participate in any way in the creation of any Series or the selection of its stocks.

4. The securities deposited in each Series will be chosen solely according to the formula described above, and will not necessarily reflect the research opinions or buy or sell recommendations of the Sponsor. The Sponsor is authorized to determine the date of deposit, to purchase securities for deposit in the Series, and do supervise each Series' portfolio. The Sponsor will have no discretion as to which securities are purchased. Securities deposited in a Series may include securities of securities related issuers.

5. The portfolios of the Series will not be actively managed. Sales of portfolio securities will be made in connection with redemptions, for payment of expenses, and at termination of the Series on a date specified a year in advance. The Sponsor does not have discretion as to when securities will be sold except in extremely limited circumstances, such as a default in the payment of any outstanding obligation, a decrease in the price of a security, or other credit factors so that, in the opinion of the Sponsor, the retention of the securities would be detrimental to the Series.

Applicant's Legal Analysis

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 thereunder exempts the purchase of securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested to more than 5% of the value of its total assets in securities of the issuer.

2. Section 6(c) of the Act provides that the SEC may exempt any person, transaction, or class of transactions from any provision of the Act or any rule thereunder, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the provision of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicant requests an exemption under section 6(c) from section 12(d)(3) to permit a Strategic Five Series to invest up to approximately 20%, but in no event more than 20.5%, of the value of its total assets in securities of a securities related issuer, and to permit a Strategic Ten Series to invest up to 10%, but in no event more than 10.5%, of the value of its total assets in securities of a securities related issuer. Each Series will comply with all of the conditions of rule 12d3–1, except the condition prohibiting an investment company from investing more than 5% of the value of its total assets in securities of a securities related issuer.

4. Section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses, to prevent potential conflicts of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicant believes that this concern does not arise in connection with its application because neither the Series nor the Sponsor has discretion in choosing the portfolio securities or amount purchased. The security must first be included in the appropriate Index, each of which is unaffiliated with the Sponsor and the applicant. In addition, with respect to the Strategic Five Series, each security must also qualify as one of the five stocks with the second through the sixth lowest dollar per share stock price of the ten highest dividend yielding stocks in the relevant Strategic Five Index. With respect to the Strategic Ten Series, the securities must also qualify as one of the ten highest dividend yielding securities in the relevant Strategic Ten Index.

5. Applicant also believes that the effect of a Series' purchase on the stock of parents of broker-dealers would be *de minimis*. The common stocks of securities related issuers represented in the Indexes are widely held, have active markets, and that potential purchases by any Series would represent an insignificant amount of the outstanding common stock and trading volume of any of these issues. Accordingly, applicant believes it is highly unlikely that purchases of these securities by a Series would have any significant impact on the market value of such securities.

6. Another potential conflict of interest could occur if an investment company directed brokerage to a broker-dealer in which the company has invested to enhance the profitability of the broker-dealer or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicant agrees, as a condition of this application, that no company held in the portfolio of a Series, nor any affiliate thereof, will act as a broker for any Series in the purchase or sale of any security in its portfolio. In light of the above, applicant believes that its proposal meets the section 6(c) standards.

Applicant's Condition

Applicant agrees that the requested exemptive order may be conditioned upon no company held in the portfolio of a Series, nor any affiliate thereof, acting as broker for any Series in the purchase or sale of any security for the Series' portfolio.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–18994 Filed 7–25–96; 8:45 am]

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[Release No. 34–37458; File No. SR–Amex–96–13]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change Relating to Amendments to Rule 117 (Trading Halts Due to Extraordinary Market Volatility)

July 19, 1996.

I. Introduction

On April 11, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its circuit breaker rules.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37146 (Apr. 26, 1996), 61 FR 19650 (May 2, 1996).[3]

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

[2] 17 CFR 240.19b–4.

