

Nuclear Materials Safety Branch 2,  
Division of Nuclear Materials Safety,  
Region 1, 475 Allendale Road, King of  
Prussia, Pennsylvania 19406, telephone  
(610) 337-5371, fax (610) 337-5269.

Dated at King of Prussia, Pennsylvania this  
21st day of March, 2003.

For the Nuclear Regulatory Commission.

**John D. Kinneman,**

*Chief, Nuclear Materials Safety Branch 2,  
Division of Nuclear Materials Safety, Region  
I.*

[FR Doc. 03-7488 Filed 3-27-03; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon Written Request, Copies Available  
From: Securities and Exchange  
Commission, Office of Filings and  
Information Services, Washington, DC  
20549.

#### Extension:

Rule 12b-1—SEC File No. 270-188, OMB  
Control No.-3235-0212.

Notice is hereby given that pursuant  
to the Paperwork Reduction Act of 1995  
[44 U.S.C. 3501], the Securities and  
Exchange Commission (“Commission”) is  
soliciting public comments on the  
collection of information under the  
Investment Company Act of 1940 [15  
U.S.C. 80a] (the “Act”) summarized  
below. The Commission plans to submit  
this existing collection of information to  
the Office of Management and Budget  
(“OMB”) for extension and approval.

Rule 12b-1 [17 CFR 270.12b-1] under  
Act the permits a registered open-end  
investment company (“mutual fund”) to  
distribute its own shares and pay the  
expenses of distribution out of the  
mutual fund’s assets provided, among  
other things, that the mutual fund  
adopts a written plan (“rule 12b-1  
plan”) and has in writing any  
agreements relating to the  
implementation of the rule 12b-1 plan.  
The rule in part requires that (i) the  
adoption or material amendment of a  
rule 12b-1 plan be approved by the  
mutual fund’s directors and  
shareholders; (ii) the board review  
quarterly reports of amounts spent  
under the rule 12b-1 plan; and (iii) the  
board consider continuation of the rule  
12b-1 plan at least annually. Rule 12b-  
1 also requires funds relying on the rule  
to preserve for six years, the first two  
years in an easily accessible place,  
copies of the rule 12b-1 plan, related  
agreements and reports, as well as  
minutes of board meetings that describe  
the factors considered and the basis for

adopting or continuing a rule 12b-1  
plan.

The board and shareholder approval  
requirements of rule 12b-1 are designed  
to ensure that fund shareholders and  
directors receive adequate information  
to evaluate and approve a rule 12b-1  
plan. The requirement of quarterly  
reporting to the board is designed to  
ensure that the rule 12b-1 plan  
continues to benefit the fund and its  
shareholders. The recordkeeping  
requirements of the rule are necessary to  
enable Commission staff to oversee  
compliance with the rule.

Based on information filed with the  
Commission by funds, Commission staff  
estimates that there are 6,217 mutual  
fund portfolios with rule 12b-1 plans.  
As discussed above, rule 12b-1 requires  
the board of each fund with a rule 12b-  
1 plan to (i) review quarterly reports of  
amounts spent under the plan and (ii)  
annually consider the plan’s  
continuation (which generally is  
combined with the fourth quarterly  
review). This results in a total number  
of annual responses per fund of four and  
an estimated total number of industry  
responses of 24,868 (6,217 fund  
portfolios × 4 annual responses per fund  
= 24,868 responses).

Based on conversations with fund  
industry representatives, Commission  
staff estimates that for each of the 6,217  
mutual fund portfolios that currently  
have a rule 12b-1 plan, the average  
annual burden of complying with the  
rule is 100 hours to maintain the plan.  
This estimate takes into account the  
time needed to prepare quarterly reports  
to the board of directors, the board’s  
consideration of those reports, and the  
board’s annual consideration of the  
plan’s continuation. Commission staff  
therefore estimates that the total burden  
of the rule’s paperwork requirements for  
all funds is 621,700 hours (6,217 fund  
portfolios × 100 hours per fund =  
621,700 hours).

The estimate of burden hours is made  
solely for the purposes of the Paperwork  
Reduction Act. The estimate is not  
derived from a comprehensive or even  
a representative survey or study of  
Commission rules.

If a currently operating fund seeks to  
(i) adopt a new rule 12b-1 plan or (ii)  
materially increase the amount it spends  
for distribution under its rule 12b-1  
plan, rule 12b-1 requires that the fund  
obtain shareholder approval. As a  
consequence, the fund will incur the  
cost of a proxy. Commission staff  
estimates that three funds per year  
prepare a proxy in connection with the  
adoption or material amendment of a  
rule 12b-1 plan. Commission staff  
further estimates that the cost of each

fund’s proxy is \$15,000. Thus the total  
annualized cost burden of rule 12b-1 to  
the fund industry is \$45,000 (3 funds  
requiring a proxy × \$15,000 per proxy).

The collections of information  
required by rule 12b-1 are necessary to  
obtain the benefits of the rule. Notices  
to the Commission will not be kept  
confidential. The Commission is seeking  
OMB approval because an agency may  
not conduct or sponsor, and a person is  
not required to respond to, a collection  
of information unless it displays a  
currently valid control number.

Written comments are requested on:  
(a) Whether the proposed collections of  
information are necessary for the proper  
performance of the functions of the  
Commission, including whether the  
information has practical utility; (b) the  
accuracy of the Commission’s estimate  
of the burdens of the collection of  
information; (c) ways to enhance the  
quality, utility and clarity of the  
information collected; and (d) ways to  
minimize the burden of the collection of  
information on respondents, including  
through the use of automated collection  
techniques or other forms of information  
technology. Consideration will be given  
to comments and suggestions submitted  
in writing within 60 days of this  
publication.

