

pursuant to section 19(b)(3)(A) of the 1934 Act.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of section 6(b)(4)<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

### 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.

### 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 comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6)<sup>7</sup> thereunder because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such short time as designated by the Commission. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such 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.

The Amex has requested that the Commission waive the five-day pre-filing notice and the 30-day operative

delay. The Commission believes that waiving the five-day pre-filing notice and the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that fee suspensions for the exchange-trade funds that are the subject of this filing have been previously filed with the Commission.<sup>8</sup> Further, extension of the fee suspension for specialist, Registered Trader, and broker-dealer orders will permit the fee suspensions to continue uninterrupted. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>9</sup>

## 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 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 Exchange. All submissions should refer to File No. SR-Amex-2002-98 and should be submitted by January 13, 2003.

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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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3469]

#### State of Alaska; Amendment #1

In accordance with a notice received from the Federal Emergency Management Agency, dated December 11, 2002, the above numbered declaration is hereby amended to include Delta/Greely Regional Educational Attendance Area (REAA) and Fairbanks North Star Borough in the State of Alaska as a disaster area due to damages caused by an earthquake occurring on November 3, 2002 and continuing through November 10, 2002.

In addition, applications for economic injury loans from small businesses located in Yukon-Koyukuk REAA and Denali Borough in the State of Alaska may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is January 17, 2003, and for economic injury the deadline is August 18, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 12, 2002.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #P002]

#### State of North Carolina

As a result of the President's major disaster declaration for Public Assistance on December 12, 2002, the U.S. Small Business Administration is activating its disaster loan program only for private non-profit businesses that provide essential services of a governmental nature. I find that Alamance, Alexander, Anson, Burke, Cabarrus, Catawba, Chatham, Cleveland, Davidson, Durham, Franklin, Gaston, Granville, Guilford, Halifax, Harnett, Iredell, Lee, Lincoln, McDowell, Mecklenburg, Montgomery, Moore, Nash, Orange, Person, Randolph, Rowan, Rutherford, Stanly, Union, Vance, and Wake Counties in the State of North Carolina constitute a disaster area due to damages caused by a severe ice storm occurring from December 4, 2002, and continuing through December 6, 2002. Applications for loans for

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</sup> See *supra* note 3.

<sup>9</sup> 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).

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