[3] The Commission has received one comment letter specifically addressing the Amex proposal as well as the identical rule proposal of the New York Stock Exchange (''NYSE''). *See* Letter from Joseph R. Hardiman, President, National Association of Securities Dealers, to Jonathan G. Katz, Secretary, SEC, dated May 23, 1996. The Commission has also received three additional comment letters on the NYSE's proposal. *See* Letter from William R. Rothe, Chairman, and John L. Watson III, President, Security Traders Association, to Jonathan G. Katz, Secretary, SEC, dated May 10, 1996; Letter from Peter W. Jenkins, Chairman, and Holly A. Stark, Vice Chairman, Securities Traders Association's Institutional Committee, to Jonathan G. Katz, Secretary, SEC, dated May 17, 1996; Letter from

Continued

On July 10, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change, including Amendment No. 1 on an accelerated basis.

II. Description of Proposal

Currently, Amex Rule 117 provides that if the Dow Jones Industrial Average (''DJIA'')[5] falls 250 or more points below its previous trading day's closing value, trading in all stocks on the Exchange will halt for one hour. It further provides that, if on the same day the DJIA drops 400 or more points from its previous trading day's close, trading on the Exchange will halt for two hours.

Moreover, Commentary .03 to Amex Rule 117 provides that if the 250-point trigger is reached during the last hour, but before the last half-hour, of trading, or if the 400-point trigger is reached during the last two hours, but before the last hour, of trading, the Exchange may use abbreviated reopening procedures either to permit trading to reopen before 4:00 p.m. or to establish closing prices. Current Commentary .03 to Amex Rule 117 further provides that if the 250-point trigger is reached during the last half-hour, or if the 400-point trigger is reached during the last hour, the Exchange shall not reopen for trading on that day.[6]

With the proposed rule change, the Exchange proposes to revise its circuit breaker rules so that the time periods for halting trading when the 250-point or 400-point level is triggered would be shortened from one hour and two hours to one-half hour and one hour, respectively.[7] The Exchange believes the proposed amendments are an appropriate, measured response to the significant technological progress made by the securities markets and the broker-dealer community since 1988 in efficiently accommodating large order imbalances that may occur under volatile market conditions. The Exchange believes that the shortened time periods should now provide sufficient opportunity for market participants to evaluate market conditions and avoid unnecessary delays in resumption of trading.

With respect to Commentary .03, in its original proposal, the Exchange proposed to replace the provision with an amendment, which would provide that if the 250-point trigger is reached during the last half-hour of trading, or if the 400-point trigger is reached during the last hour of trading, the Exchange may use abbreviated reopening procedures to establish new last sale prices.[8] Subsequently, the Exchange filed Amendment No. 1 to eliminate the proposed provision for the abbreviated reopening procedures to establish new last sale prices if trigger values are reached in the last one-half hour or hour of trading.[9] Therefore, the Exchange now proposes to delete the current provision in Commentary .03 without adding new language.

III. Discussion

After careful review of the Exchange's proposed amendments to the circuit breaker rules and for the reasons discussed below, the Commission believes 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).[10] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed 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.

In 1988, the Commission approved the Exchange's circuit breaker proposal, along with those of the other securities exchanges and the National Association of Securities Dealers (''NASD''), because the Commission believed that the circuit breaker rules proposed would help promote stability in the equity and equity-related markets by providing for an enhanced opportunity for market participants to assess information during times of extreme market movements.[11] The proposals, in part, were in response to the events of October 19, 1987, when the DJIA declined 22.6%. The Commission believed that the circuit breaker proposals would provide market participants with an opportunity during a severe market decline to reestablish an equilibrium between buying and selling interest in a more orderly fashion. The futures exchanges also adopted analogous trading halts to provide coordinated means to address potentially destabilizing market volatility.[12]

Since the implementation of the circuit breakers, the DJIA has risen significantly. The 250 point and 400 point triggers, which represented 12% and 19% of the DJIA when implemented, now represent 4.5% and 7% of the DJIA. The Exchange and members of the industry have continued to study the circuit breaker rules and to consider the possible effects of triggering the current circuit breakers in light of the rise in the DJIA since their implementation.

