

Number of Traders on Parity (or Signed on to Auto-Ex or Quick Trade)	Approximate Percentage of Option Contracts (or Number of Trades on Auto-Ex or Quick Trade) Allocated to the Specialist	Approximate Percentage of Option Contracts (or Number of Trades on Auto-Ex or Quick Trade) Allocated to the Traders (as a group)
1 .....	60%	40%
2 .....	40%	60%
3 or more .....	30%	70%

The revised percentages for options on ETFs, Trust Issued Receipts, and Indexes are set forth below:

Number of Traders on Parity (or Signed on to Auto-Ex or Quick Trade)	Approximate Percentage of Option Contracts (or Number of Trades on Auto-Ex or Quick Trade) Allocated to the Specialist	Approximate Percentage of Option Contracts (or Number of Trades on Auto-Ex or Quick Trade) Allocated to the Traders (as a group)
1 .....	60%	40%
2 .....	40%	60%
3-7 .....	30%	70%
8 or more .....	25%	75%

As discussed more fully in Amex's recently approved proposal to codify these percentages, the Exchange believes that it is appropriate to provide a greater participation to specialists since they have responsibilities and are subject to certain costs that registered options traders do not have. Specifically, some of these additional responsibilities and costs include paying for order flow, the fixed staffing costs committed to market making in a particular security whether it is actively traded or not, and the costs associated with participating in educational and marketing functions to attract order flow. However, for those options classes in which the Exchange has a payment for order flow program that collects a fee from registered options traders for the products set forth above, the allocation percentages will revert back to the percentages currently set forth in Amex Rule 933(h)(ii) and Commentaries .06(i)(B) and .07(ii) of Amex Rule 950(d). Finally, the Exchange is taking the opportunity to correct the paragraph reference in Amex Rule 933 from (d) to (h).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

section 6(b) of the Act<sup>9</sup> in general and furthers the objectives of section 6(b)(5) of the Act<sup>10</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

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

The Exchange believes that the proposed rule change will impose no 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.

## 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 Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change 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 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-Amex-2003-44. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 the filing will also be available for inspection and copying at the principal offices of Amex. All submissions should be submitted by January 21, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48995; File No. SR-Amex-2003-102]

### 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 Extend on a Six-Month Pilot Basis the Exchange's Odd-Lot Execution Procedures Applicable to Trading in Nasdaq Securities

December 24, 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 November 21, 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. On December 23, 2003, the Amex amended the proposed rule change.<sup>3</sup> The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See letter from Eric Van Allen, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 23, 2003, replacing Form 19b-4 in its entirety ("Amendment No. 1").

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).