

the credit facility unless the Fund has a policy that prevents the Fund from borrowing for other than temporary or emergency purposes. In the case of a Fund that does not have such a policy, the Fund's borrowings through the credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Credit Facility Committee will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds. The Credit Facility Committee will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. PBA will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts to the Funds.

13. The Credit Facility Committee will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Board concerning the participation of the Funds in the facility and the terms and other conditions of any extensions of credit under the credit facility.

14. The Board of each Fund, including a majority of the Independent Trustees: (a) Will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the

Credit Facility Committee will promptly refer the loan for arbitration to an independent arbitrator selected by the Board of the Funds involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.<sup>2</sup> The arbitrator will resolve any problems promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit at least annually a written report to the Boards setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, the rate of return available from investments in overnight repurchase agreements and such other information presented to the Board in connection with the review required by conditions 13 and 14.

17. PBA will prepare and submit to the Board for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of operations of the credit facility, the Credit Facility Committee will report on the operations of the credit facility to the Board quarterly. In addition, for two years following the commencement of the credit facility, the independent public accountants for each Fund shall prepare an annual report that evaluates PBA's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and filed pursuant to Item 77Q3 of Form N-SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the Application; (c) compliance with the percentage limitations on interfund

borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan. After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N-SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its prospectus or its SAI all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48173; File No. SR-Amex-2003-59]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC To Renumber Commentary .02 to Rule 131 and Amend a Reference Thereto in Commentary .06 to Rule 155

July 14, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 10, 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 Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. On June 12, 2003, the

<sup>2</sup> If the dispute involves Funds with separate Boards, the Board of each Fund will select an independent arbitrator that is satisfactory to each Fund.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(3).