Amex Constitution, and, because their trading under Amex Rule 958 also requires ongoing market making obligations, OPMs and LTPs also receive market maker margin.<sup>7</sup>

According to the Exchange, when it first authorized trading in derivative products by OPMs and LTPs in 1990, it specifically intended to encourage trading crowds and competitive market making to develop in such products as SuperTrust securities (which represented interests in actual portfolios of securities such as the S&P 500 Index) and SPDRs®, which were then under development by the Exchange. In the Exchange's Rule 19b-4 filing with the Commission to authorize such OPM and LTP trading, the Exchange stated that the definition of derivative products was not intended to include products that OPMs and LTPs were not entitled to trade at that time, including currency warrants, index warrants, or closed-end mutual funds.<sup>8</sup>

The Exchange proposes to amend Amex Rule 958, Commentary .10 to clarify that "structured products" and Trust Issued Receipts (HOLDERS<sup>SM</sup>) traded under Amex equity trading rules must be traded under Amex Rule 958 and only by registered traders who are regular members. Structured products include all securities listed under Section 107 of the Amex Company Guide (e.g., Index-Linked Notes (MITTS®, BOXES<sup>SM</sup>, TIERS<sup>SM</sup>); Equity-Linked Term Notes (e.g., GOALS, ELKS<sup>SM</sup>, SPARQS<sup>SM</sup>, STRIDES<sup>SM</sup>) and Trust Preferred Securities (e.g., TOPRS)).

<sup>7</sup> OPMs also can trade stock options and index options. LTPs can trade index options but not stock options. As previously mentioned, OPMs and LTPs also may trade derivative products, but are not permitted to trade index or currency warrants. Derivative products cannot be traded by persons registered as RETs or REMMs under Amex Rules 111 or 114. REMMs are not subject to Amex Rule 958 type continuous market making obligations and do not receive "good faith" market maker margin, but instead are subject to full customer margin requirements.

<sup>8</sup> See Securities Exchange Act Release No. 28612 (November 14, 1990), 55 FR 48308 (November 20, 1990) (File No. SR-Amex-90-17).

<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 McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 3, 2002 ("Amendment No. 1"). Amendment No. 1 deleted a proposed technical change to Amex Rule 958.

<sup>4</sup> Securities Exchange Act Release No. 46251 (July 24, 2002), 67 FR 49724.

<sup>5</sup> Securities Exchange Act Release No. 30768 (June 2, 1992), 57 FR 24277 (June 8, 1992) (File No. SR-Amex-92-06).

<sup>6</sup> The term "derivative products" is defined in Article I, Section 3(d) of the Exchange Constitution to include standardized options and "other securities which are issued by The Options Clearing Corporation or another limited purpose entity or trust, and which are based solely on the performance of an index or portfolio of other publicly traded securities." The definition explicitly excludes warrants of any type and closed-end funds.

Trust Issued Receipts include HOLDRS<sup>SM</sup> and are listed under Amex Rules 1200 *et seq.* Therefore, the Exchange represents that these securities are ineligible to be traded either (1) by OPMs or LTPs; or (2) by RETs or REMMs under Amex Rules 111 and 114.<sup>9</sup> The Exchange believes that permitting regular member ROTs to trade structured products and HOLDRS<sup>SM</sup> under Amex Rule 958 will promote additional market depth and liquidity. According to the Amex, structured products and Trust Issued Receipts do not fall within the definition of "derivative products" as contemplated by the Exchange in authorizing OPMs and LTPs to trade derivative products; therefore, OPMs and LTPs are not permitted to trade those products. The Exchange proposal would clarify Amex Rule 958 to reflect this position.<sup>10</sup>

### III. Discussion of the Proposed Rule Change

The Exchange's proposal would amend Amex Rule 958, Commentary .10 to clarify that structured products and Trust Issued Receipts rules must be traded under Amex Rule 958 and only by registered traders who are regular (*i.e.*, full) members. The proposed rule change would codify current practice, which affects REMMs, RETs, OPMs, and LTPs. Under the current practice, REMMs and RETs, which are regular members of the Exchange, must register under Amex Rule 958 in order to trade structured products or Trust Issued Receipts; LTPs and OPMs, which are not regular members, are not permitted to trade those products.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act<sup>11</sup> and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the

<sup>9</sup> However, because RETs and REMMs are regular members of the Exchange, they may, after registering under Amex Rule 958, trade structured products and Trust Issued Receipts under Amex Rule 958. Telephone conversation between Michael Cavalier, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel and Steven Johnston, Special Counsel, Division, Commission, on July 22, 2002.

