

11. The Reorganization is subject to certain conditions described in the Plan, including: (a) That the parties shall have received exemptive relief from the SEC with respect to the issues that are the subject of the application; and (b) that shareholders of the Acquired Funds will have approved the Reorganization. Applicants agree not to make any material changes to the Plan without prior SEC approval.

#### Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling to or purchasing from such registered investment company or any company controlled by such registered company, and security or other property.

2. Section 2(a)(3) of the Act defines the term "affiliated person" of another person to include, in pertinent part, any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person, and any person directly or indirectly controlling, controlled by, or under common control with such other person, and if such other person is an investment company, any investment thereof.

3. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions are satisfied.

4. Applicants believe that they may not rely upon rule 17a-8 because the Funds may be affiliated for reasons other than those set forth in the rule. Applicants state that because of Society Bank's ownership of shares of several of the Funds, the Acquiring Funds may be deemed an affiliated person of the Acquired Funds, and vice versa, for reasons not based solely on their common adviser, KAM. Consequently, applicants are requesting an order under section 17(c) of the Act exempting them from section 17(a) of the Act to the extent necessary to consummate the Reorganization.

5. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed

transaction is consistent with the policy of each registered investment company concerned; and the proposed transaction is consistent with the general purposes of the Act.

6. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b) of the Act. Applicants also submit that the terms of the Reorganization are fair and reasonable and do not involve overreaching on the part of any person concerned. Applicants state that the Boards, including the Independent Board Members, have reviewed the terms of the Reorganization as set forth in the Plan, including the consideration to be paid or received, and have found that participation in the Reorganization is in the best interest of the Funds. Applicants also state that the Boards have found that the interests of existing shareholders of each Fund will not be diluted as a result of the Reorganization. Applicants note that the investment objectives, policies, and restrictions of each Acquiring Fund are substantially similar to those of each corresponding Acquired Fund. Applicants also note that the exchange of each Acquired Fund's assets and liabilities for the shares of the corresponding Acquiring Fund will be based on the Funds' relative NAVs.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-3224 Filed 2-6-98; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

##### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [63 FR 4679, January 30, 1998].

**STATUS:** Closed Meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE PREVIOUSLY ANNOUNCED:** January 30, 1998.

**CHANGE IN THE MEETING:** Deletion.

The following items will not be considered at the closed meeting scheduled for Thursday, February 5, 1998:

Settlement of administrative proceedings of an enforcement nature. Settlement of injunctive action. Opinion.

Commissioner Carey, as duty officer, determined that Commission business

required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942-7070.

Dated: February 4, 1998.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 98-3275 Filed 2-5-98; 11:37 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39607; File No. SR-Amex-98-04]

##### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Designation of Portfolio Depository Receipts Under Rule 154

February 2, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on January 21, 1998, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 proposes to designate Portfolio Depository Receipts as eligible for stop and stop limit orders to be elected by quotation, pursuant to Amex Rule 154, Commentary .04(c). 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

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

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

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

Exchange Rules 131 and 154 allow stop and stop limit orders<sup>3</sup> in selected derivative securities to be elected by a quotation,<sup>4</sup> provided the prior approval of a Floor Official is obtained.<sup>5</sup> Absent this provision, such orders could only be elected when a transaction in the security occurred at or through the stop price, notwithstanding the fact that the quoted market had moved through the stop price as a result of trading in the underlying security.

Under Exchange Rule 154, Commentary .04(c)(v), provisions regarding the election of stop and stop limit orders are only applicable to such derivative securities as are designated by the Exchange as eligible for this treatment. The Exchange has previously designated Standard & Poor's Depository Receipts® ("SPDRs®") as eligible for such treatment.<sup>6</sup>

The Exchange proposes to designate Portfolio Depositary Receipts

<sup>3</sup> Stop sell orders generally are entered in a stock whose price has increased substantially to protect the investor's profits should the stock price decline. Similarly, stop buy order generally are entered by investors with short positions to limit losses should the stock price increase.

<sup>4</sup> A stop or stop limit order in a derivative security is elected, *i.e.*, becomes a market or limit order, respectively, when the quoted market for the derivative security reaches the appropriate stop or stop limit price. Once elected, the specialist treats the orders like any other market or limit order. The specialist must execute the market order at the next best market price, and must execute the limit order at the limit price or hold the order on his limit order book until the limit price is available.

<sup>5</sup> See Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) (File No. SR-Amex-90-31), regarding election of stop and stop limit orders by quotation for certain derivative equity securities.

<sup>6</sup> See Securities Exchange Act Release No. 34877 (October 21, 1994), 59 FR 54015 (October 27, 1994) (File No. SR-Amex-94-41). "Standard & Poor's Depository Receipts®," "SPDRs®," and "MidCap SPDRs™" are trademarks of The McGraw-Hill Companies, Inc. PDR Services Corporation and the Exchange are permitted to use these trademarks pursuant to a License Agreement with Standard & Poor's ("S & P") a division of The McGraw-Hill Companies, Inc. The SPDR and MidCap SPDR Trusts, however are not sponsored by or affiliated with Standard & Poor's or The McGraw-Hill Companies, Inc., and S & P makes no representation regarding the advisability of investing in SPDRs or MidCap SPDRs.

("PDRs<sup>SM</sup>"),<sup>7</sup> pursuant to Exchange Rule 154, Commentary .04(c), as eligible for stop and stop limit orders to be elected by quotation. In addition to SPDRs, other PDRs currently approved for trading on the Exchange include MidCap SPDRs™ and DIAMONDS<sup>SM</sup>.<sup>8</sup> As derivative equity securities, PDRs can be expected to fluctuate in price based on changes in an underlying stock index or portfolio, and are therefore appropriately designated as eligible for election of stop and stop limit orders by quotation.

(2) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>9</sup> in general and furthers the objectives of Section 6(b)(5)<sup>10</sup> in particular in that 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, in general, to protect investors and the public interest.

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

The proposed rule change will impose no 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**

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of Exchange Rule 154, and, therefore, has become effective pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and subparagraph (e)(1) of Rule 19b-4<sup>12</sup> thereunder. At any time within 60 days

<sup>7</sup> "PDR<sup>SM</sup>" is a service mark of PDR Services Corporation, a wholly-owned subsidiary of Amex.

<sup>8</sup> Amex's listing and trading of DIAMONDS<sup>SM</sup> was approved by the Commission in Securities Exchange Act Release No. 39525 (January 8, 1998), 63 FR 2438 (January 15, 1998) (File No. SR-Amex-97-29). "DIAMONDS<sup>SM</sup>" is a trademark and service mark of Dow Jones and Company, Inc. ("Dow Jones") and has been licensed for use for certain purposes by the Exchange and PDR Services Corp., the Trust Sponsor. DIAMONDS are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such product.

<sup>9</sup> 15 U.S.C. 78f(b)

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(e)(1).

of the filing of such proposed rule change, the Commission may summarily abrogate such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 in the Commission's Public Reference Room, 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-98-04 and should be submitted by March 2, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 98-3187 Filed 2-6-98; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-39611; File No. SR-NSCC-97-15]

**Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Odd-lot Activity Reports**

February 2, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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