Please direct your written comments  
to Kenneth A. Fogash, Acting Associate  
Executive Director/CIO, Office of  
Information Technology, Securities and  
Exchange Commission, 450 5th Street,  
NW., Washington, DC 20549.

Dated: March 20, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-7396 Filed 3-27-03; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting Notice

Notice is hereby given, pursuant to  
the provisions of the Government in the  
Sunshine Act, Pub. L. 94-409, that the  
Securities and Exchange Commission  
will hold the following meetings during  
the week of March 31, 2003:

Open Meetings will be held on Tuesday,  
April 1, 2003 at 10 a.m., in Room  
1C30, the William O. Douglas Room,  
and Wednesday, April 2, 2003 at 10  
a.m., in Room 1C30, the William O.  
Douglas Room. Closed Meetings will  
be held on Tuesday, April 1, 2003 at  
2:30 p.m., and Wednesday, April 2,  
2003 at 11 a.m.

Commissioners, Counsel to the  
Commissioners, the Secretary to the

Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

The subject matter of the Open Meeting scheduled for Tuesday, April 1, 2003 will be:

The Commission will consider whether to adopt new rules and amendments to direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the audit committee requirements established by the Sarbanes-Oxley Act of 2002. These requirements relate to: The independence of audit committee members; the audit committee's responsibility to select and oversee the issuer's independent accountant; procedures for handling complaints regarding the issuer's accounting practices; the authority of the audit committee to engage advisors; and funding for the independent auditor and any outside advisors engaged by the audit committee. The rule implements the requirements of Section 10A(m)(1) of the Securities Exchange Act of 1934, as added by Section 301 of the Sarbanes-Oxley Act of 2002.

The subject matter of the Closed Meeting scheduled for Tuesday, April 1, 2003 will be:

Institution and settlement of administrative proceedings of an enforcement nature; Institution and settlement of injunctive actions; and Adjudicatory matters.

The subject matter of the Open Meeting scheduled for Wednesday, April 2, 2003 will be an oral argument:

The Commission will hear oral argument on an appeal by John J. Kenny and Nicholson/Kenny Capital Management, Inc., a registered investment adviser, from the decision of an administrative law judge. Kenny is a former associated person of a broker-

dealer and chairman and chief executive officer of Nicholson/Kenny.

The law judge found that Kenny engaged in schemes to defraud, in violation of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, and aided, abetted, and was a cause of violations of those provisions by another person. The law judge further found that Kenny and Nicholson/Kenny violated Section 206 of the Investment Advisers Act of 1940.

The law judge barred Kenny from association with any broker, dealer, or investment adviser; revoked Nicholson/Kenny's registration as an investment adviser; ordered respondents to cease and desist from committing or causing violations or future violations of the antifraud provisions; assessed civil penalties of \$700,000 against Kenny and \$500,000 against Nicholson/Kenny; and ordered respondents, jointly and severally, to pay disgorgement in the amount of \$1,333,000.

Among the issues likely to be argued are:

1. Whether respondents committed the alleged violations; and
2. If so, whether sanctions should be imposed in the public interest.

The subject matter of the Closed Meeting scheduled for Wednesday, April 2, 2003 will be: Post-argument Discussion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: the Office of the Secretary at (202) 942-7070.

Dated: March 25, 2003.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 03-7569 Filed 3-25-03; 4:31 pm]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47562; File No. SR-Amex-2003-14]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the American Stock Exchange LLC Relating to a One-Year Pilot Program in Connection With Exchange Fees for Options Intermarket Linkage Orders

March 21, 2003.

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 28, 2003, 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 March 7, 2003, Amex submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> On March 19, 2003, Amex submitted Amendment No. 2 to the proposed rule change.<sup>4</sup> On March 21, 2003, Amex submitted Amendment No. 3 to the proposed rule change.<sup>5</sup> 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 Exchange proposes to amend its Options Fee Schedule in order to clarify that market makers on other exchanges that send orders through the Linkage ("Linkage Orders") to the Amex for execution will be charged the same fees that the Exchange charges Exchange specialists and registered options traders ("ROTs") for the orders these entities execute on the Exchange. Because of the lack of experience in operating the Linkage, however, the Exchange proposes, along with the other options exchanges, a one-year pilot program in connection with the fees applicable to Linkage Orders.

The text of the proposed rule change is below. Proposed language is

Attorney, Division, Commission, dated March 18, 2003 ("Amendment No. 2"). In Amendment No. 2, the Exchange made corrections to its fee schedule.

<sup>5</sup> See letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Jennifer Lewis, Attorney, Division, Commission, dated March 20, 2003 ("Amendment No. 3"). In Amendment No. 3, the Exchange marked its fee schedule to show the changes it had made in Amendment No. 2.

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

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

<sup>3</sup> See letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Jennifer Lewis, Attorney, Division of Market Regulation ("Division"), Commission, dated March 6, 2003 ("Amendment No. 1"). In Amendment No. 1, the Exchange clarified that market makers from other options exchanges sending Principal Acting as

Agent Orders through the options intermarket linkage ("Linkage") that are executed at the Exchange will pay the same fees that are paid for transactions executed on the Exchange by Exchange specialists and registered options traders. In addition, Amex amended the Options Fee Schedule to reflect that these linkage fees are pursuant to a one-year pilot program.

<sup>4</sup> See letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Jennifer Lewis,