<sup>10</sup> The Exchange also originally proposed a technical change to Amex Rule 958. The Exchange withdrew the proposed technical change in Amendment No. 1. The proposed technical change was unnecessary because it had been previously proposed by the Amex and approved by the Commission. (See Securities Exchange Act Release No. 45320 (January 18, 2002), 67 FR 3921 (January 28, 2002) (File No. SR-Amex-2001-79).

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

Act,<sup>12</sup> which requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

When an individual REMM, RET, or other regular member of the exchange registers under Amex Rule 958, he or she becomes a competing market maker with continuous affirmative market making obligations. The individual also receives "good faith" margin, which permits the individual to finance up to 100% of his or her securities positions' market value.<sup>13</sup> Entitlement to good faith margin may serve to attract regular members to trade structured products and Trust Issued Receipts, which, in turn may provide increased depth and liquidity to the markets for those products. Greater depth and liquidity contribute to better executions, a result which is consistent with the protection of investors and the public interest.

The Exchange does not permit either structured products or Trust Issued Receipts to be traded by OPMs or LTPs. OPMs and LTPs have authority to trade "derivative products," as defined in the Amex Constitution and interpreted by the Amex Board of Governors. The Amex observes that when it proposed to allow OPMs and LTPs to trade derivative products, it explicitly stated that its proposal was not intended to expand OPM and LTP trading privileges beyond products that OPMs and LTPs were trading at that time. OPMs and LTPs were not trading structured products and Trust Issued Receipts; those products were not in existence when the Exchange proposed to allow OPMs and LTPs to trade derivative products. Moreover, the Amex represents that the definition of derivative products contemplates only products that are based on open-ended, managed indexes or portfolios registered under the Investment Company Act of 1940.<sup>14</sup> Structured products and Trust Issued Receipts do not satisfy those criteria.<sup>15</sup>

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> Good faith margin, as defined in Regulation T, issued by the Board of Governors of the Federal Reserve System, as the amount of margin which a creditor, exercising sound judgment, would customarily require for a specified security position and which is established without regard to the customer's other assets or securities positions held in connection with unrelated transactions. See 12 CFR 220.2. In lieu of margin that otherwise would be required, good faith margin permits a trader to finance up to 100% of his or her securities positions' market value.

<sup>14</sup> 15 U.S.C. 80a-1 *et seq.*

<sup>15</sup> Telephone conversation between Michael Cavalier, Associate General Counsel, Amex, and

The Commission finds that it is within the Exchange's discretion to assign or limit trading rights based on type of product and class of membership, as long as the procedures adopted are not inconsistent with the purposes of the Act.<sup>16</sup> In this regard, the Exchange has articulated a legitimate business purpose of attracting registered traders to trade structured products and Trust Issued Receipts. The Commission therefore finds the Exchange's proposed rule change clarifying current practice to be consistent with the Act.<sup>17</sup>

### IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act<sup>18</sup> that the proposed rule change (SR-Amex-2002-50) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-25611 Filed 10-7-02; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46580; File No. SR-BSE-2002-14]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange Relating to an Interpretation of its Execution Guarantee Rule

October 1, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 5, 2002, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 from interested persons.

Steven Johnston, Special Counsel, Division, Commission, on September 4, 2002.

<sup>1</sup> 15 U.S.C. 78f(b). See Securities Exchange Act Release No. 28612 (November 14, 1990), 55 FR 48308 (November 20, 1990) (File No. SR-Amex-90-17).

<sup>2</sup> 15 U.S.C. 78f(b).

<sup>3</sup> 15 U.S.C. 78s(b)(2).

<sup>4</sup> 17 CFR 200.30-3(a)(12).

<sup>5</sup> 15 U.S.C. 78s(b)(1).

<sup>6</sup> 17 CFR 240.19b-4.