

follows. In view of the generally lower trading volume and different trading characteristics of Amex stocks compared to NYSE issues, the Exchange believes it would be appropriate to continue to require dissemination of imbalances of 25,000 shares or more rather than 50,000 shares or more, as is required by NYSE Rule 123C.

At 3:50 p.m., or as close to this time as possible, any MOC order imbalances of 25,000 shares or more would be required by the Exchange to be published on the consolidated tape (Tape B). In addition, as with current 3:40 p.m. imbalance procedures, an order imbalance below 25,000 shares would also be permitted to be published by a specialist, with the concurrence of a Floor Official, if the specialist (i) anticipates that the execution of the MOC orders on the book would result in a closing price which exceeds the price change parameters of Rule 154, Commentary .08 (the \$2, \$1, \$.50 rule),<sup>10</sup> or (ii) believes that an order imbalance should otherwise be published in an attempt to minimize price volatility on the close. If there was an imbalance publication at 3:40 p.m. and the imbalance at 3:50 p.m. were to be less than 25,000 shares, either a "no imbalance" notice would be published, or the size and side of the imbalance would be permitted to be published with Floor Official approval. The 3:50 p.m. calculation policy would be the same as that applicable to the 3:40 p.m. calculation, except the Exchange last sale at 3:50 p.m. would be used to determine whether or not a LOC order is marketable.

The Exchange proposes that after 3:50 p.m., no MOC or LOC orders in stocks would be permitted to be entered except to offset a published MOC imbalance in effect after 3:50 p.m. Amex represents that this is comparable to current procedures, whereby, after 3:40 p.m., no MOC or LOC orders in stocks may be entered except to offset a published MOC imbalance in effect after 3:40 p.m. Amex states that this restriction is intended to alleviate increased pricing pressure that may occur following an imbalance dissemination of buy or sell interest. Amex represents that this restriction is also the same as that imposed by the NYSE under NYSE Rule 123C.

A broker would be permitted to represent an MOC or LOC order in the trading crowd of a stock, but would be required to state irrevocable MOC interest by 3:40 p.m. Amex represents that this requirement is the same as that

imposed by the NYSE under NYSE Rule 123C. After 3:40 p.m., no MOC or LOC order in a stock would be permitted to be taken from the book to be represented by a broker in the crowd. Amex states that these restrictions are intended to apply procedures for crowd orders consistent with MOC/LOC procedures generally. Policy regarding cancellation or reduction in size of MOC and/or LOC orders after 3:40 p.m. would remain the same (*i.e.*, between 3:40 p.m. and 3:50 p.m., MOC and LOC orders would be irrevocable, except to correct an error) except cancellation or reduction in size of MOC and/or LOC orders after 3:50 p.m. would not be permitted for any reason, including in case of legitimate error. Amex represents that this restriction is the same as that imposed by the NYSE under NYSE Rule 123C.

Proposed Rule 131A(a)(3) would require that the specialist publish an MOC order imbalance of 25,000 shares or more, if practicable, if a stock reopens after 3:50 p.m. following any type of trading halt. Paragraphs (a)(4) and (a)(5) propose procedures applicable to entry or cancellation of MOC/LOC orders during a regulatory halt in effect at or after 3:40 p.m. Amex represents that this rule text reflects procedures filed and made effective in Release No. 34-41877.<sup>11</sup> Amex states that this proposed rule change would supersede that filing and approval.

Procedures regarding printing the close would be amended to provide that stop orders and percentage orders elected by the execution of the MOC imbalance should be included in the close. Amex represents that this requirement is the same as that imposed by the NYSE under NYSE Rule 123C.

In the interest of providing for an orderly and consistent execution of various MOC and LOC order types at the close, proposed Rule 131A(c), would specify that on the close orders would be executed in the following order: (1) MOC orders (including "G");<sup>12</sup> (2) tick-sensitive (*e.g.*, buy minus, sell plus, and

sell short, for securities subject to the "tick test" in Exchange Rule 7), MOC orders (not including sell short "G"); (3) tick-sensitive, marketable market orders and marketable limit orders; (4) marketable LOC orders (including "G"); (5) tick-sensitive, marketable LOC orders (not including sell short "G"); (6) limit orders on the specialist's book and in the crowd limited to the closing price; (7) LOC orders limited to the closing price; (8) tick-sensitive MOC orders limited to the closing price; (9) tick-sensitive LOC orders limited to the closing price; (10) all other "G" orders on the specialist's book and in the crowd. Amex represents that the requirement for sell short "G" orders to yield is the same as that imposed by the NYSE under NYSE Rule 123C.

The first five categories above would be treated like MOC orders. Accordingly, the buy side would be matched against the sell side to determine the imbalance. That imbalance would be executed against the prevailing bid or offer, as appropriate. (An imbalance of buy orders would be executed against the offer. An imbalance of sell orders would be executed against the bid.) The order of execution of the orders limited to that bid or offer (*i.e.*, the orders that the imbalance would trade against) would be as set forth in numbers 6 through 10. The specialist then would stop the remaining buy and sell "MOC" orders (*i.e.*, those not part of the imbalance) against each other and pair them off at the price of the imbalance trade. The "pair off" transaction would be reported as "stopped stock" so that those who entered orders limited to the closing price which were not executed would know that they were not entitled to participate on the "stopped stock" trade. Amex represents that the execution of the imbalance against the prevailing bid or offer followed by the printing of the "paired off" quantity as "stopped stock" is the Exchange's current procedure for executing and printing on-close orders as described in Amex Rule 109(d).

#### Rules 131(e) and 156(c)

Rule 131(e), which defines "at the close order," would be amended to specify that a MOC order is to be executed in its entirety at the Amex closing price or cancelled. Rule 131(e) would also be amended to specify that a limit at the close (LOC) order—an order to buy or sell a stated amount of a security at the Amex closing price if at the limit price or better "would have to be cancelled if not executed in whole or in part. Amex represents that these amendments are similar to NYSE Rule

<sup>11</sup> See Release No. 34-41877, *supra* note 6.

<sup>12</sup> "G" orders are entered for an account of either a member or member organization, or an associated person of a member or member organization, or for an account over which a member or member organization or associated person exercises investment discretion. Section 11(a) of the Act prohibits all orders for these accounts from being executed on the floor without an exemption. 15 U.S.C. 78k(a). The exemptions are contained in subparagraphs (1)(A) through (1)(I) of Section 11(a) of the Act. 15 U.S.C. 78k(a)(1)(A)—78k(a)(1)(I). The exemption in "G" requires that the member or member organization be primarily engaged in underwriting and/or brokerage (as opposed to effecting proprietary trades on the floor) and that the "exempt" transaction yield priority, parity, and precedence to orders for those who are not members or associated with members.

<sup>10</sup> See *supra* note 8 for a discussion of Amex Rule 154.