

retain copies of notices of hypothecation of customer accounts in accordance with the rule, and collect written consents from customers in accordance with the rule. The information is necessary to ensure compliance with the rule, and to advise customers of the rule's protections.

There are approximately 177 respondents per year (*i.e.*, broker-dealers that carry or clear customer accounts that also have bank loans) that require an aggregate total of 3,983 hours to comply with the rule. Each of these approximately 177 registered broker-dealers makes an estimated 45 annual responses, for an aggregate total of 7,965 responses per year. Each response takes approximately 0.5 hours to complete. Thus, the total compliance burden per year is 3,983 burden hours.

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 regarding the above information should be directed to the following persons: (a) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington DC 20503; and (b) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 28, 2003.

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47748; File No. SR-Amex-2002-108]

### Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the American Stock Exchange LLC To Amend Amex Rule 152 To Provide That a Member That Fails To Execute an Order May Be Compelled To Take or Supply the Securities Named in the Order

April 25, 2003.

On December 18, 2002, the American Stock Exchange LLC ("Amex") 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 to amend Amex rule 152 to provide that a member that fails to execute an order may be compelled to take or supply the securities named in the order. The proposed rule change was published for comment in the **Federal Register** on March 20, 2003.<sup>3</sup> The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>4</sup> Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,<sup>5</sup> which requires, among other things, that the Amex's rules be 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.

The Commission believes that the Amex's proposal to explicitly provide that a member that has failed to execute an order may be compelled to take or supply the securities in the order should highlight the significant obligations of members in the handling of any order entrusted to them and their responsibility to correct transactions on behalf of their customers in cases of error.<sup>6</sup> Furthermore, the Amex has noted that the consent provisions outlined in Amex rule 152(a) would continue to apply to the error transactions conducted under Amex rule 152(a)(1). Consequently, the Commission believes that the Amex's proposal would continue to reflect that, unless otherwise agreed, an agent is subject to a duty not to deal with his principal as an adverse party in a

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

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

<sup>3</sup> See Securities Exchange Act Release No. 47493 (March 13, 2003), 68 FR 13743.

<sup>4</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>6</sup> The Commission also notes that the proposed Amex rule is identical to the New York Stock Exchange, Inc.'s rule. See NYSE rule 91(a).

transaction connected with his agency without the principal's knowledge.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (File No. SR-Amex-2002-108) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47749; File No. SR-ISE-2003-05]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, by International Securities Exchange, Inc., Relating to Rules for Trading Options on Indices

April 25, 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 24, 2003, the International Securities Exchange ("ISE" 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 ISE. The ISE filed Amendment No. 1 to the proposal on April 17, 2003.<sup>3</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 ISE is proposing to adopt rules relating to trading options on indices.

The text of the proposed rule change appears below.<sup>4</sup> Additions are *italicized*; deletions are in [brackets].

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See letter from Katherine Simmons, Vice President and Associate General Counsel, ISE to Florence Harmon, Senior Special Counsel, Division of Market Regulation ("Division"), Commission, dated April 16, 2003. In Amendment No. 1, the ISE submitted a new Form 19b-4, which replaced the original filing in its entirety.

<sup>4</sup> The Commission notes that it made minor typographical corrections to the rule text submitted in the proposed rule change. Telephone conversation between Katherine Simmons, Vice