HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 28, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1285 Avenue of the Americas, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Staff Attorney (202) 942–0562, or Mercer E. Bullard, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representation

1. Applicant is an open-end management investment company, organized as a Maryland corporation. On June 6, 1979, applicant filed a Notification of Registration under the Act and a Registration Statement under the Act and Securities Act of 1933, which became effective on August 17, 1979. Applicant's initial public offering of shares commenced thereafter. On January 30, 1995, applicant's name was changed from ''Kidder, Peabody Cash Reserve Fund, Inc.'' to its current name.

2. On July 20, 1995, the Board of Trustees of applicant (''Board'') adopted resolutions approving an Agreement and Plan of Reorganization and Dissolution (''Plan'') between applicant and PaineWebber RMA Money Fund, Inc. (''PW Corporation''), on behalf of its series, PaineWebber RMA Money Market Portfolio (''PW Fund''). Pursuant to rule 17a–8 under the Act,[1] applicant's Board determined that the proposed reorganization was in the best interests of applicant and that the interests of its securityholders would not be diluted as a result of the reorganization. The Board considered the following factors: compatibility of investment objectives, policies and restrictions; the effect of the reorganization on the expense ratio of PW Fund relative to its and applicant's current expense ratios; possible alternatives to the reorganization, including continued operation on a stand-alone basis or liquidation.

3. Applicant distributed a combined prospectus and proxy statement to securityholders of applicant on or about January 5, 1996, and applicant filed definitive materials with the SEC on January 23, 1996. On February 13, 1996, the securityholders of applicant approved the Plan.

4. Pursuant to the Plan, PW Corporation, on behalf of PW Fund, acquired all right, title and interest in and to the assets of applicant in exchange for shares of common stock in PW Fund (collectively, the ''Closing Shares'') and the assumption of the liabilities of applicant. On February 20, 1996 (the ''Closing Date''), applicant distributed to its securityholders the Closing Shares of PW Fund received by applicant, in exchange for such secuityholders' holdings of applicant's shares. Also on the Closing Date, applicant paid its securityholders a dividend to distribute its investment company taxable income for the current taxable year through the Closing Date. The number of shares of PW Fund issued to applicant had an aggregate net asset value equal to the aggregate value of applicant's assets transferred to PW Fund as of the Closing Date. As of the Closing Date, there were 881,401,323 shares to applicant outstanding, having an aggregate net asset value of $881,308,148 and a per share net asset value of $1.00. The liquidation and distribution were accomplished by opening accounts on the books of PW Fund in the names of the securityholders of applicant and transferring the Closing Shares credited to the accounts of applicant on the books of PW Fund. Each such account so opened was credited with the securityholder's respective, *pro rata* number of Closing Shares. There are no securityholders of applicant to whom distributions in complete liquidation of their interests have not been made.

5. The expense incurred in connection with the Plan were approximately $65,000 for legal expenses, $100,000 for expenses of printing and mailing communications to securityholders, $304,000 for SEC registration fees, and miscellaneous accounting and administrative expenses. These expenses totalled approximately $475,000, and were borne by the applicant and PW Fund in proportion to their respective net assets. No brokerage commissions were paid in connection with the reorganization.

6. Applicant has no securityholders, assets, debts, or liabilities. Applicant is not a party to any litigation or administrative proceedings. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for winding-up of its affairs.

7. Applicant filed Articles of Transfer (''Articles'') with the Maryland State Department of Assessments and Taxation (''Department''). The Department received and approved the Articles on February 20, 1996. Applicant intends to file Articles of Dissolution with the Department.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–8932 Filed 4–7–97; 8:45 am]

BILLING CODE 8010–01–M

[1] Rule 17a–8 provides an exemption from section 17(a) of the Act for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38457; File No. S7–24–89]

Joint Industry Plan; Solicitation of Comments and Order Approving Request To Extend Temporary Effectiveness of Reporting Plan for Nasdaq/National Market Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., and the Boston, Chicago and Philadelphia Stock Exchanges

March 31, 1997.

On March 27, 1997, the National Association of Securities Dealers, Inc., on behalf of itself and the Boston, Chicago, and Philadelphia Stock Exchanges (collectively, ''Participants'')[1] submitted to the Commission a request[2] to extend the

[1] The signatories to the Plan, *i.e.*, the National Association of Securities Dealers, Inc. (''NASD''), and the Chicago Stock Exchange, Inc. (''Chx'') (previously, the Midwest Stock Exchange, Inc.), Philadelphia Stock Exchange, Inc. (''Phlx''), and the Boston Stock Exchange, Inc. (''BSE''), are the ''Participants.'' The BSE, however, joined the Plan as a ''Limited Participant,'' and reports quotation information and transaction reports only in Nasdaq/NM (previously referred to as ''Nasdaq/NMS'') securities listed on the BSE. Originally, the American Stock Exchange, Inc. (''Amex''), was a Participant to the Plan, and withdrew from participation in the Plan in August 1994.

