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FOR INFORMATION REGARDING

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SECURITIES AND EXCHANGE COMMISSION

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Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC, Relating to Indications, Openings and Re-Openings

May 5, 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 23, 2003, the American Stock Exchange, LLC ("Amex" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in items I, II and III below, which items have been prepared by Amex. 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 Exchange proposes to adopt rule 119 to codify and revise the Exchange's policies regarding tape indications and re-openings in stocks that are subject to a trading halt (other than "circuit breaker" or "equipment changeover" halts). Below is the text of the proposed rule change. Although this text is not currently in the Amex rulebook, it was approved by the Commission as Amex policy in 1997.³ Text that Amex is now proposing to add to the previously approved policy is *italicized*.

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INDICATIONS, OPENINGS AND REOPENINGS

Rule 119. Except as provided elsewhere in the Constitution and rules of the Exchange, this rule shall govern indications, openings and (re)openings of securities traded on the Exchange.

(1) Mandatory Indications: When Commencements Is Permitted

A specialist is required to disseminate indications of interest prior to (re)opening trading in a previously halted stock or in the event of a delayed opening as follows:

(a) **Regulatory Halts**—A specialist may commence disseminating indications of interest in a stock subject to a Regulatory Halt when the Exchange determines that an adequate publication or disclosure of information has occurred so as to permit the termination of the halt and a Floor Official approves the dissemination of indications of interest for the stock. In the case of an inter-day Regulatory Halt (*i.e.*, a halt which remains in effect from the preceding trading day) such approval may include disseminations of interest before the Exchange opens for business.

(b) **Non-Regulatory Halts**—A specialist may commence disseminating indications of interest in a stock subject to a Non-Regulatory Halt when an Exchange Official or Floor Governor approves such dissemination, in consultation with a Floor Official when appropriate. In the case of an inter-day Non-Regulatory Halt, such approval may include disseminations of interest before the Exchange opens for business.

(c) **Delayed Openings**—A specialist may commence disseminating indications of interest in a stock subject to delayed opening other than by reason of an inter-day Regulatory Halt, when an Exchange Official or Floor Governor approves.

(d) **"Regulatory Halt" Defined**—For the purposes of this policy, "Regulatory Halt" has the meaning that the CTA Plan assigns to it.

(e) **"Circuit Breaker" Halts**—Dissemination of an indication shall be mandatory prior to the reopening of trading following a "circuit breaker" halt under rule 117 if such reopening will result in a price change constituting the lesser of 10% or three points from the last sale reported on the AMEX, or five points if the previous reported last sale is \$100 or higher. No indications would be required if the price change is less than one point. If, on any day that rule 117 halt is in effect, trading in a security has not reopened by one-half hour after resumption of trading on the Exchange, the matter should be treated

as a delayed opening, and would require an indication as well as a Floor Official's supervision.

(2) Optional Indications

(a) **Spin-Offs, IPOs, Etc.**—Prior to the commencement of trading in a stock for which there has been no prior public market, the specialist in the stock may disseminate indications of interest for the stock if an Exchange Official or Floor Governor approves. In the case of a spin-off, any Floor Official may approve such dissemination which may include dissemination before the Exchange opens for business.

(b) **Other Opening Situations**—In any opening situation not specified above, the specialist in the affected stock may disseminate indications of interest for the stock before the Exchange opens for business if an Exchange Official or Floor Governor approves, and thereafter if any Floor Official approves.

(3) Waiting Periods Before (Re)Opening

(a) **Periods Specified**—The specialist may not (re)open a stock that has been the subject of an indication pursuant to paragraphs (1) and (2) above until:

(i) Ten minutes after an indication is displayed, except that the minimum halt period shall be five minutes after an indication is displayed in the case of an equipment change over halt condition, in each case, unless clause ii applies;

(ii) Five minutes after an indication is displayed if one or more indications preceded it. However, regardless of the number of indications disseminated, the minimum waiting period is ten minutes. For example, if only 3 minutes elapsed from the time of the first indication to the second indication, the minimum waiting period after the second indication would be 7 minutes.

(iii) *With respect to a post-opening trading halt, a minimum of five minutes must elapse between the first indication and a stock's reopening. However, where more than one indication is disseminated, a stock may re-open three minutes after the last indication, provided that at least five minutes must have elapsed from the dissemination of the first indication.*

In the case of inter-day Non-Regulatory Halts, the Exchange Official or Floor Governor involved may dispense with the waiting period if no unusual situation exists prior to the opening of the affected stock. In the case of indications made pursuant to paragraph 2(b), the Exchange Official or Floor Governor involved may alter the applicable waiting periods to take into account the circumstances of the particular opening situation.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Release No. 34-38549 (April 28, 1997), 62 FR 24519 (1997).