

Amendment No. 3 to the proposal.⁷ This Amendment completely replaces and supersedes the original filing and Amendment Nos. 1 and 2. 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 Amex proposes to amend Amex Rule 980: (i) To simplify the manner in which a CEA is submitted to the Exchange; (ii) to extend by one hour the cut-off time for members and member organizations to submit CEAs to the Exchange; and (iii) to add new paragraphs (g) and (h) for the purpose of establishing different cut-off times for the decision to exercise or not exercise an expiring option and for the submission of a CEA based on a modified trading session or due to "unusual circumstances." Below is the text of the proposed rule change, as amended. New text is italicized. Deleted text is bracketed.

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Rule 980. Exercise of Option Contracts

(a) [Subject to the restrictions established by the Exchange pursuant to Rule 905 and to such other restrictions which may be imposed by the Exchange pursuant to Rules 907 and 909 or by the Options Clearing Corporation ("OCC") pursuant to its rules, an outstanding option contract may be exercised during the time period specified in the rules of OCC by the tender to OCC of an exercise notice in accordance with its rules.] *An outstanding option contract may be exercised by the tender to the Options Clearing Corporation ("OCC") of an exercise notice made during the periods, and using the procedures, specified in OCC rules. An exercise notice may be tendered to OCC only by the clearing member in whose OCC account the option contract is carried. Option exercises are also subject to restrictions that are established by or may be imposed by the Exchange in Rules 905, 907 and 909, and in this rule. Members and member organizations may establish fixed procedures as to the latest [hour at which] time they will accept exercise instructions from customers.*

(a) [Final decisions by options holders to either exercise or not exercise expiring equity options must be made by members or member organizations not later than 5:30 p.m., New York time on the business day immediately prior to the expiration date ("the exercise cut-off time"). In this regard, members and member organizations must either] *Special procedures apply to the exercise of equity options on the last business day before their expiration ("expiring options"). Unless waived by OCC, expiring options are subject to the Exercise-by-Exception ("Ex-by-Ex") procedure under OCC Rule 805. This rule provides that, unless contrary instructions are given, option contracts that are in-the-money by specified amounts shall be automatically exercised. In addition to OCC rules, the following Exchange requirements apply with respect to expiring options. Option holders desiring to exercise or not exercise expiring options must either:*

[(ii)](i) take no action and allow exercise determinations to be made in accordance with OCC's [Exercise-by-Exception] Ex-by-Ex procedure where applicable[.]; or

[(i)](ii) submit a "Contrary Exercise Advice" to the Exchange by the deadline specified in paragraph (c) below. A Contrary Exercise Advice is a communication either: (A) [form prescribed by the Exchange for use by a member or member organization to indicate a final exercise decision committing an options holder] to not exercise an [equity] option[s position which] that would be automatically [be] exercised [pursuant to] under OCC's [Rule 805 Exercise-by-Exception] Ex-by-Ex procedure, or (B) to exercise an [equity] option [position which] that would not be automatically [be] exercised [pursuant to] under OCC's [Exercise-by-Exception] Ex-by-Ex procedure. A Contrary Exercise Advice[s can] may be submitted by a [any] member or member organization by using the Exchange's Contrary Exercise Advice Form, OCC's Clearing Management and Control System (C/MACS), a Contrary Exercise Advice form of any other [at a place designated for that purpose by any] national [options] securities exchange of which [they are] the firm is a member and where the option is listed, or [may be transmitted to the Exchange via OCC in a format prescribed by OCC; or] such other method as the Exchange may prescribe. A Contrary Exercise Advice may be canceled by filing an "Advice Cancel" with the Exchange or resubmitted at any time up to the submission cut-off times specified below.

(c) Exercise cut-off time. Option holders have until 5:30 p.m. New York time on the business day immediately prior to the expiration date to make a final decision to exercise or not exercise an expiring option. For customer accounts, members and member organizations may not accept exercise instructions after 5:30 p.m. New York time but have until 6:30 p.m. New York time to submit a Contrary Exercise Advice. For non-customer accounts, members and member organizations may not accept exercise instructions after 5:30 p.m. New York time but have until 6:30 p.m. New York time to submit a Contrary Exercise Advice if such member or member organization employs an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. Consistent with Commentary .04, members and member organizations are required to submit a Contrary Exercise Advice by 5:30 p.m. for non-customer accounts if such Members and/or member organization do not employ an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. [In those instances when OCC has waived the Exercise-by-Exception procedure, a Contrary Exercise Advice is still required to be submitted by members and member organizations wishing to exercise an option that would not have been automatically exercised, or exercise an option that would have been automatically exercised had the Exercise-by-Exception procedure been in effect. The applicable underlying security price in such instances will be as described in OCC Rule 805(1), which is normally the last sale price in the primary market for the underlying security. In cases where the Exercise-by-Exception procedure has been waived for an options class, OCC rules require that members and member organizations wishing to exercise such options must submit an affirmative Exercise Notice to OCC, whether or not a Contrary Exercise Advice has been filed.]

[Each member or member organization which maintains a proprietary or public customer account position in an expiring option is responsible for ensuring that final exercise decisions are indicated to the Exchange Member organizations who have accepted the responsibility to indicate final exercise decisions on behalf of another member or non-member firm and shall take necessary steps to ensure that such decisions are properly indicated to the Exchange. Member organizations may establish a

⁷ See letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated March 5, 2003, replacing Form 19b-4 in its entirety ("Amendment No. 3"). In Amendment No. 3, Amex made changes to its rule text and provided additional discussion in response to comments.