

LOC orders are the only order types that must be executed at the Exchange closing price or not at all. Amex believes that restricting the use of the "M" modifier to executions of MOC and LOC orders would ensure that the closing price in the Exchange auction market accurately reflects buy and sell interest at the close.

In connection with dissemination of the "M" modifier, between 4:15 p.m. and 4:25 p.m. each trading day, an Exchange Floor Supervisor would review each Nasdaq transaction appearing on the tape at or after 4:00 p.m. to determine if that trade involved the execution of MOC/LOC orders. As the Exchange's systems are programmed to capture as "M" all Nasdaq transactions which appeared on the tape at or after 4:00 p.m. the Exchange Floor Supervisor would correct the list by removing all such trades not involving the execution of MOC/LOC orders to ensure that an "M" is disseminated only when the Amex closing price is the result of execution of MOC or LOC orders. By 4:25 p.m., Amex would finalize and complete dissemination of AOCF prices with the "M" modifier to the Nasdaq UTP Processor. At 4:30 p.m., the Processor would disseminate a closing trade recap message with the final AOCF prices. The 4:30 p.m. dissemination would be implemented as part of an enhancement to the Processor implemented on September 15, 2003.

In order to ensure that transactions reported by specialists at or after 4:00 p.m. that are not the result of executions of MOC or LOC orders are not reported as the AOCF with the "M" modifier, the Exchange would require Nasdaq UTP specialists to notify an Amex Floor Supervisor between 4:00 p.m. and 4:15 p.m. whenever the specialist (1) reports a trade at or after 4:00 p.m. that does not involve the execution of MOC/LOC orders, or (2), after reporting an MOC/LOC transaction(s) at or after 4:00 p.m., reports a trade after 4:00 p.m. (e.g., report of a "sold" sale) that is, of course, not a transaction involving the execution of MOC or LOC orders. This notification would be on an Exchange-approved form, with a duplicate copy for the specialist's records.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act,²¹ in general, and Section 6(b)(5),²² in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of

trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, as amended, or
- B. institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be

available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2003-21 and should be submitted by December 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48814; File No. SR-Amex-2003-96]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Revise Its Registration Fees

November 20, 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 November 13, 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 has designated this proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. 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 American Stock Exchange LLC proposes to revise its registration fees. The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Floor Fees and Booth Rental Fees. No change.

Member Fees. No change.
Registration and IDC Fees

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).