

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48023; File No. SR-Amex-2003-53]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Maximum Bid/Offer Differentials for Option Contracts

June 12, 2003.

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 June 2, 2003, the American Stock Exchange LLC (the "Amex" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Amex proposes to amend Exchange Rule 958 to set the maximum bid/offer differential for option contracts at \$0.40 where the prevailing bid is at or above \$2 but does not exceed \$5, and \$0.80 where the prevailing bid is more than \$10 but does not exceed \$20. The text of the proposed rule change is set forth below. [Bracketing] indicates text to be deleted, and *italics* indicates text to be added.

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Options Transactions of Registered Traders

Rule 958

(a)-(b) No change

(c) With respect to each class of options as to which he is assigned by the Exchange, a Registered Trader, whenever he enters the trading crowd in other than a floor brokerage capacity, or is called upon by a Floor Official or a Floor Broker acting in an agency capacity, is required to make competitive bids and offers as reasonably necessary to contribute to

the maintenance of a fair and orderly market and shall engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists a lack of price continuity, a temporary disparity between the supply of and demand for option contracts of a particular series, or a temporary distortion of the price relationships between option contracts of the same class. Without limiting the foregoing, a Registered Trader is expected to perform the following activities in the course of maintaining a fair and orderly market:

(i) If the underlying security is a stock or Exchange-Traded Fund Share, bidding and offering so as to create differences of no more than \$0.25 between the bid and the offer for each option contract for which the prevailing bid is less than \$2, no more than [\$0.37] \$0.40 where the prevailing bid is \$2 but does not exceed \$5, no more than \$0.50 where the prevailing bid is more than \$5 but does not exceed \$10, no more than [\$0.75] \$0.80 where the prevailing bid is more than \$10 but does not exceed \$20, and no more than \$1 where the last prevailing bid is more than \$20. In the event the bid/ask differential in the underlying security is greater than the bid/ask differential set forth herein, the permissible price differential for any in-the-money option series may be identical to those in the underlying security market.

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 Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex 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 the Statutory Basis for, the Proposed Rule Change

(1) Purpose

Pursuant to the industry-wide conversion of the pricing of securities from fractions to decimals, the Exchange converted all stocks and options pricing in its rules to decimals. Among the rules affected was Exchange Rule 958, which sets forth the obligations of registered

options traders and options specialists.³ Subparagraph (c)(i) of Rule 958 requires registered options traders and options specialists, in the course of maintaining a fair and orderly market, to adhere to maximum bid/offer differentials specified in the rule.⁴ In connection with this conversion from fractions to decimals, the Exchange converted (i) the maximum bid/offer differential of 3/8 of \$1 to \$0.37 where the prevailing bid is at or above \$2 but does not exceed \$5; and (ii) the maximum bid/offer differential of 3/4 of \$1 to \$0.75 where the prevailing bid is more than \$10 but does not exceed \$20.

The requirements of related Exchange Rule 952, however, created anomalies in the maximum bid/offer differentials as stated in Rule 958. Amex Rule 952, which sets forth the minimum price variation ("MPV") for option contracts, requires a MPV of \$0.05 where an option contract trades less than \$3.00 and a MPV of \$0.10 where an option contract trades at or above \$3. Consequently, option contracts trading at or above \$2 but less than \$3 are restricted to a maximum bid/offer differential of \$0.35, not \$0.37, because the MPV at those prices is \$0.05, and option contracts trading at or above \$3 but not exceeding \$5 are restricted to a maximum bid/offer differential of \$0.30, not \$0.37, because the MPV at those prices is \$0.10. Similarly, option contracts where the prevailing bid is more than \$10 but does not exceed \$20 are allowed a maximum bid/offer differential of \$0.75 under Amex Rule 958, but since the MPV is \$0.10 at those prices, registered options traders and options specialists are required to quote with a maximum differential of \$0.70.

Because maximum bid/offer differentials were reduced from levels permitted before the conversion from fractions to decimals, the Exchange now proposes to amend Amex Rule 958 to increase the maximum bid/offer differential (i) from \$0.37 to \$0.40 where the prevailing bid is at or above \$2 but does not exceed \$5; and (ii) from \$0.75 to \$0.80 where the prevailing bid is more than \$10 but does not exceed \$20. These changes will conform Amex Rule 958 to the Exchange's current practice of allowing registered options traders and options specialists to quote bids and offers with maximum bid/offer

³ Exchange Rule 950(n) requires options specialists to adhere to the maximum bid/offer differentials set forth in Amex Rule 958(c).

⁴ The maximum bid/offer differential varies depending upon the prevailing bid for the option contract.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

differentials of \$0.40 and \$0.80 under the abovementioned conditions.⁵

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act⁶ in general and furthers the objectives of section 6(b)(5) of the Act⁷ in particular in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change has become immediately effective pursuant to section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)⁹ thereunder because (i) it does not significantly affect the protection of investors or the public interest; (ii) it does not impose any significant burden on competition; and (iii) by its terms, it does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written 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.

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of

investors and the public interest. Acceleration of the operative delay will permit the Amex to amend Rule 958 without undue delay. For this reason, the Commission designates the proposal to be effective upon filing with the Commission.¹⁰ At any time within sixty (60) days of the filing of the 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.

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. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2003-53 and should be submitted by July 9, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48024; File No. SR-Amex-2003-36]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendments No. 1 and 2 by the American Stock Exchange LLC To Initiate a Pilot Program That Allows the Listing of Strike Prices at One-Point Intervals for Certain Stocks Trading Under \$20

June 12, 2003.

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 April 29, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed Amendments No. 1 and 2 to the proposal on June 3, 2003,³ and June 11, 2003,⁴ respectively. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to grant accelerated approval to the proposed rule change, as amended, through June 5, 2004.

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

The Exchange proposes to initiate a pilot program ("Pilot Program") that will allow the Exchange to list options on selected stocks trading below \$20 at one-point intervals. The text of the proposed rule change appears below. Additions are in *italics*.

Rule 903. Series of Options Open for Trading

(a)-(d) No Change.

Commentary

.01-.03 No Change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaces and supersedes the original filing in its entirety.

⁴ See letter from Jeffrey P. Burns, Associate General Counsel, Amex, to Nancy Sanow, Division of Market Regulation, Commission, dated June 10, 2003 ("Amendment No. 2"). Amendment No. 2 revises the proposal to indicate that: (1) The pilot program will expire on June 5, 2004; (2) the strike price interval for options on individual stocks will be \$5 or greater where the strike price is greater than \$25 but less than \$200 and \$10 or greater where the strike price is greater than or equal to \$200; and (3) the strike price interval for options on Exchange-Traded Fund Shares ("ETFs") will be \$5 or greater where the strike price is over \$200.

⁵ Under Amex Rule 958(c)(i), the Exchange may establish, where appropriate, maximum bid/offer differentials other than those set forth in the rule.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 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).

¹¹ 17 CFR 200.30-3(a)(12).