[2] *See* letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Jonathan G. Katz,

operation of a joint transaction reporting plan (''Plan'') for Nasdaq/National Market (''Nasdaq/NM'') securities traded on an exchange on an unlisted or listed basis.[3] The proposal would extend the effectiveness of the Plan, as amended by revised Amendment No. 9,[4] through June 30, 1997. The Commission also is extending certain exemptive relief as discussed below. The 1997 Extension Request also requests that the Commission approve the Plan, as amended, on a permanent basis on or before June 30, 1997.[5] The Commission is approving the proposed amendment to the Plan insofar as the proposal requests an extension of the effectiveness of the Plan. During the three-month extension of the Plan, the Commission will determine whether to approve the proposed Plan, as amended, on a permanent basis.

I. Background

The Commission originally approved the Plan on June 26, 1990.[6] The Plan governs the collection, consolidation and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or trade on an exchange pursuant to a grant of UTP.[7] The Commission approved trading pursuant to the Plan on a one-year pilot basis, with the pilot period to commence when transaction reporting pursuant to the Plan commenced. Accordingly, the pilot period commenced on July 12, 1993, and was scheduled to expire on July 12, 1994.[8] The Plan has since been in operation on a pilot basis.[9]

II. Description of the Plan

The Joint Industry Plan provides for the collection from Plan Participants, and the consolidation and dissemination to vendors, subscribers and others of quotation and transaction information in ''eligible securities.'' [10] The Plan contains various provisions concerning the operation of the Plan, which include: Implementation of the Plan; Manner of Collecting, Processing, Sequencing, Making Available, and Disseminating Last Sale Information; Reporting Requirements (including hours of operation); Standards and Methods of Ensuring Promptness, Accuracy, and Completeness of Transaction Reports; Terms and Conditions of Access; Description of Operation of Facility Contemplated by the Plan; Method and Frequency of Processor Evaluation; Written Understandings of Agreements Relating to Interpretation of, or Participation in, the Plan; Calculation of the BBO; Dispute Resolution; Method of Determination and Imposition, and Amount of, Fees and Charges.[11]

III. Exemptive Relief

In conjunction with the Plan, on a temporary basis scheduled to expire on March 30, 1997, the Commission granted an exemption to vendors from Rule 11Ac1–2 under the Act regarding the calculation of the Best Bid and Offer (''BBO''), and granted the BSE an exemption from the provision of Rule 11Aa3–1 under the Act that requires transaction reporting plans to include market identifiers for transaction reports and last sale data. In the 1997 Extension Request, the Participants request that the Commission grant an extension of the exemptive relief described above to vendors until such time as the calculation methodology for the BBO is based on a price/size/time algorithm. In the 1997 Extension Request, the Participants also request that the Commission grant an extension of the exemptive relief described above to the BSE for so long as the BSE is a Limited Participant under the Plan.

IV. Summary of Comments

In the January 1995, August 1995, September 1995, October 1995, November 1995, December 13, 1995, December 28, 1995, March 6, 1996, March 18, 1996, September 16, 1996, and October 1, 1996 Extension Orders, the Commission solicited, among other things, comment on: (1) Whether the BBO calculation for the relevant securities should be based on price and time only (as currently is the case) or if the calculation should include size of the quoted bid or offer; [12] and (2) whether there is a need for an intermarket linkage for order routing and execution and an accompanying trade-through rule. In response, the Commission has received three comment letters regarding the issues noted at (1) and (2) above.[13]

Secretary, Commission, dated March 27, 1997 (''1997 Extension Request''). The 1997 Extension Request also requests the Commission to continue to provide exemptive relief, previously granted in connection with the Plan on a temporary basis, from Rules 11Ac1–2 and 11Aa3–1 under the Securities Exchange Act of 1934 (''Act''). *Id.*

[3] Section 12 of the Act generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits unlisted trading privileges (''UTP'') under certain circumstances. For example, Section 12(f), among other things, permits exchanges to trade certain securities that are traded over-the-counter (''OTC/UTP''), but only pursuant to a Commission order or rule. The present order fulfills this Section 12(f) requirement. For a more complete discussion of this Section 12(f) requirement, see November 1995 Extension Order, *infra* note 9, at n. 2.

