

availability of video teleconferencing services is not guaranteed.

Dated: February 1, 2005.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 05-2245 Filed 2-4-05; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Revised

The 519th ACRS meeting scheduled to be held for three days, February 10-12, 2005, has been changed to a two-day meeting, February 10-11, 2005. The agenda for the meeting on Thursday, February 10, 2005 has been modified as noted below.

- The discussion of Waterford Nuclear Plant power uprate, previously scheduled between 8:35 and 10:30 a.m., is now scheduled between 8:35 and 12 noon.

- The item on Technical Basis for Potential Revision of the Pressurized Thermal Shock (PTS) Screening Criteria in the PTS Rule, scheduled between 10:45 and 12:30 p.m., has been postponed to a future ACRS meeting due to the unavailability of draft NUREG document being prepared by the NRC staff.

- The Mixed Oxide Fuel Fabrication Facility discussion scheduled between 1:30 and 4:30 p.m., is now scheduled between 1 and 4 p.m.

All the other items remain the same as previously published in the **Federal Register** on Monday, January 24, 2005 (70 FR 3399).

For further information, contact Mr. Sam Duraiswamy (telephone 301-415-7364), between 7:30 a.m. and 4:15 p.m., e.d.t.

Dated: February 1, 2005.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

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## POSTAL SERVICE BOARD OF GOVERNORS

### Sunshine Act Meeting

**TIMES AND DATES:** 1 p.m., Wednesday, February 16, 2005; and 8:30 a.m., Thursday, February 17, 2005.

**PLACE:** Sarasota, Florida, at the Ritz-Carlton Hotel, 1111 Ritz-Carlton Drive, in the Plaza III and IV Ballroom.

**STATUS:** February 16—1 p.m. (Closed); February 17—8:30 a.m. (Open);

### MATTERS TO BE CONSIDERED:

Wednesday, February 16—1 p.m. (Closed)

1. Financial Update.
2. Postal Rate Commission Opinion and Recommended Decision in Negotiated Service Agreement (NSA) with Bank One Corporation, Docket No. MC2004-3.
3. Filing with the Postal Rate Commission for a Negotiated Service Agreement.
4. Rate Case Planning.
5. Strategic Planning.
6. Personnel Matters and Compensation Issues.

Thursday, February 17—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, January 11, 2005.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Appointment of Members to Board Committees and Committee Report.
4. Capital Investment.
  - a. Atlantic City, New Jersey, Main Post Office.
5. Quarterly Report on Financial Performance.
6. Report on the Southeast Areas and Suncoast District.
7. Tentative Agenda for the April 12, 2005, meeting in Washington, DC.

### FOR MORE INFORMATION CONTACT:

William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC. 20260-1000. Telephone (202) 268-4800.

**William T. Johnstone,**

*Secretary.*

[FR Doc. 05-2466 Filed 2-3-05; 3:46 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51108; File No. 4-429]

### Joint Industry Plan; Notice of Summary Effectiveness on a Temporary Basis of Joint Amendment No. 14 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Relating to the Limitation in Liability for Filing Satisfaction Orders Sent Through the Linkage at the End of the Trading Day, and Notice of Filing of Such Amendment

January 31, 2005.

#### I. Introduction

On January 28, 2005, January 31, 2005, January 26, 2005, January 27, 2005, January 28, 2005, and January 28,

2005, the American Stock Exchange LLC ("Amex"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the International Securities Exchange ("ISE"), the Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, "Participants"), respectively, filed with the Securities and Exchange Commission ("Commission") pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> an amendment ("Joint Amendment No. 14") to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan").<sup>3</sup> In Joint Amendment No. 14, the Participants propose to extend the pilot provision limiting Trade-Through<sup>4</sup> liability at the end of the trading day for an additional year, until January 31, 2006, and to increase the limitation on liability from 25 contracts to 50 contracts. This order summarily puts into effect Joint Amendment No. 14 on a temporary basis not to exceed 120 days, and solicits comment on Joint Amendment No. 14 from interested persons.<sup>5</sup>

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 240.11Aa3-2.

<sup>3</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage") proposed by Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Phlx, PCX, and BSE joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004). On June 27, 2001, May 30, 2002, January 29, 2003, June 18, 2003, January 29, 2004, June 15, 2004, June 17, 2004, July 2, 2004, and October 19, 2004, the Commission approved joint amendments to the Linkage Plan. See Securities Exchange Act Release Nos. 44482 (June 27, 2001), 66 FR 35470 (July 5, 2001); 46001 (May 30, 2002), 67 FR 38687 (June 5, 2002); 47274 (January 29, 2003), 68 FR 5313 (February 3, 2003); 48055 (June 18, 2003), 68 FR 37869 (June 25, 2003); 49146 (January 29, 2004), 69 FR 5618 (February 5, 2004); 49863 (June 15, 2004), 69 FR 35081 (June 23, 2004); 49885 (June 17, 2004), 69 FR 35397 (June 24, 2004); 49969 (July 2, 2004), 69 FR 41863 (July 12, 2004); and 50561 (October 19, 2004), 69 FR 62920 (October 28, 2004).

