

[Release No. 34-36566; File No. SR-Amex-95-46]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Exchange's Arbitration Rules

December 8, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 28, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and 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 Exchange is proposing to amend Amex Rules 600 (Arbitration), 606 (Initiation of Proceedings), 607 (General Provision Governing Prehearing Proceeding), 620 (Schedule of Fees), and add a new rule, 624 (Failure to Honor Award). 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 Exchange is proposing to amend its rules and procedures governing the administration of arbitration. These amendments codify modifications to the Uniform Code of Arbitration already

approved by the Securities Industry Conference on Arbitration.

The Exchange is proposing to amend Amex Rule 600 to clarify that all class action claims, including claims involving members, allied members, member organizations, and associated persons, are ineligible for submission to the Exchange's arbitration facility.

Currently, Amex Rule 606(c)(6) provides that decisions concerning the right to arbitrate are made by the Director of Hearings, subject to appeal to the Exchange's Board of Governors. In order to conform the Exchange's rules with the Uniform Code of Arbitration, adopted by the Amex in 1980, the Exchange proposes to delete Amex Rule 606(c)(6). The Exchange believes decisions concerning the right to arbitrate a claim should be made by the panel of arbitrators selected to hear the matter.

The Exchange's proposed amendment to Amex Rule 607(c) would allow parties to provide a list of documents they intend to present at the hearing instead of exchanging copies of documents that have previously been produced to the other side. This would provide for more efficient prehearing exchanges by not requiring the parties to again exchange those documents that have previously been produced. Another aspect of this amendment would require the list identifying witnesses include the address and business affiliation of the witnesses listed. This would allow the parties to receive advance notice as to the background of witnesses and the location of nonparty witnesses. The final aspect of the proposed amendment to Amex Rule 607(c) would require prehearing exchanges to occur twenty calendar days in advance of the hearing, instead of ten days in advance as is presently required. This would serve to avoid surprise and provide the parties with time to organize and present their cases in an efficient manner.

The Exchange is proposing to amend Amex Rule 620 to provide that the filing fee for an industry party shall be \$500 when the dispute does not specify a money claim. This would unify the filing fee for all industry claims at \$500.

The Exchange is proposing to add a new rule, Amex Rule 624. This new rule would provide that the failure of a member firm or registered representative to honor an arbitration award, including those issued at another self-regulatory organization or by the American Arbitration Association, would subject the firm or registered representative to disciplinary proceedings at the Exchange. This would recognize the enforceability of

arbitration awards issued by other self-regulatory organizations and by the American Arbitration Association.

2. Statutory Basis

The proposed rule changes are consistent with Section 6(b)² of the Act in general and furthers the objectives of Section 6(b)³ in particular in that they are designed to promote just and equitable principles of trade and to protect investors and the public interest by improving the administration of an impartial forum for the resolution of disputes relating to the securities industry.

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

The Exchange believes the proposed rule change will impose no burden on competition.

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.

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

Within 35 days of the publication of this notice in the Federal Register or within such other 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 the 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, 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78f(b).

³ 15 U.S.C. 78f(b)(5).