

If during an equipment changeover trading halt in a stock, a significant order imbalance develops or a regulatory condition occurs (*i.e.*, news pending or news dissemination) then the nature of the halt condition shall be changed accordingly, and notice of such change shall be disseminated. The minimum halt period prior to the resumption of trading in this case shall be ten minutes following the first indication after the new halt condition is disseminated.

“Significant Order Imbalance” Defined—For purposes of this subparagraph, a “significant order imbalance” is one which would result in a reopening at a price change constituting two points or more away from the last previous sale in a stock selling at \$20 or more, one point or more away from the last previous sale in a stock selling at \$10 or more (but less than \$20), and one-half point or more away from the last previous sale in a stock selling at less than \$10.

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## 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. Amex 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

In 1997, the Commission approved the Exchange's policies regarding indications, openings and re-openings.<sup>4</sup> The Exchange is now proposing to codify these policies as new rule 119 to make them more accessible to members and member organizations. The Exchange also is proposing to update the Exchange's rules on re-openings to conform them to those in effect at the New York Stock Exchange (“NYSE”).

The Exchange's current policy on reopening trading in a stock that has opened and then is halted during a trading day (*i.e.*, a stock that is subject to a “post-opening” trading halt) requires a minimum of 10 minutes to

elapse between the first price indication and the reopening of the stock, and a minimum of five minutes to elapse after the last indication, provided in all cases that the minimum 10 minutes has elapsed since the first indication. The Exchange is proposing to compress these minimum time periods before reopening a stock that is subject to a post-opening trading halt to five minutes after the first indication, and three minutes after the last indication, provided that a minimum of five minutes has elapsed since the first price indication.

In developing procedures for openings and re-openings over the years, the Exchange has focused on providing a balance between timeliness and achieving a price that reflects market conditions. As the speed of communications has increased, the Exchange believes that it is important to provide the ability to react more quickly if circumstances permit a reopening of trading in a shorter period of time. Management believes that the newly approved NYSE procedures for reopening after a post-opening trading halt strike the appropriate balance between preserving the price discovery process and providing timely opportunities for investors to participate in the market.<sup>5</sup> Thus, at the end of the five-minute period, if equilibrium has been established, there would be no purpose to extending the halt for a longer period. If, however, at the end of the five minute period, more time is needed to bring supply and demand into balance, then the resumption of trading could be further delayed. Trading halts will continue to be overseen by Floor Officials who will use their judgment to see that the stock reopens at an appropriate time.

#### 2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act<sup>6</sup> in general and furthers the objectives of section 6(b)(5)<sup>7</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

<sup>5</sup> See Release No. 34–47104 (December 30, 2002), 68 FR 597 (January 6, 2003).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 that are filed with the Commission, and all written communications relating to the proposed rule change 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 Amex. All submissions should refer to File No. SR–Amex–2003–34 and should be submitted by June 2, 2003.

<sup>4</sup> See n. 3, *supra*.