

basis,³ and subsequently were extended ten times.⁴

Under the pilot procedures, odd-lot market orders with no qualifying notations are executed at the Amex quotation at the time the order is represented in the market, either by being received at the trading post or through the Exchange's Post Execution Reporting ("PER") system. Enhancements to the PER system have been implemented to provide for the automatic execution of odd-lot market orders entered through PER. For purposes of the pilot program, odd-lot limit orders that are immediately executable based on the Amex quote at the time the order is received, at the trading post or through PER, are executed in the same manner as odd-lot market orders.

The Exchange proposes that the pilot program applicable to odd-lot execution procedures be extended for twelve months. The exchange notes that, in approving previous extensions to the Rule 205 pilot procedures, the Commission has expressed interest in the feasibility of the Exchange utilizing the Intermarket Trading System ("ITS") best bid or offer, rather than the Amex bid or offer, for purposes of the Exchange's odd-lot pricing system. The Exchange has determined to proceed with system modifications, anticipated to be completed within a twelve month period, to provide for execution of odd-lot market orders at the ITS best bid or offer. The Exchange will file appropriate amendments to Rule 205, prior to expiration of the extended pilot program, to accommodate the revised odd-lot pricing procedures.

2. Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of

³ See Securities Exchange Act Release No. 26445 (January 10, 1989), 54 FR 2248 (January 19, 1989) (approving File No. SR-Amex-88-23).

⁴ See Securities Exchange Act Release Nos. 34949 (November 8, 1994), 59 FR 58863 (November 15, 1994) (approving File No. SR-Amex-94-47); 34496 (August 8, 1994), 59 FR 41807 (August 15, 1994) (approving File No. SR-Amex-94-28); 33584 (February 7, 1994), 59 FR 6983 (February 14, 1994) (approving File No. SR-Amex-93-45); 32726 (August 9, 1993), 58 FR 43394 (August 16, 1993) (approving File No. SR-Amex-93-24); 31828 (February 5, 1993), 58 FR 8434 (February 12, 1993) (approving File No. SR-Amex-93-06); 30305 (January 30, 1992), 57 FR 4653 (February 6, 1992) (approving File No. SR-Amex-92-04); 29922 (November 8, 1991), 56 FR 58409 (November 19, 1991) (approving File No. SR-Amex-91-30); 29186 (May 19, 1991), 56 FR 22488 (May 15, 1991) (approving File No. SR-Amex-91-09); 28758 (January 10, 1991), 56 FR 1656 (January 16, 1991) (approving File No. SR-Amex-90-39); and 27590 (January 5, 1990), 55 FR 1123 (January 11, 1990) (approving File No. SR-Amex-89-31).

Section 6(b)(5) and 11A(a)(1) in particular in that it facilitates the economically efficient execution of odd-lot transactions, and is intended to result in improved execution of customer orders.

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 statements 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, 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. 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-95-03 and should be submitted by March 7, 1995.

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

For the same rational discussed in its previous orders regarding the Amex's odd-lot execution pilot program,⁵ the Commission finds that the proposed

⁵ See e.g., Securities Exchange Act Release No. 26445, *supra* note 3, for a description of the Commission's rationale for approving the Amex's odd-lot procedures on a pilot basis. The discussion in the aforementioned order is incorporated by reference into this order. Since initial approval of the pilot program, however, the Exchange has amended Rule 205 to provide that no differential may be charged on odd-lot order transactions, except for non-regular way trades. See Securities Exchange Act Release No. 34591 (August 24, 1994), 59 FR 44783 (August 30, 1994) (approving File No. SR-Amex-94-15).

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)⁶ and 11A(a)(1)⁷ of the Act and the rules and regulations thereunder. The Commission believes that the revised procedures, under which odd-lot market orders are executed at the prevailing Amex quote rather than at the price of a subsequent round-lot transaction, should provide investors with more timely execution of their orders. The Exchange has implemented enhancements to its PER system to provide for the automatic execution of odd-lot market orders. Based on the data in the Amex's monitoring reports, the Rule 205 amendments have resulted in a superior execution for a significant percentage of such orders.

The Commission, however, is not satisfied that all customers received the best execution, in terms of time and price, under the pilot procedures. Specifically, the Commission remains concerned that some odd-lot orders may not receive the best available price, because the Exchange's pricing formula does not include quotations from other markets.⁸ In its previous orders,⁹ the Commission has requested that the Exchange analyze the difference in odd-lot executions between using the Intermarket Trading System ("ITS") consolidated best bid or offer and using the Amex quote. The Commission also has encouraged the Amex to evaluate the feasibility of implementing an odd-lot pricing system based on the ITS best bid or offer.¹⁰

At this time, the Amex has determined to proceed with the necessary system modifications to provide for the execution of odd-lot orders at the ITS best bid or offer. The Exchange anticipates that the system modifications will be completed within a twelve month period. As noted above, the Commission has encouraged the Amex to implement a pricing formula that includes quotations from other markets and believes that such action would substantially alleviate the Commission's best execution concerns. In the interim, due to the relatively low

⁶ 15 U.S.C. 78f (1988).

⁷ 15 U.S.C. 78k-1(a)(1) (1988).

⁸ The Commission has approved amendments to the New York Stock Exchange's ("NYSE") rules which incorporate the ITS quotation into the NYSE odd-lot pricing procedures through the use of the Best Pricing Quote ("BPQ"). See Securities Exchange Act Release No. 27981 (May 2, 1990), 55 FR 19409 (May 9, 1990) (File No. SR-SYSE-90-06).

⁹ See *supra*, note 4.

¹⁰ See *supra*, note 8.