<sup>4</sup> A "Trade-Through" is defined as a transaction in an options series at a price that is inferior to the national best bid and offer. See Section 2(29) of the Linkage Plan.

<sup>5</sup> A proposed amendment may be put into effect summarily upon publication of notice of such amendment, on a temporary basis not to exceed 120 days, if the Commission finds that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act. See 17 CFR 240.11Aa3-2(c)(4).

## II. Description of the Proposed Amendment

In Joint Amendment No 14, the Participants propose to extend the pilot contained in Section 8(c)(ii)(B)(2)(b) of the Linkage Plan, which limits Trade-Through liability at the end of the trading day for an additional year, until January 31, 2006, and to increase the limitation on liability from 25 contracts to 50 contracts, per Satisfaction Order.<sup>6</sup> The proposed increase in the limit on liability would become effective on February 1, 2005, when the current pilot expires. Pursuant to the pilot as currently in effect, the Trade-Through liability of a member of a Participant is limited to 25 contracts per Satisfaction Order for the period between five minutes prior to the close of trading in the underlying security and the close of trading in the options class.

## III. Discussion

When the Participants proposed Joint Amendment No. 4 to the Linkage Plan,<sup>7</sup> the Participants represented to the Commission that their members had expressed concerns regarding their obligations to fill Satisfaction Orders (which may be sent by a Participant's member that is traded through) at the close of trading in the underlying security. Specifically, the Participants represented that their members were concerned that they may not have sufficient time to hedge the positions they acquire.<sup>8</sup> The Participants stated that they believed that their proposal to limit liability at the end of the options trading day to the filling of 10 contracts per exchange, per transaction would protect small customer orders, but still establish a reasonable limit for their members' liability. The Participants further represented that the proposal should not affect a member's potential liability under an exchange disciplinary rule for engaging in a pattern or practice of trading through other markets under Section 8(c)(i)(C) of the Linkage Plan.

The Commission approved the proposed amendment for a one-year pilot<sup>9</sup> to give the Participants and the

Commission an opportunity to evaluate: (1) The need for the limitation on liability for Trade-Throughs near the end of the trading day; (2) whether 10 contracts per Satisfaction Order is the appropriate limitation; and (3) whether the opportunity to limit liability for Trade-Throughs near the end of the trading day leads to an increase in the number of Trade-Throughs.

In the order approving Joint Amendment No. 4, the Commission stated that in the event the Participants chose to seek permanent approval of this limitation, the Participants must provide the Commission with a report regarding data on the use of the exemption no later than 60 days before seeking permanent approval ("Report").<sup>10</sup> The Commission specified that the Report should include information about the number and size of Trade-Throughs that occur during the last seven minutes of the equity options trading day and during the remainder of the trading day, the number and size of Satisfaction Orders that Participants might be required to fill without the limitation on liability and how those amounts are affected by the limitation on liability, and the extent to which the Participants use the underlying market to hedge their options positions.<sup>11</sup> In a subsequent amendment to the Linkage Plan for the purpose of extending the pilot, Joint Amendment No. 8, the Participants represented that if they were to seek to make the limitation on Trade-Through liability permanent, they would submit the Report to the Commission no later than March 31, 2004.<sup>12</sup>

Following another extension of the pilot program, certain Participants provided the Commission with portions of the data required in the Report, but were unable to provide sufficient information to enable the Commission to evaluate whether permanent approval would be appropriate. The Commission extended the pilot program until January 31, 2005, to allow the limitation to continue in effect, with an increase in liability to 25 contracts, to enable the Participants to continue to gather and the Commission to evaluate the data

relating to the effect of the operation of the pilot program.<sup>13</sup>

Since this last extension of the pilot program, the Participants have provided no additional data to the Commission to justify permanent approval of the limitation on liability. The Participants have represented that they are currently considering amendments to the Linkage Plan that, if proposed and approved, could obviate the need for the limitation on liability for Trade-Throughs at the end of the trading day. Specifically, the amendments the Participants are considering are intended to minimize the incidence of Trade-Throughs, and subsequently decrease the incidence of Satisfaction Orders. The Participants have represented that these amendments could be in effect within a year, and at that time, Participants would either allow the pilot program to lapse, or, if they believed that a continuation of the limitation was appropriate, would discuss that matter with the Commission staff. In this regard, the Commission notes that the Participants must submit sufficient information to enable the Commission to evaluate whether permanent approval would be appropriate no later than 60 days prior to seeking permanent approval before the Commission will consider permanent approval of the pilot program.

