

opine, enhance Applicants' ability to effectively take advantage of business opportunities as such opportunities arise. Applicants submit, for all the reasons stated herein, that their request for class exemptions is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that an order of the Commission including such class relief, should, therefore, be granted. Any entity that currently intends to rely on the requested exemptive order is named as an applicant. Any entity that relies upon the requested order in the future will comply with the terms and conditions contained in this Application.

6. Applicants represent that the requested exemptions are necessary and appropriate in the public interest and consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 02-8931 Filed 4-11-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45698; File No. SR-Amex-2001-107]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto Relating to the Allocation to Specialists of Securities Admitted to Dealings on an Unlisted Trading Privileges Basis

April 5, 2002.

#### I. Introduction and Description of the Proposal

On December 17, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change regarding the allocation of securities admitted to dealings on an unlisted trading privileges ("UTP") basis to

Amex specialists. On February 1, 2002, the Amex filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as amended by Amendment No. 1, was published in the **Federal Register** on March 7, 2002.<sup>4</sup> The Commission received no comments on the proposed rule change. On April 4, 2002, the Amex filed Amendment No. 2 to the proposed rule change.<sup>5</sup> This order approves the proposed rule change, as amended, on an accelerated basis through April 5, 2003. In addition, the Commission is publishing notice to solicit comment on and is simultaneously approving, on an accelerated basis, Amendment No. 2 to the proposal.

#### II. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>6</sup> Specifically, the Commission finds that approval of the proposed rule change is consistent with section 6(b)(5)<sup>7</sup> of the Act because it is designed to promote just and equitable principles of trade, 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.

Specialists play a crucial role in providing stability, liquidity, and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets

in their designated securities.<sup>8</sup> To ensure that specialists fulfill these obligations, it is important that the Exchange develop and maintain stock allocation procedures and policies that provide specialists with an initiative to strive for optimal performance. The Exchange now proposes to amend its rules to account for the allocation of securities traded pursuant to UTP.<sup>9</sup>

The Commission notes that the Exchange proposes to establish a special committee to allocate securities traded on a UTP basis. The special committee will consist of the Chief Executive Officer of the Exchange who shall serve as Chairman of the Committee, three members (selected from among Exchange Officials, Senior Floor Officials and Floor Governors), and three members of the Exchange's senior management as designated by the Chief Executive Officer of the Exchange. The Committee shall make its decisions by majority vote. The Chairman of the Committee may only vote to create or break a tie. The Commission believes that it is appropriate to establish a new allocation committee for securities admitted to dealings pursuant to UTP because of the unique characteristics of these securities, which should be considered in the allocation process. Further the Commission believes that the factors the allocation committee will consider in making allocation decisions should ensure that qualified firms are selected to act as specialists for securities traded pursuant to UTP.

Because the proposed rule change, as amended, institutes a new process for allocating securities that will trade pursuant to UTP to Amex specialist units and because the Commission is adopting the proposal on an accelerated basis, the Commission believes that the proposal should be approved on a pilot basis, for a one-year period ending on April 5, 2003, to ensure that the process is effective and fair. The Commission expects the Amex to report to the Commission about its experience with the new allocation process in any future proposal it files to extend the effectiveness of the proposed rule or approve it on a permanent basis.

The Commission, pursuant to section 19(b)(2) of the Act,<sup>10</sup> finds good cause for approving the proposed rule change, as amended, on a one-year pilot basis through April 5, 2003, prior to the thirtieth day after the date of

<sup>3</sup> See letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated January 30, 2002 ("Amendment No. 1").

<sup>4</sup> Exchange Act Release No. 45488 (February 28, 2002), 67 FR 10460.

<sup>5</sup> See letter from Bill Floyd-Jones, Assistant General Counsel, Amex, to Kelly McCormick-Riley, Assistant Director, Division, Commission, dated April 3, 2002 ("Amendment No. 2"). In Amendment No. 2, the Exchange deleted paragraph (e) to proposed Rule 28 because it was no longer necessary in light of Amex filing SR-Amex-2002-21, which proposes to amend Amex Rule 175(c) to permit specialists in UTP stocks to be affiliated with specialists in options overlying the same UTP stock, so long as information barriers are established and maintained between the stock and options specialist units. The Commission notes that Amex Rule 175(c) currently prohibits Amex specialists from acting as a specialist or market maker in an option overlying the stock in which the specialist is registered.

