

There are approximately 4300 investment companies registered with the Commission, all of which are required to comply with rule 31a-1. For purposes of determining the burden imposed by rule 31a-1, the Commission staff estimates that each fund is divided into approximately four series, on average, and that each series is required to comply with the recordkeeping requirements of rule 31a-1. Based on conversations with fund representatives, it is estimated that rule 31a-1 imposes an average burden of approximately 1500 hours annually per series for a total of 6000 annual hours per fund. The estimated total annual burden for all 4300 investment companies subject to the rule therefore is approximately 25,800,000 hours. Based on conversations with fund representatives, however, the Commission staff estimates that even absent the requirements of rule 31a-1, 90 percent of the records created pursuant to the rule are the type that generally would be created as a matter of normal business custom and to prepare financial statements.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study. The collection of information required by rule 31a-1 is mandatory. Responses will not be kept confidential. The records required by rule 31a-1 are required to be preserved pursuant to rule 31a-2 under the Investment Company Act [17 CFR 270.31a-2]. Rule 31a-2 requires that certain of these records be preserved permanently, and that others be preserved six years from the end of the fiscal year in which any transaction occurred. In both cases, the records should be kept in an easily accessible place for the first two years. 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 OMB control number.

General comments regarding the above information should be directed to the following persons: (i) 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, or e-mail to: [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must

be submitted to OMB within 30 days of this notice.

Dated: February 6, 2006.

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53250; File No. S7-24-89]

### Joint Industry Plan; Order Granting Approval of Category 1 Changes From Amendment No. 13 of the Reporting Plan for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis, Submitted by the Pacific Exchange, Inc., the National Association of Securities Dealers, Inc., the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the National Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

February 7, 2006.

#### I. Introduction and Description

On May 31, 2002, the National Stock Exchange, Inc. ("NSX"),<sup>1</sup> on behalf of itself and the National Association of Securities Dealers, Inc. ("NASD"), the American Stock Exchange LLC ("Amex"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Stock Exchange, Inc. ("CHX"), the Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. ("Phlx") (hereinafter referred to collectively as "Participants"),<sup>2</sup> as members of the Operating Committee of the Plan submitted to the Securities and Exchange Commission ("Commission") a proposal to amend the Plan, pursuant to Rule 608<sup>3</sup> under the Securities Exchange Act of 1934 ("Act" or "Exchange Act"). The proposal represents the 13th amendment ("13th Amendment") made to the Plan. Notice of the proposed 13th Amendment was

<sup>1</sup> At the time Amendment No. 13 was submitted, the NSX was known as the Cincinnati Stock Exchange, Inc. ("CSE"). The Commission notes that the CSE changed its name to the National Stock Exchange, Inc. See Securities Exchange Act Release No. 48774 (November 12, 2003), 68 FR 65332 (November 19, 2003) (File No. SR-CSE-2003-12).

<sup>2</sup> At the time of submission, NSX was the chair of the operating committee ("Operating Committee" or "Committee") for the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis ("Nasdaq UTP Plan" or "Plan") by the Participants. PCX is the current chair of the Operating Committee.

<sup>3</sup> 17 CFR 202.608.

published in the **Federal Register** on July 5, 2002.<sup>4</sup>

The Nasdaq UTP Plan governs the collection, processing, and dissemination on a consolidated basis of quotation and last sale information for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of The Nasdaq Stock Market, Inc. ("Nasdaq") securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Nasdaq securities.

As discussed in the 13th Amendment Notice, proposed amendments to the Plan have been segregated into four categories: (1) Category 1, "Effective Upon Nasdaq's Exchange Registration;" (2) Category 2, "Effective Upon Launch of the Internal SIP;" (3) Category 3, "Effective Upon End of Parallel Period—Elimination of the Legacy SIP;" and (4) Category 4, "Timing Not An Issue." The amendments detailed in Category 2 were granted summary effectiveness through the 13th Amendment Notice so as to allow the target launch date for the new Internal Securities Information Processor ("SIP") data feeds to be met.<sup>5</sup> In addition, the Commission granted partial temporary approval to the 13th Amendment with respect to extension of the expiration date of the Plan itself. The partial temporary approval extended the expiration date of the Plan through August 19, 2003.<sup>6</sup> The Commission then granted approval to the amendments detailed in Categories 2, 3, and 4 on a pilot basis.<sup>7</sup> However, the order approving parts 2, 3, and 4 of Amendment 13 noted specifically that it did not approve those amendments detailed in Category 1 because the Commission intended to address those amendments detailed in Category 1 through separate action when the Commission acted on the Nasdaq exchange registration application.<sup>8</sup>

<sup>4</sup> See Securities Exchange Act Release No. 46139 (June 28, 2001 [sic]), 67 FR 44888 ("13th Amendment Notice").

<sup>5</sup> The summary effectiveness expired on October 26, 2002.

<sup>6</sup> See Securities Exchange Act Release No. 46381 (August 19, 2002), 67 FR 54687 (August 23, 2002) ("Date Extension Approval Order").

<sup>7</sup> See Securities Exchange Act Release No. 46729 (October 25, 2002), 67 FR 66685 (November 1, 2002).