[4] On March 18, 1996, the Commission solicited comment on a revenue sharing agreement among the Participants. *See* March 18, 1996 Extension Order, *infra* note 9. Thereafter, the Participants submitted certain technical revisions to the revenue sharing agreement (''revised Amendment No. 9''). *See* letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Jonathan Katz, Secretary, SEC, dated September 13, 1996. See also September 16, 1996 Extension Order, *Infra* note 9 (notice and order recognizing receipt of revised Amendment No. 9).

[5] The CHX and PHLX also request that, commensurate with permanent approval of the Plan, the number of Nasdaq/NM securities eligible for trading pursuant to the Plan be expanded to include all Nasdaq/NM securities. *See* 1997 Extension request, *supra* note 2. The NASD states that, while it recognizes the benefits from such an expansion in terms of the promotion of competition and protection of investors, it believes a wholesale expansion of Nasdaq/UTP-eligible securities to include all Nasdaq/NM securities is inseparable from an expansion of Nasdaq's Intermarket Trading System (''ITS'')/Computer Assisted Execution Service (''CAES'') linkage to include all exchange-listed securities. *Id.*

[6] See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (''1990 Plan Approval Order'').

[7] See Section 12(f)(2) of the Act, *supra* note 3.

[8] See letter from David T. Rusoff, Foley & Lardner, to Betsy Prout, SEC, dated May 9, 1994.

[9] See Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 (''1994 Extension Order''), Securities Exchange Act Release No. 35221, (January 11, 1995), 60 FR 3886 (''January 1995 Extension Order''), Securities Exchange Act Release No. 36102 (August 14, 1995), 60 FR 43626 (''August 1995 Extension Order''), Securities Exchange Act Release No. 36226 (September 13, 1995), 60 FR 49029 (''September 1995 Extension Order''), Securities Exchange Act Release No. 36368 (October 13, 1995), 60 FR 54091 (''October 1995 Extension Order''), Securities Exchange Act Release No. 36481 (November 13, 1995), 60 FR 58119 (''November 1995 Extension Order''), Securities Exchange Act Release No. 36589 (December 13, 1995), 60 FR 65696 (''December 13, 1995 Extension Order''), Securities Exchange Act Release No. 36650 (December 28, 1995), 60 FR 358 (''December 28, 1995 Extension Order''), Securities Exchange Act Release No. 36934 (March 6, 1996), 61 FR 10408 (''March 6, 1996 Extension Order''), Securities Exchange Act Release No. 36985 (March 18, 1996), 61 FR 12122 (''March 18, 1996 Extension Order''), Securities Exchange Act Release No. 37689 (September 16, 1996), 61 FR 50058 (''September 16, 1996 Extension Order''), and Securities Exchange Act Release No. 37772 (October 1, 1996), 61 FR 52980 (''October 1, 1996 Extension Order'').

[10] The Plan defines ''eligible security'' as any Nasdaq/NM security (i) as to which unlisted trading privileges have been granted to a national securities exchange pursuant to Section 12(f) of the Act, or (ii) which is listed on a national securities exchange.

[11] The full text of the Plan, as well as a ''Concept Paper'' describing the requirements of the Plan, are contained in the original filing which is available for inspection and copying in the Commission's Public Reference Room.

[12] The Commission recognizes that, currently, although the size of orders is considered in the calculation of the BBO, it is only in those limited instances in which two or more orders have identical prices and are entered simultaneously. Telephone conversation between Tom Gira, NASD, and George A. Villasana, Attorney, SEC, on March 27, 1997. The Commission is particularly interested in comments as to whether size should take priority over time for purposes of calculating the BBO.

[13] *See* letter from Jack A. Dempsey, Senior Vice President, Dempsey & Company, to Jonathan Katz, Secretary, SEC, dated February 21, 1995 (''Dempsey Letter''); letter from William A. Lupien, Chairman, Mitchum, Jones & Templeton, Inc. (''MJT''), to

Continued

The Commission has received two comments in support of a BBO calculation based on a price/size/time algorithm.[14] These commenters explain that, without giving size precedence over time in the BBO calculation, the BBO does not provide an accurate representation of the depth of the market.[15]

