

believes that the experience of the NYSE demonstrates that with respect to all specialists there is no need to go so far as to preclude even the public identification of a particular firm as the specialist in particular securities.

#### IV. Discussion

The Commission finds that the Amex's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>10</sup> In particular, and for the reasons set forth below, the Commission believes that the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general to protect investors and the public interest.<sup>11</sup> The proposal also is consistent with the Section 6(b)(8) requirement that an Exchange have rules that do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.<sup>12</sup>

The Commission believes that the Amex's proposal to lift the prohibition against "popularizing" an option or equity derivative security and to lift the prohibition that prevents an equity or options specialist from identifying itself as a specialist in its assigned securities is appropriate and will make the Amex's rules consistent with those that are applicable on other exchanges.

The Commission believes that Amex's rules relating to dealings and communications by specialists with regard to their speciality securities (and in the case of options or equity derivatives specialists, the underlying securities related to their speciality securities), continue to adequately address and prohibit inappropriate conduct in this area. Notably, the Amex will leave in place the restriction against popularizing the underlying security, subject to the exceptions contained in Amex Rule 950. Moreover, all options specialists will remain subject to the rules regulating the conduct and public communications of members generally (e.g. Exchange Rule 991, the "options advertising" rule). In addition, all other restrictions applicable to specialists and their affiliates will remain in place. Thus, specialists and their affiliates still will be prohibited from trading a specialist security outside the specialist function (Rules 170(e) and 950(n)),

holding or granting an option on a speciality stock (Rule 175), engaging in a material business transaction with either the issuer of a speciality security or the underlying security in the case of options (Rules 190(a) and 950(k)), and accepting orders from the issuer of a speciality security, its insiders and enumerated institutional investors (Rules 190(b) and 950(k)).<sup>13</sup>

The Commission also believes that the established restrictions on material business transactions entered into by an equity derivative specialist and the issuer of the security underlying the equity derivative are reasonably designed to prevent a potential conflict of interest.<sup>14</sup>

#### V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>15</sup> that the proposed rule change (SR-Amex-95-54) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

Jonathan G. Katz,  
Secretary.

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### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Incorporated Relating to Distribution of Interim Reports to Both Registered and Beneficial Shareholders

March 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on March 18, 1996, the Boston Stock Exchange, Incorporated ("BSE" or "Exchange")

<sup>13</sup> Exchange Rule 193 permits the affiliates of specialists to obtain an exemption from most specialist restrictions through the use of an Exchange-approved "Chinese wall."

<sup>14</sup> Absent these restrictions, a conflict of interest could arise between the equity derivative specialist's market making obligations and any status he or she might attain through business dealings with the issuer or an officer, director, or 10% stockholder of any such company. The Commission recognizes that certain business transactions between equity derivative specialists and issuers may exert an improper influence over equity derivative specialists. The Commission believes, however, that a specialist may engage in certain nonmaterial business dealings with an issuer that would not give rise to the potential conflict of interest described above.

<sup>15</sup> 15 U.S.C. § 78s(b)(2).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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 self-regulatory organization. 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 Exchange seeks to amend its rules to provide that corporations that distribute interim financial reports to shareholders should distribute such reports to both registered and beneficial shareholders. The text of the proposed rule change is available at the Exchange and the Commission.

#### 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 self-regulatory organization 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 III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

The purpose of the proposed rule change is to ensure equal treatment of record and beneficial shareholders in the distribution of interim financial reports. It is based on the findings and recommendations of the Securities Industry Association.

###### 2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

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

The proposed rule change will impose no burden on competition.

<sup>10</sup> 15 U.S.C. § 78f(b).

<sup>11</sup> 15 U.S.C. § 78f(b)(5).

<sup>12</sup> 15 U.S.C. § 78f(b)(8).

*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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-BSE-96-02 and should be submitted by [insert date 21 days from date of publication].

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>1</sup> The Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed 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 national market system, and, in general, to protect investors and the public.

Although the Commission does not require public companies to distribute

interim reports to shareholders,<sup>2</sup> the Commission believes that it is appropriate for the Exchange to encourage its listed companies to provide equal treatment of record and beneficial shareholders in the distribution of reports. Moreover, the BSE's rule change reflects the results of the compromise reached by various industry groups with regard to distribution of interim reports. The Commission believes the BSE's adoption of this industry policy should help create uniformity in the practices of BSE-listed companies with respect to their distribution of interim financial reports.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. The Commission believes that accelerated approval is appropriate given the prior approval of similar proposals by the NYSE, Amex, and the PSE<sup>3</sup> and because the accelerated approval will allow the Exchange to encourage equal distribution of interim reports to record and beneficial shareholders as soon as practicable.

Based on the above, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act, to accelerate approval of the amended proposed rule change.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> that the proposed rule change (SR-BSE-96-02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Jonathan G. Katz,

Secretary.

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<sup>2</sup> The interim reports that are the subject of the BSE's rule change are not the quarterly financial reports required to be filed with the Commission on Form 10-Q pursuant to the Commission's authority under Sections 13(a) and 15(d) of the Securities Exchange Act of 1934. See 15 U.S.C. §§ 78m(a) and 78o(d) (1988). The reports are voluntarily prepared and published by companies as part of their shareholder relations activities.

<sup>3</sup> See Securities Exchange Act Release Nos. 35373 (Feb. 14, 1995), 60 FR 9709 (Feb. 21, 1995); 36541 (Nov. 30, 1995), 60 FR 62921 (Dec. 7, 1995); 36916 (Mar. 4, 1996), 61 FR 9515 (Mar. 8, 1996).

<sup>4</sup> 15 U.S.C. § 78s(b)(2).

<sup>5</sup> 17 CFR 200.30-3(a)(12).

[Release No. 34-37023; File No. SR-NYSE-96-01]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Amending Exchange Rule 460.10

March 25, 1996.

#### I. Introduction

On January 5, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), 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> the proposed rule change, and on February 26, 1996, submitted Amendment No. 1 to the proposed rule change,<sup>3</sup> to amend Exchange Rule 460.10 to modify certain prohibitions on the ownership by specialists of their specialty securities and to amend provisions that limit the business transactions specialists may engage in with the issuers of specialty securities.

The proposed rule change was published for comment in Securities Exchange Act Release No. 36904 (Feb. 28, 1996), 61 FR 8998 (Mar. 6, 1996). No comments were received on the proposal.

#### II. Background

NYSE Rule 460.10 prohibits a specialist, his or her member organization or any other member, allied member or approved person in such member organization or officer or employee thereof, individually or in the aggregate, from acquiring more than 10% of the outstanding shares of any equity security in which the specialist is registered. In the event the beneficial ownership of such persons, individually or in the aggregate, in any such security exceeds 5% of the outstanding shares of such security, Rule 460.10 also requires the specialist or his or her member organization to report such fact promptly to Market Surveillance. In such event, Market Surveillance may require any of the persons covered by Rule 460.10 to take appropriate action to either dispose of such beneficial ownership or reduce or eliminate his or her interest in the specialist organization, as may be acceptable to the Exchange. Rule 460.10 also prohibits a specialist, his or her member organization or any other member,

<sup>1</sup> 15 U.S.C. § 78s(b)(1).

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

<sup>3</sup> See letter from Donald Siemer, Director, Market Surveillance, NYSE to Glen Barrentine, Team Leader, Division of Market Regulation, SEC, dated February 23, 1996.

<sup>1</sup> 15 U.S.C. § 78(b).