

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53917; File No. SR-Amex-2005-116)

June 1, 2006

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to Written Compliance and Supervisory Controls

I. Introduction

On November 7, 2005, the American Stock Exchange, Inc. (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² the proposed rule change relating to written compliance and supervisory controls. Amex filed Amendment No. 1 to the proposed rule change on April 6, 2006. The proposed rule change was published for comment in the Federal Register on April 28, 2006.³ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange is proposing to amend Amex Rule 320 to require members and member organizations with employees to establish, maintain, enforce, and keep current a system of compliance and supervisory controls, including written compliance and supervisory policies and procedures, that are reasonably designed to achieve compliance with applicable securities laws

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 53708 (April 24, 2006), 71 FR 25254.

and regulations and Exchange rules.⁴ In addition to requiring that the written compliance and supervisory policies and procedures be amended as necessary, the proposed rule would require that a member's or member organization's supervisory control employee provide reports, at least annually, to senior management summarizing certain aspects of the compliance and supervisory program.⁵

In addition, the Exchange proposed clarifying edits to the text of Amex Rule 320, including: (1) explicit references to a member's or member organization's obligation to comply with Exchange rules in addition to all applicable securities laws and regulations, and (2) replacing references to "member firm" with references to "member organization."

III. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,⁶ particularly Section 6(b)(5) of the Act,⁷ which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, to remove impediments to and perfect the mechanism of a

⁴ See proposed Amex Rule 320(e). An Amex member or member organization consisting of a sole individual (i.e., a sole proprietorship) would be required to maintain a written compliance manual specifying the obligations to which such member or member organization is subject along with the processes and controls in place that are reasonably designed to achieve compliance with such obligations. See Amex Rule 320, proposed Commentary .08.

⁵ See proposed Amex Rule 320(e)(3).

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that the Exchange's proposal to require its members and member organizations to establish, maintain, enforce, and keep current a system of compliance and supervisory controls, including written compliance and supervisory policies and procedures, that are reasonably designed to achieve compliance with applicable securities laws and regulations and Exchange rules should help strengthen the Exchange's regulatory program by increasing member awareness of the laws and rules with which they must comply. It should also provide members an additional incentive to be cognizant of changing regulatory requirements. The Exchange will review the adequacy of its members' and member organizations' compliance programs. Further, the requirement that Amex members and member organizations adopt comprehensive written compliance and supervisory policies and procedures, and report to senior management on certain aspects of the compliance and supervisory program, should result in the periodic assessment by members and member organizations of the effectiveness of their compliance programs. Accordingly, the proposed rule change should help Amex strengthen its regulatory program for detecting, sanctioning, and deterring violations of Exchange rules and securities laws and regulations and, therefore, should promote just and equitable principles of trade.⁸ Furthermore, the Commission believes that the Amex's proposal should enhance investor protection by facilitating the Exchange's review of its members' and member organizations' systems of compliance and supervisory controls and by enhancing the compliance programs at the member level.

⁸ The Commission notes that a national securities exchange must have the capacity to enforce compliance by its members with applicable securities laws, regulations and the exchange's own rules. See e.g., Section 6(b)(1) of the Act, 15 U.S.C. 78f(b)(1).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR-Amex-2005-116), as amended, be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Nancy M. Morris
Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).