



William Floyd-Jones
Associate General Counsel

October 6, 2004

Nancy J. Sanow, Esq.
Assistant Director
Office of Market Supervision
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-1001

Re: **File No. SR-Amex-2004-82**
Pursuant to Rule 19b-4 Under the
Securities Exchange Act of 1934

Dear Ms. Sanow:

Enclosed for filing pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and Rule 19b-4(f)(6) thereunder are 12 copies of the above captioned filing to revise paragraph designations of the recently the approved Rule 118 (n) regarding an "institutional order" type for Nasdaq securities admitted to dealings on an unlisted basis to Rule 118 (q).

The Exchange gave notice of its intention to file this proposed rule change by correspondence dated September 24, 2004 from William Floyd Jones to Nancy Sanow, Esq. and requests that the Commission waive the 5-day pre-filing notice period and the 30-day period for the rule to become operative to permit publication of the rules as soon as possible.

Questions regarding this filing may be directed to my attention at 212.306.1417

Sincerely,

Enclosures

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 19b-4

Proposed Rule Change

by

AMERICAN STOCK EXCHANGE LLC

**Pursuant to Rule 19b-4 Under the
Securities Exchange Act of 1934**

1. **Text of the Proposed Rule Change**

(a) The American Stock Exchange LLC seeks to revise paragraph designations of the recently approved Rule 118 (n) regarding an “institutional order” type for Nasdaq securities admitted to dealings on an unlisted basis to Rule 118(q). The text of the proposed rule change is attached as Exhibit A.

(b) Not applicable.

(c) Not applicable.

2. **Procedures of the Self-Regulatory Organization**

(a) The proposed rule change was approved by the Exchange’s Board of Governors on April 23, 2003. No further action by the Board or by the membership of the Exchange is required to be taken.

(b) The following Exchange staff member is prepared to respond to questions and comments on the proposed rule change:

Bill Floyd-Jones
Associate General Counsel
212-306-1417

3. **Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a) *Purpose*

On June 25, 2004 the Commission approved the Exchange’s proposal to revise its automatic execution procedures for Portfolio Depository Receipts, Index Fund Shares, Exchange Traded Funds and Nasdaq securities admitted to trading on an unlisted basis¹. As part of this change, the Exchange proposed new rule paragraph (n) to Rule 118 to create an “institutional order” type. When the filing was approved, however, paragraph (n) to Rule 118 already was in use. The Exchange accordingly is now proposing to redesignate paragraph (n) as paragraph (q).

(b) *Basis*

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with

¹ See, Release No. 49921 (June 25, 2004) 69 FR 40690(July 6, 2004) approving File No. SR-Amex-2004-04.

persons engage 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 a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

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

5. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others**

The Exchange neither solicited nor received written comments about this proposal.

6. **Extension of Time Period for Commission Action**

The Exchange does not consent to an extension of the time period for Commission consideration of the proposed rule change specified in Section 19(b)(2) of the Act.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

(a) This filing is made pursuant to Paragraph (A) of Section 19(b)(3) of the Act and Commission Rule 19b-4(f)(6) thereunder.

(b) The proposed rule change effects a change that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the five-business day notice period and the 30-day waiting period for the rule to become operative to permit expeditious and accurate publication of the rule change.

(c) Not applicable.

(d) Not applicable.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is not based on another Exchange's rules.

9. **Exhibits**

List of Exhibits Filed:

1. Notice of Proposed Rule Change for publication in the **Federal Register**.
Exhibit A: Text of Proposed Rule Change
2. Not applicable.
3. Not applicable.
4. Not applicable.

* * * * *

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Exchange has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

By: _____
Claire P. McGrath
Senior Vice President and Deputy General Counsel

Dated: October 6, 2004

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-Amex-2004-82)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by American Stock Exchange LLC Relating to Revise Paragraph Designations Of The Recently The Approved Rule 118

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on , 2004, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange 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 American Stock Exchange LLC seeks to revise paragraph designations of the recently the approved Rule 118.

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 the Statutory Basis for, the Proposed Rule Change*

(1) Purpose

On June 25, 2004 the Commission approved the Exchange’s proposal to revise its automatic execution procedures for Portfolio Depository Receipts, Index Fund Shares, Exchange Traded Funds and

Nasdaq securities admitted to trading on an unlisted basis¹. As part of this change, the Exchange proposed new rule paragraph (n) to Rule 118 to create an “institutional order” type. When the filing was approved, however, paragraph (n) to Rule 118 already was in use. The Exchange accordingly is now proposing to redesignate paragraph (n) as paragraph (q).

(2) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engage 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 a national market system, and, in general, to protect investors and the public interest; and 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 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*

No written comments were solicited or received by the Exchange on this proposal.

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

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) becomes operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act² and Rule 19b-4(f)(6) thereunder.³ At any time within 60 days of the filing of the proposed rule change, the

¹ See, Release No. 49921 (June 25, 2004) 69 FR 40690(July 6, 2004) approving File No. SR-Amex-2004-04.

² 15 U.S.C. 78s(b)(3)(A).

³ 17 CFR 240.19b-4(f)(6).

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, or otherwise in furtherance of the purposes of the Act.

The Amex has requested that the Commission waive the five-business day notice period and the 30-day pre-operative waiting period. The Commission finds good cause to waive the pre-operative waiting period and to designate the proposal to become immediately operative upon filing, because such waiver and designation is consistent with the protection of investors and the public interest. Waiver of the five-business day notice period and the 30-day pre-operative waiting period will allow the expeditious and accurate publication of Amex rules. The Commission believes that acceleration of the operative date will ensure that those benefits do not lapse. For these reasons, the Commission finds good cause to waive the five-business day notice period and the 30-day operative waiting period, and to designate that the proposal become operative immediately.⁴

IV. **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, 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 in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from date of publication].

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

Jonathan G. Katz
Secretary

Dated:

⁴ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

**SR Amex 2004-82
EXHIBIT A**

AMERICAN STOCK EXCHANGE LLC

Proposed Rule Change

Additions are underlined and deletions are [bracketed].

* * * * *

Trading in Nasdaq National Market Securities

Rule 118 (a) through (p) no change

[(n)] (q) An institutional order is a limit order for a Nasdaq National Market Security of 10,000 shares or more transmitted to the order book electronically which is to be executed automatically in full at one price. If it is not executed automatically in full at one price, it is to be routed to the specialist for execution and may be partially executed. Unlike an all or none order, an institutional order has standing on the limit order book. An institutional order may not be entered for the proprietary account of a broker-dealer.