<sup>6</sup> 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> See 17 CFR 240.11b-1.

<sup>9</sup> The Commission notes that Amex has filed a proposed rule change relating to specialists' performance evaluation and reallocation procedures for securities admitted to dealings on an unlisted basis. See File No. Amex-2002-19.

<sup>10</sup> 15 U.S.C. 78b(2).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

publication of notice thereof in the **Federal Register**. The Commission notes that granting accelerated approval to this proposal will allow the Amex to immediately implement a process for allocating securities that will trade pursuant to UTP to specialist units. It is necessary to allocate the UTP securities to specialist units as soon as possible so that the specialists so appointed will have ample time to prepare for Amex's upcoming trading of securities on a UTP basis.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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. 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-2001-107 and should be submitted by May 3, 2002.

### IV. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-Amex-2001-107), as amended, is hereby approved on an accelerated basis through April 5, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 02-8932 Filed 4-11-02; 8:45 am]

**BILLING CODE 8010-01-P**

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3404]

#### Commonwealth of Kentucky

As a result of the President's major disaster declaration on April 4, 2002, I find that Bath, Bell, Bourbon, Boyd, Carter, Clay, Elliott, Fleming, Greenup, Harlan, Knox, Laurel, Lawrence, Letcher, Leslie, Lewis, McCreary, Menifee, Montgomery, Morgan, Nicholas, Perry, Rowan and Whitley Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe storms and flooding occurring on March 17 through March 21, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 3, 2002 and for economic injury until the close of business on January 6, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Breathitt, Clark, Fayette, Harrison, Jackson, Johnson, Knott, Magoffin, Martin, Mason, Owsley, Pike, Powell, Pulaski, Robertson, Rockcastle, Scott, Wayne and Wolfe in the Commonwealth of Kentucky; Adams, Lawrence and Scioto counties in the State of Ohio; Campbell, Claiborne and Scott counties in the State of Tennessee; Lee and Wise counties in the Commonwealth of Virginia; and Wayne county in the State of West Virginia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere .....	6.625
Homeowners Without Credit Available Elsewhere .....	3.312
Businesses With Credit Available Elsewhere .....	7.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	3.500
Others (Including Non-Profit Organizations) With Credit Available Elsewhere .....	6.375
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere .....	3.500

The number assigned to this disaster for physical damage is 340411. For economic injury the number is 9P1800

for Kentucky; 9P1900 for Ohio; 9P2000 for Tennessee; 9P2100 for Virginia; and 9P2200 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 5, 2002.

**S. George Camp,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 02-8861 Filed 4-11-02; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### [Finance Docket No. 34002]

#### Alamo North Texas Railroad Corporation—Construction and Operation Exemption—Wise County, TX

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of availability of environmental assessment and request for comments.

**SUMMARY:** Alamo North Texas Railroad Corporation (Alamo North) has petitioned the Surface Transportation Board (Board) for authority to construct and operate a rail line approximately 2.25 miles in length in Wise County, Texas to serve a limestone quarry near Chico, Texas, which is operated by Alamo North's parent company, Martin Marietta Materials Southwest, Ltd. The Board's Section of Environmental Analysis (SEA) has prepared an environmental assessment (EA) for this project. Based on the information provided and the environmental analysis conducted to date, the EA preliminarily concludes that this proposal should not significantly affect the quality of the human environment if the recommended mitigation measures set forth in the EA are implemented. Accordingly, SEA recommends that, if the Board approves this project, Alamo North be required to implement the mitigation set forth in the EA. Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. SEA will consider all comments received when making its final environmental recommendations to the Board. The Board will then consider SEA's final recommendations and the complete environmental record in making its final decision in this proceeding.

**DATES:** The EA is available for public review and comment. Comments are due by May 10, 2002.

<sup>11</sup> *Id.*

<sup>12</sup> 17 CFR 200.30-2(a)(12).