

specialist in such security) presenting any order for the account of a member on the exchange clearly announces or otherwise indicates to the specialist and to other members then present that he is presenting an order for the account of a member.

Without these requirements, it would not be possible for the Commission to monitor its mandate under the Exchange Act to promote fair and orderly markets and ensure that exchange members have, as the principle purpose of their exchange memberships, the conduct of a public securities business.

There are approximately 1,000 respondents that require an aggregate total of 333 hours to comply with this rule. Each of these approximately 1,000 respondents makes an estimated 20 annual responses, for an aggregate of 20,000 responses per year. Each response takes approximately 1 minute to complete. Thus, the total compliance burden per year is 333 hours (20,000 minutes/60 minutes per hour = 333 hours). The approximate cost per hour is \$100, resulting in a total cost of compliance for the respondents of \$33,333 (333 hours @ \$100).

Compliance with Rule 11a-1(T) is necessary for exchange members to make transactions for their own accounts under a specific exemption from the general prohibition of such transactions under section 11(a) of the Exchange Act. Compliance with Rule 11a-1(T) does not involve the collection of confidential information. Rule 11a-1(T) does not have a record retention requirement per se. However, responses made pursuant to Rule 11a-1(T) are subject to the recordkeeping requirements of Rules 17a-3 and 17a-4. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Action Associate Executive Director for the Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 20, 2002.

Margaret H. McFarland.

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47105; File No. SR-Amex-2002-99]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to a Six-Month Extension of the Exchange's Pilot Program for Automatic Execution of Orders for Exchange Traded Funds

December 30, 2002.

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 December 4, 2002, 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 proposed rule change has been filed by the Amex as a "non-controversial" rule change under Rule 19b-4(f)(6) under the Act.³ 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 seeks a six-month extension of Amex Rule 128A to continue its pilot program for the automatic execution of orders for Exchange Traded Funds ("ETFs"), with certain modifications as described below. Proposed changes to the text of Rule 128A are set forth below.⁴ New text is in *italics*. Deleted text is in *brackets*.

Automatic Execution for Exchange Traded Funds

Rule 128A. The Exchange shall determine the size and other parameters of orders eligible for execution by its Automatic Execution System (Auto-Ex). An Auto-Ex eligible order for any account in which the same person is directly or indirectly interested may

only be entered at intervals of no less than 10 [30] seconds between entry of each such order *on the same side of the market* in a security. Members and member organizations are responsible for establishing procedures to prevent orders in a security *on the same side of the market* for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 10 [30] seconds.

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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, the Exchange 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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 19, 2001, the Commission approved the Exchange's proposal, adopted as Amex Rule 128A, to permit the automatic execution of orders for ETFs on a six-month pilot program basis.⁵ Since that time, the Exchange has extended the pilot program twice, in December 2001 and June 2002, each time for six months.⁶ The Exchange now seeks to extend the pilot program, with certain modifications, for an additional six months.

Since 1986, the Exchange has had an automatic order execution feature ("Auto-Ex") for eligible orders in listed options. The Chicago Board Options Exchange, Philadelphia Stock Exchange, and Pacific Exchange established similar automatic option order execution features at about the same time as the Amex, and the newest options exchange, the International Securities Exchange, also features automatic order execution. Auto-Ex,

⁵ See Securities Exchange Act Release No. 44449 (June 19, 2001), 66 FR 33724 (June 25, 2001) ("June 2001 Release") (approving File No. SR-Amex-2001-29).

⁶ See Securities Exchange Act Release Nos. 45176 (December 20, 2001), 66 FR 67582 (December 31, 2001) and 46085 (June 17, 2002) 67 FR 42836 (June 25, 2002) (notices of filing and immediate effectiveness of File Nos. SR-Amex-2001-105 and SR-Amex-2002-42, respectively).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ The Commentary to Rule 128A, providing details of the pilot program that are summarized in Section II of this notice, will remain unchanged.