sophisticated surveillance systems backed by extensive staff resources for reviewing trading by its members. These facilities were unavailable and inconceivable at the beginning of the century. At that time, the coarse approach of allowing one party to a trade to renege if the executing specialist acted both as agent and principal may have created an appropriate ''in terrorem'' effect. Today, however, a discretionary and unchecked unilateral right of rescission is excessive.

The Philadelphia Stock Exchange (''Phlx'') amended its rules in 1993 to permit rescission of options trades only when the cancellation is approved in writing by a floor official, ''for good cause shown.'' [7] The Exchange's proposed rule change is based upon the Phlx's 1993 amendment to its rules.

The Amex rule that permits a party to an Exchange contract to break it, even though the execution may have been consistent with the market at the time of trade, interjects an element of financial risk into the market. This risk is magnified in the context of options due to the leverage of these securities. In the Exchange's view, the risk of financial instability created by giving persons an unfettered right to cancel trades merely because the executing specialist acted both as principal and agent outweighs whatever residual benefits the Rule may have. The Exchange, moreover, is not proposing to eliminate a member's ability to rescind a trade where the specialist may have acted inappropriately. The proposed rule change simply aims at eliminating the unchecked right to break trades due to the capacity in which the specialist acted.

Under the proposal, a member seeking to break an equity or option trade [8] must first obtain written Floor Official approval. The member seeking the rejection must show good cause for the Floor Official to form the belief that the execution was inconsistent with the specialist's responsibility to maintain a fair and orderly market. For example, assume the market is 9 to 9¼, 1,000 by 1,000, and the specialist holds a sell stop order for 800 shares with an electing price of 9. Assume that the specialist sells 1,000 shares for its principal account at 9, and then executes the sell stop order at 8¾, buying 800 shares for its account. In this circumstance, it would be appropriate to break the trade at 8¾ since, when a specialist's trade elects a stop, the specialist is required to fill the stop order at the price of the electing transaction (in this case at 9).[9] The Exchange believes that the proposal appropriately limits the financial risk of specialists that provide liquidity to investors by acting as principal while maintaining the ability of members to break trades where the specialist acts inconsistently with his or her obligations.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [10] in general and furthers the objectives of Section 6(b)(5) [11] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investor and the public interest. Moreover, the Exchange contends that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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 self-regulatory organization 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. 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 in Washington, DC. 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–Amex–99–23 and should be submitted by October 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–24498 Filed 9–20–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41870; File No. SR–Amex–99–29]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by American Stock Exchange LLC Relating to Disclosures by Specialists Under Amex Rule 174

September 13, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit

[7] *See* Securities Exchange Act Release No. 32922 (September 17, 1993), 58 FR 50062 (September 24, 1993) (amending Phlx Rule 1019, Commentary .05) and Amendment No. 1, *supra* note 3 (interpreting the rules of the other exchanges).

[8] *See* Amendment No. 1, *supra* note 3.

[9] *Id.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 proposes to amend Amex Rule 174 relating to disclosures by specialists. The text of the proposed rule change is as follows (brackets indicate deletions from current Amex Rule 174 and italics indicate new language):

* * * * *

Disclosures by Specialists [Prohibited]

Rule 174. (*a*)[No] *A* member acting as a specialist [shall, directly or indirectly, at any time] *may* disclosure [to any person other than a Floor Official or authorized official of the Exchange any] information in regard to orders entrusted to [him as a] *the* specialist *as provided in this rule*. [except that]

[a](*b*) [w]*W*hen requested by a member, member organization, or a representative of the issuer of the security involved, the specialist may disclose to such parties the names of buying and selling member organizations in either completed or partially executed Exchange transactions unless specifically directed to the contrary by the parties involved[;].

[b](*c*) *While acting in a market making capacity, the specialist* may in response to an inquiry from a member conducting a market probe in the normal course of business provide *any* information about buying or selling interest in the market [at or near the prevailing quotation and such information] *which* may include the identity of bidders or offerors represented on his book unless the specialist has been expressly directed to the contrary by the broker who entered the order with the specialist *and may also include information regarding stop orders if the specialist has a reasonable basis to believe that the member intends to trade the security at a price at which stop orders would be relevant*, provided that the specialist shall, *while on the Floor*, make the same information available in a fair and impartial manner to any member [who shall so inquire], and provided further that the specialist, when requested, shall disclose whether a bid or offer is in whole or in part for an account in which he has a direct or indirect interest[; and].

[c](*d) The specialist* shall disclose information in regard to limited price orders entrusted to him as a specialist to the extent required by the Plan provided for in Rule 230. [In any such case, the specialist shall at the same time make the information so disclosed available to all members.] The provision of the Plan shall not be construed to require a specialist to disclose the name of a bidder or offeror whose order is contained in the specialist's book.

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 aspects of such statements.

