

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-53842; File No. SR-Amex-2006-45)

May 19, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Prohibition Against the Entry of Multiple Options Orders

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 May 8, 2006, 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 and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a “non-controversial” rule change under Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 revise Amex Rule 933—ANTE(e) prohibiting the entry via the Amex New Trading Environment system (“ANTE”) of multiple orders for any account of the same beneficial owner in the same option within any fifteen (15) second period. The text of the proposed rule change appears below. Proposed deletions are in [brackets].

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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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The Amex has requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

**Rule 933—ANTE****Automatic Matching and Execution of Options Orders**

(a) – (d) No change.

(e) The Options Trading Committee shall determine the size parameters of orders eligible for automatic matching and execution. The Committee may determine to set the eligible order size parameter in any option class as the disseminated quote size. [An automatic matching and execution eligible order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less than 15 seconds between entry of each such order in a call class and/or a put class for the same option. Members and member organizations are responsible for establishing procedures to prevent orders in a call class and/or a put class for the same option for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 15 seconds.]

(f)– (g) No change

**Commentary** ... No change.

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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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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 proposes to revise Amex Rule 933—ANTE(e) in order to increase the number of orders handled through ANTE. Currently, Amex Rule 933—ANTE(e) prohibits the entry of multiple orders for any account of the same beneficial owner in the same option class within any fifteen (15) second period. The original purpose of the Rule in connection with the Exchange’s Automatic Execution System (“Auto-Ex”)<sup>6</sup> was to assist Exchange specialists and Registered Options Traders (“ROTs”) in managing their risk of multiple executions of orders delivered in rapid succession. Prior to the introduction of ANTE, specialists and ROTs would find it very difficult to timely revise their quotations. As a result, the Exchange, as well as the other options exchanges, at that time adopted rules to prohibit the entry of multiple orders for any account of the same beneficial owner within fifteen (15) seconds. The purpose of the Rule was to protect investors and other market participants from the potential negative consequences that might result from Order Entry Firms or off-floor broker-dealers “picking off” specialists and/or ROTs. The Exchange believed that if persons were allowed to effectively increase the size of Auto-Ex eligible orders by entering more than one such order at intervals of less than 15 seconds, Amex specialists and ROTs would be unable to make markets with the same liquidity as if there were effective limits on the size and frequency of Auto-Ex eligible orders.

The Amex has substantially improved its electronic trading systems such that the risk associated with multiple orders in the same option delivered for any account of the same or an affiliated beneficial account holder has become more manageable through electronic means.

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<sup>6</sup> The Auto-Ex system was established to provide small customer orders with an immediate single price execution.

Specifically, ANTE now allows specialists and ROTs to submit proprietary electronic quotes through ANTE and to revise their quotes electronically, which reduces the risk of multiple executions of orders delivered in rapid succession before the specialist or ROT is able to revise its quotation. In addition, a revised and updated version of ANTE has incorporated a risk management tool to allow specialists and ROTs to set criteria for the system to adjust their quotes (the “Quote Risk Manager”) if a certain number of trades are executed within a certain period of time. The Commission recently approved the Exchange’s Quote Risk Manager.<sup>7</sup> Due to the substantial increase in automated option order handling and risk mitigation tools provided by ANTE, the Amex submits that the fifteen (15) second prohibition currently included in its Amex Rule 933—ANTE(e) is unnecessary.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

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<sup>7</sup> See Securities Exchange Act Release No. 53148 (January 19, 2006), 71 FR 4386 (January 26, 2006) (SR-Amex-2005-131).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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

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.

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

Because the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> As required by Rule 19b-4(f)(6)(iii) under the Act, the Exchange also provided with the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.<sup>13</sup> However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay and allow the proposed rule change to become operative on May 8, 2006, the date that it was filed with the

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> Id.

<sup>13</sup> Id.

Commission. The Commission hereby grants that request.<sup>14</sup> The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the Commission has approved a similar proposed rule change by the Philadelphia Stock Exchange, Inc.,<sup>15</sup> and thus the proposal does not raise any new regulatory issues.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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. 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-2006-45 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.

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<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>15</sup> See Securities Exchange Act Release No. 51827 (June 13, 2005), 70 FR 35491 (June 20, 2005) (SR-Phlx-2005-20).

All submissions should refer to File No. SR-Amex-2006-45. 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 No. SR-Amex-2006-45 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>16</sup>

Nancy M. Morris  
Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).