

participate, in accordance with the same method that governs how a specialist allocates an order. As noted above, the Commission believes that this method is reasonable, and that the revision in Amendment No. 1 adds clarity to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 7, including whether Amendment No. 7 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 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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 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-00-30 and should be submitted by May 22, 2003.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁵ that the proposed rule change (SR-Amex-00-30), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴⁶

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47728; File No. SR-Amex-2003-16]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by American Stock Exchange LLC Relating to Automatic-Execution for Nasdaq National Market Securities

April 23, 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 March 13, 2003, 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 Exchange. On April 3, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

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

The Exchange seeks to extend its existing Automatic Execution System ("Auto-Ex") to Nasdaq National Market System stocks ("Nasdaq stocks") admitted to trading pursuant to 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 (the "OTC/UTP Plan").⁴ The text of the

proposed rule change is set forth below. Proposed new language is in *italics*.

* * * * *

Automatic Execution For Nasdaq National Market Securities (Temporary)

Rule 118A-T. (a) An Auto-Ex eligible order in a Nasdaq National Market System security will be executed automatically at the Amex Published Quote ("APQ") for such security in accordance with the provisions of this rule.

(b) An Auto-Ex eligible order for a Tier 1 Nasdaq National Market security must be a round lot, or partial round lot ("PRL"), market or marketable limit order for 1,000 shares or less received by the Exchange electronically. An Auto-Ex eligible order for a Tier 2 Nasdaq National Market security must be a round lot, or PRL, market or marketable limit order for 500 shares or less received by the Exchange electronically. For purposes of this Rule, a "Tier 1" Nasdaq National Market security is a stock with an average daily consolidated trading volume of over 10 million shares during the preceding calendar quarter, and a "Tier 2" Nasdaq National Market security is a stock with an average daily consolidated trading volume of 10 million shares or less during the preceding calendar quarter.

(c) The specialist will be the contra side to each Auto-Ex execution. In the event that the specialist trades as a result of an automatic execution at a price at which the specialist could have executed one or more limit orders on the book, the specialist shall immediately execute any such limit orders at the price of the Auto-Ex trade to the extent such booked orders would have been executed had the incoming order not been executed automatically.

(d) An Auto-Ex eligible order will be routed to the specialist and will not be

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Amex provided anticipated implementation dates, stating that the Amex proposes to implement the proposed rule change before the end of May 2003 on a temporary basis until it implements its enhanced Auto-Ex technology in the fourth quarter of 2003. See April 2, 2003, letter from William Floyd-Jones, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission.

⁴ The OTC/UTP Plan was initially approved in 1990. See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990). It has subsequently been amended. See also Securities Exchange Act Release Nos. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995); 36226 (September 13, 1995), 60 FR 49029 (September 21, 1995); 36368 (October 13, 1995), 60 FR 54091 (October 19, 1995); 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995); 36589

(December 13, 1995), 60 FR 65696 (December 20, 1995); 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996); 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996); 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); 38794 (June 30, 1997), 62 FR 36586 (July 8, 1997); 39505 (December 31, 1997), 63 FR 1515 (January 9, 1998); 40151 (July 1, 1998), 63 FR 36979 (July 8, 1998); 40896 (December 31, 1998), 64 FR 1834 (January 12, 1999); 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999); 42268 (December 23, 1999), 65 FR 1202 (January 6, 2000); 43005 (June 30, 2000), 65 FR 42411 (July 10, 2000); 44099 (March 23, 2001), 66 FR 17457 (March 30, 2001); 44348 (May 24, 2001), 66 FR 29610 (May 31, 2001); 44552 (July 13, 2001), 66 FR 37712 (July 19, 2001); 44694 (August 14, 2001), 66 FR 43598 (August 20, 2001); 44804 (September 17, 2001), 66 FR 48299 (September 19, 2001); 45081 (November 19, 2001), 66 FR 59273 (November 27, 2001); 46381 (August 19, 2002), 67 FR 164 (August 23, 2002); 46729 (October 25, 2002), 67 FR 212 (November 1, 2002).

⁴⁵ 15 U.S.C. 78s(b)(2).

⁴⁶ 17 CFR 200.30-3(a)(12).