After careful consideration, the Commission finds that the proposed amendment to the Linkage Plan seeking to extend the pilot provision limiting Trade-Through liability for the period between five minutes prior to the close of trading in the underlying security and the close of trading in the options class for an additional year, and to increase the limitation on liability from 25 contracts to 50 contracts per Satisfaction Order, is consistent with the requirements of the Act and the rules and regulations thereunder.<sup>14</sup> Specifically, the Commission finds that the proposed amendment to the Linkage Plan is consistent with Section 11A of the Act<sup>15</sup> and Rule 11Aa3-2 thereunder,<sup>16</sup> in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets. Specifically, the Commission believes that extending the pilot program and raising the limitation on liability to 50 contracts per Satisfaction Order will afford the Participants the opportunity to either

<sup>6</sup> A "Satisfaction Order" is defined as an order sent through the Linkage to notify a Participant of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through. See Section 2(16)(c) of the Linkage Plan.

<sup>7</sup> See Securities Exchange Act Release Nos. 47028 (December 18, 2002), 67 FR 79171 (December 27, 2002) (Notice of Proposed Joint Amendment No. 4).

<sup>8</sup> See letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Annette Nazareth, Director, Division of Market Regulation, Commission, dated November 19, 2002.

<sup>9</sup> See Securities Exchange Act Release Nos. 47298 (January 31, 2003), 68 FR 6524 (February 7, 2003) (Temporary effectiveness of pilot program on a 120-day basis); and 48055 (June 18, 2003), 68 FR 37869

(June 25, 2003) (Order approving Joint Amendment No. 4). The Commission subsequently extended the pilot program twice, until June 30, 2004 and January 31, 2005, respectively. See Securities Exchange Act Release Nos. 49146 (January 29, 2004), 69 FR 5618 (February 5, 2004) (Order approving Joint Amendment No. 8); and 49863 (June 15, 2004), 69 FR 35081 (June 23, 2004) (Order approving Joint Amendment No. 12).

<sup>10</sup> See Order approving Joint Amendment No. 4, *supra* note 9.

<sup>11</sup> *Id.*

<sup>12</sup> See Order approving Joint Amendment No. 8, *supra* note 9.

<sup>13</sup> See Order approving Joint Amendment No. 12, *supra* note 9.

<sup>14</sup> In approving this Joint Amendment No. 14, the Commission has considered its impact on efficiency, competition and capital formation.

<sup>15</sup> 15 U.S.C. 78k-1.

<sup>16</sup> 17 CFR 240.11Aa3-2.

gather sufficient information to justify the need for the pilot program or determine that the exemption from Trade-Through liability is no longer necessary. The Commission believes that raising the limitation on liability to 50 contracts per Satisfaction Order will increase the average size of Satisfaction Order fills during the end of the options trading day, thereby enhancing customer order protection. In addition, the Commission finds, as described further below, that it is appropriate to put into effect summarily Joint Amendment No. 14 upon publication of this notice, on a temporary basis for 120 days. The Commission believes that such action is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets because it will allow the pilot to continue without interruption during the comment period.<sup>17</sup> Therefore, the Commission is extending the effectiveness of Section 8(c)(ii)(B)(2)(b) of the Linkage Plan on a temporary basis for 120 days, with the increase in the limitation in liability to 50 contracts per Satisfaction Order, for an additional year, until January 31, 2006.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether proposed Joint Amendment No. 14 is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-429 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number 4-429. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to proposed Joint Amendment No. 14 that are filed

with the Commission, and all written communications relating to proposed Joint Amendment No. 14 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 Room. Copies of such filings also will be available for inspection and copying at the principal offices of the Amex, BSE, CBOE, ISE, PCX and Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number 4-429 and should be submitted on or before February 28, 2005.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 11A of the Act<sup>18</sup> and Rule 11Aa3-2(c)(4) thereunder,<sup>19</sup> that Joint Amendment No. 14 is summarily put into effect until May 31, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>20</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-477 Filed 2-4-05; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51109; File No. SR-Amex-2005-012]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to a Revision and Extension of the Limitation on Trade Through Liability at the End of the Trading Day Pilot Program

January 31, 2005.

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 January 26, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in

<sup>18</sup> 15 U.S.C. 78k-1.

<sup>19</sup> See *supra* note 17.

<sup>20</sup> 17 CFR 200.30-3(a)(29).

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

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

Items I and II below, which Items have been prepared by the Amex. On January 28, 2005, the Amex filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Exchange has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission.<sup>6</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 extend through January 31, 2006 the current pilot program that limits an exchange member's trade-through liability to twenty-five (25) contracts per Satisfaction Order<sup>7</sup> for the period between five minutes prior to the close of trading in the underlying security and the close of trading in the options class (the "Pilot Program"). In connection with the extension of the Pilot Program, the Exchange also proposes to increase the limit on trade-through liability at the end of the day from twenty-five (25) to fifty (50) contracts.

The text of the proposed rule change is available on the Amex's Web site at <http://www.amex.com>, at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

<sup>3</sup> In Amendment No. 1 the Exchange made certain technical corrections to Exhibit 5 to the filing.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> The Annex asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>7</sup> A "Satisfaction Order" is an order sent through the Linkage to notify a Participant Exchange of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through. See Section 2(16)(c) of the Linkage Plan.

<sup>17</sup> 17 CFR 240.11Aa3-2(c)(4).