While the Exchange evaluates the need to change the circuit breaker trigger levels, the Commission believes, in the near term, it is reasonable for the Exchange to shorten the length of the trading halts. The Exchange believes and the Commission agrees that, with advances in technology and increases in

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Paul Schott Stevens, Senior Vice President and General Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated May 23, 1996. Because the NYSE's proposal is identical to that of Amex, issues raised in these comment letters apply equally to both rule proposals. The comment letters are summarized in the Commission's NYSE order and the Commission's discussion in the NYSE order is applicable to this order. *See* Securities Exchange Act Release No. 37457 (July 19, 1996) (approving NYSE's proposal to shorten the periods for halting trading when circuit breakers levels are triggered).

[4] *See* letter from Geraldine M. Brindisi, Vice President and Corporate Secretary, Amex, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated July 9, 1996 (''Amendment No. 1''). For a description of Amendment No. 1, *see infra* note 9 and accompanying text.

[5] ''Dow Jones Industrial Average'' is a service mark of Dow Jones & Company, Inc.

[6] Amex Rule 117 was approved by the Commission on a pilot basis on October 19, 1988 and has been extended annually since then, with the most recent extension expiring on October 31, 1996. The Exchange proposes to adopt amendments to Amex Rule 117 to coincide with the year-to-year pilot program. *See* Securities Exchange Act Release Nos. 26198 (Oct. 19, 1988), 53 FR 41637 (Oct. 24, 1988); 36414 (Oct. 25, 1995), 60 FR 55630 (Nov. 1, 1995).

[7] The Exchange has represented to the Commission that it will use the intermarket telecommunications system known as Information Network for Futures, Options, and Equities (''INFOE'') system as well as the Consolidated Tape to announce the precise time when the circuit breaker thresholds are reached. Telephone conversation between Michael Cavalier, Assistant General Counsel, Amex, and Jennifer S. Choi, Attorney, Division of Market Regulation, SEC, on July 9, 1996.

[8] In conjunction with its proposal for abbreviated reopening procedures, the Exchange proposed to amend Amex Rule 1 to provide that the 9:30 a.m. to 4:00 p.m. trading session may be extended to permit closing transactions pursuant to Rule 117. *See* Securities Exchange Act Release No. 37146 (Apr. 26, 1996), 61 FR 19650 (May 2, 1996).

[9] The Exchange also withdrew from the proposed rule change amendments to Rule 1 because the abbreviated reopening procedures are no longer being proposed in the rule filing. *See* Amendment No. 1, *supra* note 4.

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

[11] *See* Securities Exchange Act Release No. 26198, *supra* note 6.

[12] *See* Letter from Todd E. Petzel, Vice President, Financial Research, Chicago Mercantile Exchange (''CME''), to Jean A. Webb, Secretary, Commodity Futures Trading Commission (''CFTC''), dated September 1, 1988. *See also* letters to Jean A. Webb, Secretary, CFTC, from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade (''CBT''), dated July 29, 1988; Michael Braude, President, Kansas City Board of Trade (''KCBT''), dated August 10, 1988; and Milton M. Stein, Vice President, Regulation and surveillance, New York Futures Exchange (''NYFE''), dated September 2, 1988.

the operational capacity of the markets, the current length of the trading halts may not be necessary for market participants to become aware of and respond to significant price movements. The shorter time periods proposed by the Exchange for halting all trades should be sufficient to allow market participants to evaluate and act on changing market conditions without unduly constraining market activities.[13] Nevertheless, the Commission encourages the Exchange and members of the industry to continue to evaluate the trigger levels for the trading halts in light of the changing circumstances of the markets since 1988.[14]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Exchange's original proposal was published in the Federal Register for the full statutory period [15] and Amendment No. 1, which deletes the provision in the proposal that provides for an abbreviated reopening session, was submitted in response to the comments received.[16] Moreover, the Commission believes that deleting this provision is appropriate where the details of such a session were not fully developed and might have created confusion on the Exchange or among the various equities and futures markets during times of extreme volatility. 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.