The Commission has received one comment in support of the current BBO calculation based on a price/time/size algorithm.[16] In the Smith Barney Letter, Smith Barney explains that giving size precedence over time in the BBO calculation provides Nasdaq market makers and exchanges making a UTP market with the incentive to incrementally increase size rather than improve prices.[17] Smith Barney states that the application of a price/size/time methodology for the calculation of BBO would encourage market makers only to increase the size of their quotation as it would enable them to attract order flow. Smith Barney states that this is because the price/size/time methodology allows the market maker quoting the greatest size at the best price to be identified as providing the BBO on vendor screens and to move to the front of the line to receive unpreferenced SOES and Computer Assisted Execution Service orders. Smith Barney states that the application of a price/time/size methodology encourages market makers to improve their prices, and not order size, in order to attract order flow. Smith Barney states that this is because the price/time/size methodology allows the market maker who quoted the best price first in time to be identified as providing the BBO. Smith Barney believes that the price/time/size methodology benefits customers as it encourages market makers to improve prices.

The Commission has received two comments in support of an intermarket linkage for order routing and execution, and an accompanying trade-through rule.[18] Dempsey states that an intermarket linkage and trade-through rule would increase market efficiency, transparency, and liquidity. Smith Barney states that an intermarket linkage would assure fair competition and best execution of customer orders.

Also in response to the Commission's request for comment on the aforementioned issues, the Board of Directors of The Nasdaq Stock Market, Inc. (''Nasdaq'') approved two recommendations at its meeting on March 25, 1997 as set forth below.[19] With respect to the BBO calculation issue, the Nasdaq Board approved a recommendation to modify the methodology for calculating the BBO on Nasdaq to prioritize quotes based on a price/size/time algorithm instead of the current price/time/size algorithm, provided that Nasdaq market makers are subject to a minimum quote size requirement of 100 shares for at least 1,000 Nasdaq securities.[20] With respect to the intermarket linkage issue, the Nasdaq Board approved a recommendation to provide specialists on an exchange trading Nasdaq securities on an UTP basis access to Nasdaq's Small Order Execution System (''SOES''), or its successor system, to the same extent that registered Nasdaq market makers have access to SOES, provided that (1) Nasdaq market makers are afforded virtually identical access to the automated execution system operated by such UTP exchange, and (2) the order execution algorithms of the exchange's automated execution system are virtually identical to SOES's or its successor system.[21]

The Commission continues to solicit comment on (1) whether the BBO calculation for securities traded pursuant to the Plan should be based on a price/time/size methodology or a price/size/time methodology; (2) whether there is a need for an intermarket linkage for order routing an execution; and (3) whether there is a need for a trade-through rule.[22]

V. Solicitation of Comment

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, N.W., Washington, D.C. 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 Room. All submissions should refer to File No. S7–24–89 and should be submitted by April 29, 1997.

VI. Discussion

The Commission finds that an extension of temporary approval of the operation of the Plan, as amended, through June 30, 1997, is appropriate and in furtherance of Section 11A of the Act as it will provide the Participants with additional time and make reasonable proposals concerning the BBO calculation and whether there is a need for an intermarket linkage for order routing and execution and an accompanying trade through rule. While the Commission continues to solicit comment on these matters, the Commission believes that these matters should be addressed directly by the Participants on or before May 30, 1997 so that the Commission may have ample time to determine whether to approve the Plan on a permanent basis by June 30, 1997.

The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Ac1–2 under the Act until the earlier of June 30, 1997 or until

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Secretary, SEC, dated February 21, 1995 (''MJT Letter''); and letter from Robert E. Moore, Managing Director, Smith Barney Inc., to Jonathan Katz, Secretary, SEC, dated August 18, 1995 (''Smith Barney Letter'').

[14] See MJT Letter and Dempsey Letter, *supra* note 13.

[15] In the Dempsey Letter, Dempsey states that when the BBO in a particular security is 12–12¼ (500 × 1000), and a market maker, broker, or investor expresses an interest to buy 2500 shares at $12.00 per share, that bid will not be displayed in the quote, such that the BBO will continue to be 12–12¼ (500 × 1000). Dempsey states that this is not a true picture of the current market. Dempsey states that the BBO calculation should include the size of the quoted bid and offer, and that size should have precedence over time.

[16] See Smith Barney Letter, *supra* note 13.