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

(1) Purpose

Presently, Amex Rule 174 prohibits specialists from disclosing information regarding orders left with the specialist other than to a Floor Official or an authorized Amex official. This prohibition is subject to three exceptions: (1) a specialist may disclose information to requesting members or issuer representatives regarding names of buying and selling member organizations in completed or partially executed Amex transactions unless parties to the trade direct otherwise; (2) in response to a member's probe of the market, the specialist, in a fair and impartial manner, may provide information about buying and selling interest at or near the prevailing quotation, including the identity of bidders or offerors represented on the book, unless the entering broker directs otherwise; and (3) the specialist must disclose information regarding limited price orders held by the specialist to the extent required by the Intermarket Trading System Plan.

The Exchange proposes to amend Amex Rule 174 to expand the information that the specialist, while acting in a market making capacity on the Floor, is permitted to disclose following a market probe by a member in the normal course of business. These amendments will promote market transparency by permitting additional disclosure of away-from-the-market information. Specifically, the amendment will strike the requirement that only information regarding orders ''at or near the prevailing quotation'' may be disclosed. Instead, the rule will permit any information concerning buying and selling interest of orders held by the specialist on the specialist's book to be disclosed following a member's market probe. In addition, the specialist will be permitted to disclose information regarding stop orders if the specialist reasonably believes that the requesting member intends to trade the security at a price at which stop orders would be relevant (for example, if stop orders would be triggered if a proposed trade occurred at a certain price).[3] The proposed rule change would also permit disclosure of percentage orders in a manner similar to disclosure of any other orders (except stop orders).[4]

The Exchange notes that the specialist is not required to provide any such information in response to a probe, either under the existing or the proposed rule. However, if the specialist determines to make such disclosure, the same information must be made available in a fair and impartial manner to any member while on the Floor.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is 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.

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.

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[3] A stop order to buy (sell) becomes a market order when a transaction in the security occurs at or above (below) the stop price after the order is represented in the Trading Crowd. A stop limit order to buy (sell) becomes a limit order executable at the limit price or better when a transaction occurs at or above (below) the stop price after the order is represented. See Amex Rule 131(q) and (r) respectively

[4] A percentage order is a limited price order to buy or sell 50% of the volume of a specified stock after its entry. A percentage order is ''elected'' and becomes capable of execution under circumstances set forth in Amex Rule 131.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

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, 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, N.W., Washington, D.C. 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–99–29 and should be submitted by October 12, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

[FR Doc. 99–24499 Filed 9–20–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41872; File No. SR–CBOE–99–37]

September 13, 1999.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., To Establish a Membership Ownership Requirement and Assess a Capitalization Transfer Fee Applicable to Designated Primary Market Makers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on July 9, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On July 13, 1999, the Exchange submitted Amendment No. 1 to the proposed rule change.[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 CBOE proposes to require each Exchange designated primary market maker (''DPM'') to own at least one Exchange membership and to assess a transfer fee on any DPM that is allocated, after June 29, 1999, one or more option classes that has been traded on CBOE or another exchange before June 29, 1999, if that DPM undergoes a change in its capitalization during the five year period following the allocation of the pre-June 29, 1999 option class.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at 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 CBOE 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 CBOE has prepared summaries, set for 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 Exchange is proposing two rule changes applicable to DPMs. These rule changes are part of the Exchange's initiative to expand its DPM program to allow for the appointment of DPMs in most, if not all, equity option classes traded on the Exchange. This initiative was approved in principle by the Exchange's membership as part of a membership vote that was held on June 29, 1999.

a. Requirement That DPM Own an Exchange Membership

The Exchange proposes to require that each DPM own at least one Exchange membership. An Exchange membership would include a transferable regular membership of the Exchange or a Chicago Board of Trade (''CBOT'') full membership that has effectively been exercised pursuant to Article Fifth(b) of the CBOE Certificate of Incorporation.[4] A DPM would be deemed to satisfy this ownership requirement if the DPM or a senior principal of the DPM owned an Exchange membership. In addition, no single Exchange membership could be used to satisfy this ownership requirement for more than one DPM. DPMs would be given 18 months from the effective date of this proposed rule change to satisfy the requirement.

The purpose of this ownership requirement is to assure that DPMs have a long-term commitment to the Exchange given the important functions they perform and to recognize that DPMs are a pivotal component of the Exchange's marketplace.

b. Assessment of Transfer Fee

The Exchange is also proposing to assess a transfer fee on certain DPMs that change their capitalization during a defined five-year period. This transfer fee would only be assessed on those

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Arthur B. Reinstein, Assistant General Counsel, CBOE, to Kelly Riley, Attorney, Division of Market Regulation, SEC, dated July 12, 1999 (''Amendment No. 1''). In Amendment No. 1, the Exchange re-designated the rule change as amendments to current CBOE Rule 8.80. The original filing amended proposed rules that are currently pending with the Commission and not approved as of the time of this filing.

[4] Pursuant to Article Fifth(b) of the Certificate of Incorporation and CBOE Rule 3.16(c), any member of the CBOT who is an Eligible CBOT Full Member or an Eligible CBOT Full Member Delegate is entitled to become a member of CBOE. Any eligible CBOT member who has effectively exercised this entitlement to be a CBOE member is referred to as a CBOT exerciser member of CBOE.