also be adjusted, if necessary, in the event of a merger, consolidation, dissolution, or liquidation of an issuer or in certain other events such as the distribution of property by an issuer to shareholders, the expropriation or nationalization of a foreign issuer, or the imposition of certain foreign taxes on shareholders of a foreign issuer. Shares of a component security may be replaced (or supplemented) with other securities under certain circumstances, such as the conversion of a component security into another class of security, the termination of a depositary receipt program, or the spin-off of a subsidiary. If the security remains in the Index, the number of shares of that security may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action.⁶ In all cases, the divisor will be adjusted, if necessary, to ensure continuity of the value of the Index.

The value of the Index will be calculated continuously by the Amex and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

The Exchange believes that 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 engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Ampex does not believe that the proposed rule change will impose any inappropriate burden on competition.

(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 with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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, 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 in the Commission's Public Reference Section, 450 Fifth Street, N.W., 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 File No. Sr-Amex-95-21 and should be submitted by July 7, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34–35837; File No. SR–NYSE– 94–45]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Member Organization Facilitation of a Customer Stock or Program Orders

June 12, 1995.

I. Introduction

On December 6, 1995, the New Stock Exchange, Inc. ("NYSE" 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 regarding member organization facilitation of customer stock or program orders.³ On January 11, 1995, the Exchange submitted Amendment No. 1 to the proposed rule change.⁴

The proposed rule change was published for comment in Securities Exchange Act Release No. 35230 (January 13, 1995), 69 FR 4453 (January 23, 1995). One comment letter was received on the proposal.⁵

II. Description of Proposal

The NYSE proposal consists of an Information Memorandum to advise Exchange members of certain activities that the Exchange will consider inconsistent with just and equitable principles of trade. Specifically, the Memorandum discusses facilitation of customer block orders at the close, trading based upon information of imminent customer transactions, and procedures to review facilitation activities for compliance with Exchange rules and federal securities laws.

First, the Memorandum discusses a member's responsibilities when positioning itself to facilitate a customer transaction to be executed after the close at the closing price.⁶ The Memorandum states that a member should not trade for its own account "near the close" if it intends to execute an "at the close" order ⁷ that reasonably can be expected to affect the closing price of the security. Whether or not the purchase will be deemed near the close will depend upon the degree of risk that reasonably

³NYSE Rule 80A defines the term "program trading" as (1) index arbitrage or (2) any trading strategy involving the related purchase or sale of a "basket" or group of 15 or more stocks having a total market value of \$1 million or more.

⁴ See fax from Donald Siemer, NYSE, to Beth Stekler, SEC, dated January 11, 1995 (consisting of a revised Memorandum). The amendment made certain technical corrections to the text of the Memorandum.

⁵ See infra note 10 and accompanying discussion. ⁶ Although the Memorandum uses an example where the member has agreed to sell to a customer at the closing price, and therefore is purchasing stock before and at the close, the principles discussed in the Memorandum would apply equally to the situation where the member agrees to purchase stock from the customer at the closing price and therefore sells the security before and at the close. See letter from James Buck, Senior Vice President and Secretary, NYSE, to Brandon Becker, Director, Division of Market Regulation, SEC, dated April 19, 1995 ("NYSE Letter").

⁷ An "at the close order" is a market order which is to be executed in its entirety at the closing price on the Exchange. If the order is not executed at the closing price, it is treated as cancelled. *See* NYSE Rule 13.

⁶Lehman will not attempt to find a replacement stock or compensate for the extinction of a security due to bankruptcy or a similar event.

⁷¹⁷ CFR 200.30-3(a)(12) (1994).

¹15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).