[17] The Commission notes, however, that this letter was written prior to the effectiveness and phased-in implementation of the Commission's Order Execution Rules which, among other things, require market makers and specialists to display their customer limit orders, and prior to the Commission's related partial approval of the NASD's proposed rule changes to provide for the implementation of the Order Execution Rules. See Securities Exchange Act Release Nos. 37619A, (September 6, 1996, 61 FR 48290 (adopting Order Exec. Rules) and 38156 (January 10, 1997), 62 FR 2415 (partially approving File No. SR–NASD–96–43). Therefore, when the Smith Barney letter was submitted to the Commission, market makers generally displayed the minimum size required by NASD rules, such as 1000 shares or 500 shares. Currently, however, for certain stocks that have been phased-in under the Order Execution Rules and that are subject to the NASD's Rules, market makers may quote for as little as 100 shares.

[18] See Dempsey Letter and Smith Barney Letter, *supra* note 13.

[19] See 1997 Extension Request, *supra* note 2.

[20] *Id.* In the event that Nasdaq develops the technological capability to afford market makers simultaneous electronic access to all market maker quotes at the same price level, the Nasdaq Board believes that the methodology used to determine the quoted size of the Nasdaq market must be reconsidered to accommodate reflection of the fully accessible size displayed and Nasdaq. *Id.*

[21] *Id.*

[22] The Commission requests that all comments be submitted no later than May 30, 1997 so that the Commission may have adequate time to consider all comments prior to June 30, 1997, the date on which the Commission will determine whether to approve the Plan on a permanent basis.

such time as the calculation methodology for the BBO is based on a price/size/time algorithm pursuant to the 1997 Extension Request or other mutual agreement among the Participants approved by the Commission. The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Aa3–1 under the Act, that requires transaction reporting plans to include market identifiers for transaction reports and last sale data, to the BSE through June 30, 1997. The Commission believes that the extensions of the exemptive relief provided to vendors and the BSE, respectively are consistent with the Act, the Rules thereunder, and specifically with the objectives set forth in Sections 12(f) and 11A of the Act and in Rules 11Aa3–1 and 11Aa3–2 thereunder.

VII. Conclusion

It is therefore ordered, pursuant to Sections 12(f) and 11A of the Act and (c)(2) of Rule 11Aa3–2 thereunder, that the Participants' request to extend the effectiveness of the Joint Transaction Reporting Plan, as amended, for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis through June 30, 1997, and certain exemptive relief until such time as the calculation method for the BBO is based on a price/size/time algorithm, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(29).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–8873 Filed 4–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38460; File No. SR–Amex–97–16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Equity Transaction Fee Changes

April 1, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 25, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities 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 Amex is making certain changes to its schedule of transaction charges imposed on trades in equity securities executed on the Exchange. The text of the proposed rule change is available at the Office of the Secretary, the Amex, 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 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 IV 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 Amex is revising its schedule of equity transaction charges for PER orders by expanding the exemption from share-based and value-based transaction charges to include PER orders up to 1,099 shares, increased from 500 shares.[2] In addition, the value portion of the Amex's equity transaction charge (based on the value of shares traded as opposed to the other portion of the charge based on the number of shares traded), will be subject to a maximum charge of $40 per trade.[3]

The exemption for PER orders up to 1,099 shares will not apply to orders of a member or member organization trading as an agent for the account of a non-member competing market maker. A ''competing market maker'' will be defined as a specialist or market maker registered as such on a registered stock exchange (other than the Amex), or a market maker bidding and offering over-the-counter in an Amex-traded security.[4] The schedule of Amex share-based and value-based transaction charges otherwise remains unchanged.

The Exchange's schedule of equity transaction charges, as revised, is attached as Exhibit A to the filing and will be implemented by the Exchange beginning May 30, 1997.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[5] in general and furthers the objectives of Section 6(b)(4)[6] in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

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

The Exchange believes the proposed rule change does not impose any burden on competition that is 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (e) of Rule 19b–4 thereunder.[8]

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

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

[2] The Commission notes that the Amex's Post Execution Reporting (''PER'') system provides member firms with the means to electronically transmit equity orders, up to volume limits specified by the Exchange, directly to a specialist's post on the trading floor of the Exchange. Securities Exchange Act Release No. 34869 (Oct. 20, 1994), 59 FR 54016.

[3] The Commission notes that orders of competing market makers do qualify for this fee cap. Telephone conversation between Michael Cavalier, Associate General Counsel, Amex, and Anthony P. Pecora, Attorney, Division of Market Regulation, SEC (Apr. 1, 1997).

[4] The Commission notes that this definition of ''competing market maker'' is identical to the definition used by the New York Stock Exchange. *See* Securities Exchange Act Release No. 37273 (June 4, 1996), 61 FR 29438, at n.14 (approving a similar fee change proposed by the NYSE).

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

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.