seat used by a given lessee's would stand behind that lessee trades. If, however, an individual or organization owns multiple memberships as to which nominees have been designated, all of the owner's seats would stand behind the trades of any nominee.

Fees

Currently, when a seat is sold, the initiation fee is \$2,500 for both a regular and options principal membership. The initiation fee on a nominal transfer (*i.e.*, within a firm pursuant to an a-b-c agreement) ⁷ is \$2,500 for a regular membership and \$500 for an options principal membership. When a membership is transferred to a lessee, the initiation fee is \$1,500 for a regular membership and \$500 for an options principal membership. Dues for all members are \$750 per year. Floor facilities fees are \$1,400 per year for active members.

The Exchange is proposing to change the fee structure in order to equalize fees between regular and options principal memberships.8 The initiation fee of \$2,500 when a seat is sold would be retained for both regular and options principal memberships. However, all nominal transfers (i.e., intra-firm) and leases would be subject to a \$1,500 initiation fee. Changes in nominees would be deemed to be nominal transfers. According to the Exchange, it does not appear to be necessary or appropriate to retain the disparity in initiation fees for nominal and lease transfers of regular and options principal memberships in view of the fact that the administrative expenses (i.e., staff time and paperwork) attributable to the two types of membership are identical.

The Exchange, however, does not believe that it would be appropriate for the initiation fee requirement to deter members from taking advantage of the new alternatives that would be available in structuring ownership of Amex seats. Accordingly, for the ninety-day period, after these changes become effective, no initiation fee would be charged for changes in membership ownership, except for bona fide sales and bona fide changes in leases or nominees. A \$250 processing fee would be imposed on transfers where no initiation fee is charged.

Voting

Currently, members subject to an a-b-c agreement sign an irrevocable proxy giving their votes to their member

organizations. The organization then designates an individual (typically an employee) who is authorized to vote on behalf of the membership. In the case of leased seats, the vote is negotiable between the lessor and lessee.

Under the new rules, organizations would be entitled to vote all of the memberships that they own (and do not lease out) and would have to designate an individual who is authorized to vote on their behalf. Individuals who own more than one seat would be able to vote on behalf of the seat that they are actively using, as well as the seats of their nominees. With respect to leased seats, the vote would still be negotiable between lessor and lessee. There would be a specific box on the lease itself on which the parties would indicate who is authorized to vote.⁹

Gratuity Fund

Currently, the Exchange Gratuity Fund ("Fund") provides that only families of regular members ¹⁰ receive the Gratuity Fund death benefit of \$100,000. To fund the death benefit, each regular member contributes \$152 to the Fund upon becoming a member and is assessed \$152 each time a fellow regular member dies (subject to reduction in the first assessment of the year to reflect income earned by the Fund in the previous year). In the case of leased seats, the lessor is considered the member for purposes of the Gratuity Fund.

A number of changes to the Gratuity Fund are proposed. These changes are intended to achieve two goals: To provide increased benefits and to close "loopholes" which could enable persons to become Participants in the Gratuity Fund under circumstances which would be inappropriate.

Under the proposal, the benefit would be increased to \$125,000. The amount of each assessment would fluctuate since, as discussed below, the number of Participants in the Fund would vary based on who is eligible at the time of a member's death and since the extent to which Participants were "phased-in" would vary. 11 As is currently the case, Participants would have to pay both an initial assessment upon becoming a Participant and an assessment each time an eligible individual dies. The first group of persons to become newly eligible for the Gratuity Fund upon the adoption of these changes would be required to pay an initial assessment of

\$300.12 Thereafter, persons who become eligible would be required to pay an initial assessment based on the number of Participants in the Fund at that time.

Under the proposal, options principal members and both options principal and regular member lessees (and nominees) would be included in the Gratuity Fund, 13 in additional to regular members and some lessors. 14 In order for a lessor's beneficiaries to be eligible to receive a Gratuity Fund benefit, the lessor must have been "active" on the Floor for at least two continuous years during this career (but after June 10, 1993).15 "Active" is defined as meeting all Exchange requirements to be active on the Floor, 16 including passing any necessary examinations and being registered as, or associated with, a broker-dealer. "Two continuous years" is defined as two calendar years, meaning a period from one date through the preceding date two years hence (e.g., from May 1, 1995 through April 30, 1997). Lessees and nominees would have to be currently active for their beneficiaries to receive a benefit. Individuals who own seats either would have to be currently active on the Floor or would have to have been active for at least two continuous years during their career (but after June 10, 1993) in order for their beneficiaries to receive a Gratuity Fund benefit.

It should be noted that a person would not have to maintain the same status for the two-year period. For example, a person who is a lessee for one and a half years and who then buys the seat (or another seat) and remains on it for at least six months would satisfy the active requirement. In addition, a person may be off the seat for up to sixty consecutive days during the two-year period without being considered to have

 $^{^{7}\,}See\,supra$, note 4 and accompanying text.

⁸This proposal would not affect any change to annual dues or other fees.

 $^{^{9}\,\}mathrm{If}$ no specification is made, the lessee would vote the seat.

¹⁰ See supra, note 2.

¹¹ For further discussion of the "phase-in" schedule for Gratuity Fund Participants, *see infra* note 18 and accompanying text.

¹² The Gratuity Fund currently maintains a reserve of \$200,000, the amount necessary to pay two death benefits. If the benefit is increased, the reserve would be increased accordingly. The initial assessment of \$300 on new Participants would allow the Fund to achieve this goal, and would place new Participants on a par with existing Participants who, of course, paid an initial assessment when they first became eligible to participate in the Fund.

¹³ Options principal members, lessees and nominees would also be eligible to become trustees of the Gratuity Fund.

¹⁴ Lessors (and owners of seats as to which nominees have been designated) could be included in the Gratuity Fund pursuant to the transition arrangements, see infra notes 24–28 and accompanying text, or based on their prior active status, see infra notes 15–17 and accompanying text

¹⁵ As noted below, see infra note 28 and accompanying text, June 10, 1993 would be the cutoff date for eligibility for the transition arrangements.

¹⁶ See Para. 9176 of the Amex Guide ("Membership Requirements and Admissions Procedures").