The Commission also believes that the circuit breaker mechanisms must be coordinated across the U.S. equity, futures and options markets to be effective in times of extreme proposal will become effective on July 22, 1996, which will also be the effective date of the amended rules of the other markets, so that the circuit breaker trading halts will continue to be coordinated among the different markets.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. 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–Amex–96–13 and should be submitted by August 16, 1996.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–96–13) is approved and effective on July 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

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[13] The Commission also believes that shortening the length of the trading halts does not need to be delayed pending the resolution of any other circuit breaker issues. While an examination of the broader issue of raising the circuit breaker triggers may be warranted, the trading halt periods should be shortend irrespective of the level of the trigger points. *See* Securities Exchange Act Release No. 37457, *supra* note 3 (some comment letters discuss other circuit breaker issues that are not directly involved in the specific proposal before the Commission).

[14] To coordinate trading halts across all securities and futures markets, the regional and futures exchanges have submitted amendments to their circuit breaker rules. For more detail on the specifics of these proposals, *see* Securities Exchange Act Release No. 37459 (July 19, 1996); Letter from Norman E. Mains, Senior Vice President, Chief Economist, and Director of Research, CME, to Jean A. Webb, Secretary, Commodity Futures Trading Commission, dated July 5, 1996. The NASD's Policy Statement on Market Closings state that the NASD will, upon the request of the Commission, act to halt domestic trading in all securities quoted on the Nasdaq system and domestic trading in equity or equity-related securities in the over-the-counter market. The Commission notes that it has a standing request with the NASD to halt trading as quickly as practicable whenever the NYSE and other equity markets have suspended trading. The Amex's and NYSE's proposed rule change does not affect the Commission's standing request. *See* Letter from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, to Howard, to Howard Kramer, Associate Director, SEC, dated July 18, 1996.

[15] *See* Securities Exchange Act Release No. 37146, *supra* note 8.

[16] For a detailed discussion about the comments received, *see* Securities Exchange Act Release No. 37457, *supra* note 3.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

[Release No. 34–37460; File No. SR–Amex–96–21]

Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Dissemination of Indications in Connection With Circuit Breaker Trading Halts Under Rule 117

July 19, 1996.

I. Introduction

On June 17, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to implement guidelines for dissemination of indications to the consolidated tape in connection with the resumption of trading following a ''circuit breaker'' trading halt pursuant to the Amex's Rule 117.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37356 (June 24, 1996), 61 FR 33786 (June 28, 1996). No comments were received on the proposals.[3]

II. Description of the Proposal

The Exchange proposes to implement guidelines for the mandatory dissemination of indications to the consolidated tape in connection with the resumption of trading following a ''circuit breaker'' halt pursuant to its Rule 117.[4] The purpose of the proposed criteria is to provide guidance to the Exchange's specialists as to the specific

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

[2] 17 CFR 240.19b–4.

[3] The Commission notes that the comment period ends on July 19, 1996, and that as of yet, no comments have been received.

[4] The Commission notes that Rule 117—the Exchange's ''circuit breaker'' rule—provides that trading in securities on the Exchange shall halt (a ''Rule 117 halt'') and not reopen for one hour if the Dow Jones Industrial Average (''DJIA'') falls 250 points or more below its closing value on the previous trading day. The rule provides further that trading on the Exchange shall halt for two hours if the DJIA falls 400 points or more on that same day. Rule 117 was approved by the Commission on a pilot basis on October 17, 1988 and has been extended annually since then. *See* Securities Exchange Act Release No. 36414 (Oct. 25, 1995), 60 FR 55630 (Nov. 1, 1995) (Commission's most recent order extending temporary approval of Rule 117).

The Amex has filed a proposal to amend Rule 117 to reduce from one hour to thirty minutes the time period during which trading is halted due to a decline in the DJIA of 250 points below its closing value on the previous trading day, and to reduce from two hours to one hour the time period for a halt due to a 400 points decline in the DJIA. *See* Securities Exchange Act Release No. 37146 (April 26, 1996), 61 FR 19650 May 2, 1996).