

By the Commission.
Margaret H. McFarland,
Deputy Secretary.
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48023; File No. SR-Amex-2003-53]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Maximum Bid/Offer Differentials for Option Contracts

June 12, 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 June 2, 2003, the American Stock Exchange LLC (the "Amex" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 Amex proposes to amend Exchange Rule 958 to set the maximum bid/offer differential for option contracts at \$0.40 where the prevailing bid is at or above \$2 but does not exceed \$5, and \$0.80 where the prevailing bid is more than \$10 but does not exceed \$20. The text of the proposed rule change is set forth below. [Bracketing] indicates text to be deleted, and *italics* indicates text to be added.

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Options Transactions of Registered Traders

Rule 958

(a)-(b) No change

(c) With respect to each class of options as to which he is assigned by the Exchange, a Registered Trader, whenever he enters the trading crowd in other than a floor brokerage capacity, or is called upon by a Floor Official or a Floor Broker acting in an agency capacity, is required to make competitive bids and offers as reasonably necessary to contribute to

the maintenance of a fair and orderly market and shall engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists a lack of price continuity, a temporary disparity between the supply of and demand for option contracts of a particular series, or a temporary distortion of the price relationships between option contracts of the same class. Without limiting the foregoing, a Registered Trader is expected to perform the following activities in the course of maintaining a fair and orderly market:

(i) If the underlying security is a stock or Exchange-Traded Fund Share, bidding and offering so as to create differences of no more than \$0.25 between the bid and the offer for each option contract for which the prevailing bid is less than \$2, no more than [0.37] \$0.40 where the prevailing bid is \$2 but does not exceed \$5, no more than \$0.50 where the prevailing bid is more than \$5 but does not exceed \$10, no more than [0.75] \$0.80 where the prevailing bid is more than \$10 but does not exceed \$20, and no more than \$1 where the last prevailing bid is more than \$20. In the event the bid/ask differential in the underlying security is greater than the bid/ask differential set forth herein, the permissible price differential for any in-the-money option series may be identical to those in the underlying security market.

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 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. The 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 the Statutory Basis for, the Proposed Rule Change

(1) Purpose

Pursuant to the industry-wide conversion of the pricing of securities from fractions to decimals, the Exchange converted all stocks and options pricing in its rules to decimals. Among the rules affected was Exchange Rule 958, which sets forth the obligations of registered

options traders and options specialists.³ Subparagraph (c)(i) of Rule 958 requires registered options traders and options specialists, in the course of maintaining a fair and orderly market, to adhere to maximum bid/offer differentials specified in the rule.⁴ In connection with this conversion from fractions to decimals, the Exchange converted (i) the maximum bid/offer differential of 3/8 of \$1 to \$0.37 where the prevailing bid is at or above \$2 but does not exceed \$5; and (ii) the maximum bid/offer differential of 3/4 of \$1 to \$0.75 where the prevailing bid is more than \$10 but does not exceed \$20.

The requirements of related Exchange Rule 952, however, created anomalies in the maximum bid/offer differentials as stated in Rule 958. Amex Rule 952, which sets forth the minimum price variation ("MPV") for option contracts, requires a MPV of \$0.05 where an option contract trades less than \$3.00 and a MPV of \$0.10 where an option contract trades at or above \$3. Consequently, option contracts trading at or above \$2 but less than \$3 are restricted to a maximum bid/offer differential of \$0.35, not \$0.37, because the MPV at those prices is \$0.05, and option contracts trading at or above \$3 but not exceeding \$5 are restricted to a maximum bid/offer differential of \$0.30, not \$0.37, because the MPV at those prices is \$0.10. Similarly, option contracts where the prevailing bid is more than \$10 but does not exceed \$20 are allowed a maximum bid/offer differential of \$0.75 under Amex Rule 958, but since the MPV is \$0.10 at those prices, registered options traders and options specialists are required to quote with a maximum differential of \$0.70.

Because maximum bid/offer differentials were reduced from levels permitted before the conversion from fractions to decimals, the Exchange now proposes to amend Amex Rule 958 to increase the maximum bid/offer differential (i) from \$0.37 to \$0.40 where the prevailing bid is at or above \$2 but does not exceed \$5; and (ii) from \$0.75 to \$0.80 where the prevailing bid is more than \$10 but does not exceed \$20. These changes will conform Amex Rule 958 to the Exchange's current practice of allowing registered options traders and options specialists to quote bids and offers with maximum bid/offer

³ Exchange Rule 950(n) requires options specialists to adhere to the maximum bid/offer differentials set forth in Amex Rule 958(c).

⁴ The maximum bid/offer differential varies depending upon the prevailing bid for the option contract.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.