<sup>8</sup> Pursuant to Rule 608(b)(2), 17 CFR 242.608(b)(2), the Commission must take action within 120 days of the date of publication of notice of filing of amendment in the **Federal Register**

Now that the Nasdaq exchange registration application has been approved,<sup>9</sup> the Commission is approving the amendments detailed in Category 1 of Amendment 13, as published in the **Federal Register**.<sup>10</sup>

The Commission received one comment letter on the 13th Amendment from BrokerageAmerica ("BA").<sup>11</sup> However, this comment letter discussed changes proposed in Categories 2, 3, and 4 of Amendment 13, and the comment letter was discussed fully in the Partial Temporary Approval of Amendment No. 13.<sup>12</sup>

The Commission finds that the Category 1 changes included in the 13th Amendment are consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, Section 12(f)<sup>13</sup> and Section 11A(a)(1)<sup>14</sup> of the Act and Rules 601 and 608 thereunder.<sup>15</sup> Section 11A of the Act directs the Commission to facilitate the development of a national market system for securities, "having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets," and cites as an objective of that system "fair competition \* \* \* between exchange markets and markets other than exchange markets."<sup>16</sup> When the Commission first approved the Plan on a pilot basis, it found that the Plan "should enhance market efficiency and fair competition, avoid investor confusion, and facilitate surveillance of concurrent exchange and OTC trading."<sup>17</sup> The Commission believes

unless the sponsors of such amendment consent to an extension. The sponsors of the 13th Amendment consented to final action on the Category 1 amendments being contingent upon a subsequent trigger event. See letter from Jeffrey T. Brown, Chairman, Operating Committee, to Jonathan G. Katz, Secretary, Commission, dated May 30, 2002 ("13th Amendment Filing").

<sup>9</sup> See Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006).

<sup>10</sup> See *supra* note 4, 13th Amendment Notice.

<sup>11</sup> See letter from Sam Guidetti, Senior Vice President & Chief Compliance Officer, BrokerageAmerica, to Jonathan Katz, Secretary, Commission, dated September 17, 2002.

<sup>12</sup> See *supra* note 7.

<sup>13</sup> 15 U.S.C. 78(f). The Commission finds that extending the Plan is consistent with fair and orderly markets, the protection of investors and the public interest, and otherwise in furtherance of the purposes of the Act. The Commission has taken into account the public trading activity in securities traded pursuant to the Plan, the character of the trading, the impact of the trading of such securities on existing markets, and the desirability of removing impediments to, and the progress that has been made toward the development of a national market system.

<sup>14</sup> 15 U.S.C. 78k-1(a)(1).

<sup>15</sup> 17 CFR 242.601 and 17 CFR 242.608.

<sup>16</sup> 15 U.S.C. 78k-1(a).

<sup>17</sup> See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990).

that amending the Plan to incorporate the amendments detailed in Category 1 of Amendment 13 furthers these goals.

*It is therefore ordered*, pursuant to Sections 12(f) and 11A of the Act<sup>18</sup> and paragraph (b)(4) of Rule 608 thereunder,<sup>19</sup> that the operation of the Plan, as modified by the amendments detailed in Category 1 of Amendment 13 be, and hereby is, approved.

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

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53244; File No. SR-Amex-2006-003]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto To Adjust the Close of Normal Trading Hours in Equity Options and Narrow-Based Index Options

February 7, 2006.

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 5, 2006, 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 and II below, which Items have been prepared by the Amex. On January 31, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the amended proposal on an accelerated basis.

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

The Amex proposes to amend Exchange Rules 1, 918—ANTE, 936C—ANTE and 903C to adjust the close of normal trading hours in equity options

<sup>18</sup> 15 U.S.C. 78(f) and 15 U.S.C. 78k-1.

<sup>19</sup> 17 CFR 242.608(b)(4).

<sup>20</sup> 17 CFR 200.30-3(a)(27).

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

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

<sup>3</sup> In Amendment No. 1, the Exchange requested that the implementation date for the new closing time be changed from February 1, 2006, as was originally proposed, to February 13, 2006.

and options based on stock index industry groups ("narrow-based index options") from 4:02 p.m. eastern time ("e.t.") to 4 p.m. e.t. The Exchange proposes that these changes be implemented on February 13, 2006.<sup>4</sup> The text of the proposed rule change, as amended, is available on the Amex's Web site at (<http://www.amex.com>), at the Amex'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, the Exchange included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item III below. The Exchange 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

According to the Exchange, the purpose of the proposed rule change, as amended, is to amend the Amex's rules to conform to an industry-wide consensus to change the close of trading hours for equity options and narrow-based index options from 4:02 p.m. e.t. to 4 p.m. e.t. After the change, the time of the close of trading in these Amex options will correspond to the normal time set for the close of trading on the primary exchanges listing the stocks underlying the Amex options. The primary exchanges generally close at 4 p.m. e.t.

The Exchange notes that, on May 14, 1997, the Amex received approval to move the close of equity options trading from 4:10 p.m. to 4:02 p.m.<sup>5</sup> The change was prompted by improvements in the dissemination of closing prices in the underlying securities, the limited ability of public customers to reach as quickly as professional traders news announcements in the last ten minutes of trading, and the difficulties experienced by options specialists and

<sup>4</sup> *Id.*

<sup>5</sup> See Securities Exchange Act Release No. 38640 (May 14, 1997), 62 FR 28081 (May 22, 1997). According to the Exchange, from 1978 through 1997, equity options were traded until 4:10 p.m. to allow investors to trade options based upon the final closing prices of the underlying securities.