

Formal orders of investigation;
Post-argument discussion; and
Opinions.

The subject matter of the Open Meeting scheduled for Thursday, July 10, 2003 will be:

1. The Commission will hear oral argument on an appeal by the Division of Enforcement and the Office of the Chief Accountant from an initial decision of an administrative law judge. The law judge found that Michael J. Marrie and Brian L. Berry did not engage in improper professional conduct within the meaning of Rule of Practice 102(e) during the course of an audit by the accounting firm of Coopers & Lybrand LLP (Coopers) of the 1994 fiscal year financial statements of California Micro Devices, Inc. (CMD), a public company. Marrie, a certified public accountant and former partner with Coopers, was the engagement partner for the audit of CMD. Berry, a certified public accountant and former manager with Coopers, was the audit manager for the CMD audit.

The Division alleges that Marrie and Berry recklessly failed to comply with applicable standards of professional conduct in their audit of CMD's 1994 fiscal year financial statements in three areas: (a) CMD's write-off of \$12 million of accounts receivable; (b) confirmation of CMD's accounts receivable, and (c) CMD's sales returns and allowances for sale returns. The Division maintains that Marrie and Berry recklessly failed to conduct the audit in accordance with Generally Accepted Auditing Standards as a result of their failure to exercise professional skepticism and to obtain sufficient competent evidential matter with respect to these audit areas.

Among the issues likely to be considered are:

- a. Whether respondents committed the alleged violations; and
- b. if so, whether sanctions should be imposed in the public interest.

2. The Commission will also hear oral argument on an appeal by Michael A. Flanagan, Ronald O. Kindschi, and Spectrum Administration, Inc. of an initial decision of an administrative law judge. During the period covered by this Commission proceeding, Flanagan and Kindschi were registered representatives with FSC Securities Corporation, a registered broker-dealer. Kindschi also was associated with Spectrum Administration, a registered investment adviser.

The law judge found that Flanagan and Kindschi willfully violated Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 thereunder. The law judge also found that Spectrum Administration violated Sections 206(1) and (2) of the Investment Advisers Act of 1940, and that Kindschi, in his role as an associated person of Spectrum Administration, aided and abetted Spectrum Administration's violations. The law judge concluded that the Respondents committed fraud by steering certain customers to purchase Class B shares in various mutual funds without disclosing all material facts regarding the costs associated with those purchases, thereby depriving these customers

of the discounts on sales charges that would have been applicable to their investments had the customers purchased Class A shares in like amounts.

Based on these violations, the law judge suspended Flanagan from association with any broker or dealer for four months, and ordered him to pay a civil money penalty of \$10,000 and to disgorge \$12,469. The law judge suspended Kindschi from association with any broker, dealer, or investment adviser for three months, and ordered him to pay a civil money penalty of \$7,500, and to disgorge \$3,762. The law judge also censured Spectrum Administration and imposed cease-and-desist orders on Flanagan, Kindschi, and Spectrum Administration.

Among the issues likely to be considered are:

- a. Whether respondents committed the alleged violations; and
- b. if so, whether sanctions should be imposed in the public interest.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: June 30, 2003.

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48101; File No. SR-AMEX-2003-24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments No. 1 and 2 by the American Stock Exchange LLC Relating to the Dissemination of Option Quotations

June 26, 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 4, 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, II, and III below, which Items have been prepared by the Amex. On May 15, 2003, the Amex filed Amendment No. 1 to the proposed rule change.³ On June 12, 2003, the Amex

filed Amendment No. 2 to the proposed rule change.⁴ 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 permit the dissemination of option quotes in sizes of less than ten (10) contracts. Below is the text of the proposed rule change. Proposed new text is *italicized* and proposed deleted text is [bracketed].

* * * * *

Rule 958A. Application of the Firm Quote Rule

- (a) No Change
- (b) No Change
- (c) Obligations of a Responsible Broker or Dealer—

(i) Pursuant to SEC Rule 11Ac1-1 each responsible broker or dealer for each series of each listed option class shall promptly communicate to the Exchange its best bid, best offer, quotation size and aggregate quotation size. No responsible broker or dealer shall communicate a quotation size or aggregate quotation size for less than [ten] *one* contract[s]. This obligation may be fulfilled by the use of an automated quotation system.

(A) Subject to the provisions of paragraph (d) of this rule, each responsible broker or dealer shall be obligated to execute any customer order in an option series in an amount up to its published quotation size.

(B) Subject to the provisions of paragraph (d) of this rule, each responsible broker or dealer shall be obligated to execute any order for the account of a U.S. registered or foreign broker or dealer in a listed option in an amount up to the quotation size established and periodically published by the Exchange which quotation size shall be for at least one contract.

(C) Subject to the provisions of paragraph (d) of this Rule, each responsible broker or dealer shall comply with the Thirty Second Response provisions set forth in paragraph (d)(3) of SEC Rule 11Ac1-1.

No. 1"). In Amendment No. 1, the Exchange made modifications to the purpose section of this notice to provide more detail and specificity regarding the proposal. The substance of Amendment No. 1 has been incorporated in this notice in its entirety.

⁴ See Letter from Jeffrey P. Burns, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated June 11, 2003 ("Amendment No. 2"). In Amendment No. 2, the Exchange made minor technical amendments to language in the purpose section. The substance of Amendment No. 2 has been incorporated in this notice in its entirety.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Jeffrey P. Burns, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated May 12, 2003 ("Amendment