

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-53708; File No. SR-Amex-2005-116)

April 24, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Written Compliance and Supervisory Controls

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> notice is hereby given that on November 7, 2005, the American Stock Exchange LLC (“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 Exchange. Amex filed Amendment No. 1 with the Commission on April 6, 2006.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 320 to (1) require members and member organizations with employees to establish, maintain, enforce and keep current a system of compliance and supervisory controls reasonably designed to achieve compliance with applicable securities laws and regulations and Exchange rules, and (2) make certain other technical changes to the rule text.

The text of the proposed rule change is available on the Amex’s Web site at <http://www.amex.com>, at the Amex’s Office of the Secretary, and at the Commission’s Public Reference Room.

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

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

<sup>3</sup> See Amendment No. 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposal and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. Amex 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

Amex Rule 320 currently requires each office, department or business activity of a member or member organization to be under the supervision and control of the member or member organization, and it also mandates that each member or member organization provide for appropriate supervisory and control procedures and designate appropriately qualified personnel to ensure that its business complies with securities laws and regulations. The purpose of this proposal is to amend Amex Rule 320 to require members and member organizations that have employees to adopt a system of compliance and supervisory controls, including written compliance and supervisory policies and procedures.

Specifically, Amex proposes to add a new section (e) to Amex Rule 320, and consequently re-designate existing section (e) as section (f), to require that members and member organizations with employees must establish, maintain, enforce and keep current compliance and supervisory control systems appropriate to their business size, structure, customer accounts, transactions and business activities. Proposed Amex Rule 320(e) would require that the written compliance and supervisory procedures be amended, as

appropriate and within a reasonable time, to reflect changes in applicable securities laws and regulations, Exchange rules, and the member's or member organization's compliance and supervisory system. Additionally, under proposed Amex Rule 320(e), the individual designated pursuant to Amex Rule 320(c) to assume authority and responsibility for the member's or member organization's compliance with securities laws, regulations and Exchange rules would be required to provide reports, at least annually, to the member's or member organization's senior management summarizing: (1) the system of supervisory controls, (2) the system of follow-up and review to verify that any delegated authority and responsibility is being properly exercised, (3) any additional or amended compliance or supervisory programs that have been created and implemented during the course of the previous twelve months, and (4) any supervisory procedures created as a result of changes in the system of follow up and review that have been revised or added in the past twelve months.

The Exchange also proposes to adopt new Commentary .08 to Amex Rule 320 to provide that a member or member organization consisting of a single individual (for example, a sole proprietorship) must maintain a written compliance manual specifying (1) the obligations to which such member or member organization is subject under applicable securities laws and regulations and Exchange rules and (2) the processes and controls in place that are reasonably designed to achieve compliance with such obligations. Because these members and member organizations do not have employees to supervise, proposed Amex Rule 320(e) would not require that they establish or maintain either a system of supervisory controls or written supervisory policies and

procedures, or that they implement annual reporting requirements to the member's or member organization's senior management concerning supervisory controls.

The Exchange also proposes to amend sections (b) and (c) of Amex Rule 320 to include references to compliance with Exchange rules, in addition to the current references to compliance with securities laws and regulations, in order to explicitly reference a member's and member organization's obligation to comply with Exchange rules in addition to all applicable securities laws and regulations.

Finally, the Exchange proposes technical conforming changes to: (1) replace references to "member firm" with a reference to "member organization," and (2) clarify references to "member organization" as applying to "member or member organization," as appropriate, throughout Amex Rule 320.

## 2. Statutory Basis

Amex believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

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

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>4</sup> 15 U.S.C. 78f(b).

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

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 Exchange consents, the Commission will:

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

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2005-116 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2005-116. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to

File Number SR-Amex-2005-116 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

Nancy M. Morris,  
Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).