

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54206; File No. SR-Amex-2005-096)

July 25, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Relocation of Registered Options Traders Assigned Options Classes

I. Introduction

On September 22, 2005, the American Stock Exchange LLC (“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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to permit registered options traders (“ROTs”) to send proprietary electronic orders, representing a bona fide hedge and/or liquidating orders, in an assigned option class for up to three (3) months following a relocation of such option class when the ROT is no longer physically present in such trading crowd. On April 5, 2006, the Exchange submitted Amendment No. 1 to the proposed rule change. The proposed rule change and Amendment No. 1 were published for comment in the Federal Register on April 20, 2006.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

Amex Rule 110 (applicable to options through Amex Rule 950—ANTE(a)) and Amex Rule 958—ANTE(a) require that each ROT be qualified and registered with the Exchange as a

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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> Securities Exchange Act Release No. 53640 (April 12, 2006), 71 FR 20426 (April 20, 2006).

ROT and assigned by the Exchange to one or more classes of options. In addition, Amex Rule 958—ANTE(a) provides that Exchange options transactions initiated by a ROT on the floor of the Exchange for any account in which such ROT has an interest must be in his or her assigned classes and Amex Rule 958—ANTE(h) requires a ROT to be physically present at the specialist's post on the floor of the Exchange where the ROT's assigned options class is traded, whenever the ROT is using an automated quote calculation system, joining the specialist's quote in a given option class, or sending an order into the ANTE system in that option.

When an option class is relocated on the trading floor, a ROT has two alternatives: (i) stay in his or her present location and no longer keep the assigned options class, in which case, the ROT may only hedge and/or liquidate positions in the relocated options class by sending orders to another options exchange<sup>4</sup> or (ii) keep the assigned options class and relocate with the option to the new location which may be difficult, and near impossible, depending on the ROTs other assigned classes. When an options class is relocated, the Exchange stated that a ROT would no longer be considered assigned to an option class once an assigned option class has been relocated to a different floor location and the ROT has not communicated his intention to relocate with such assigned options class.

Accordingly, the Exchange proposes to permit ROTs to apply to the Exchange to send proprietary electronic orders constituting bona fide hedging and/or position liquidations in a formerly assigned option class<sup>5</sup> without the need to be physically present at the specialist's post for that formerly assigned options class, for up to a three (3) month period from the date the

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<sup>4</sup> See Amex Rule 958—ANTE(a).

<sup>5</sup> The Exchange stated that a ROT must communicate his intention to relocate if he wants to keep the assigned option class. For purposes of this order, such relocated assigned option class shall be referred to as a ROT's "formerly assigned option class."

application is granted. The Exchange believes that providing ROTs with this limited ability to send orders for the purpose of creating a bona fide hedge or liquidating positions in a formerly assigned options class would provide an effective and efficient means for ROTs to reduce position risk. The Exchange determined that three (3) months is a reasonable amount of time considering that that is the time period within which an expiration of an options class normally occurs. The Exchange also considered whether advance notice of an option class relocation is more suitable than a three (3) month extension; however, according to the Exchange, advance notice may be difficult, if not impossible, for such occurrences as market maker consolidations and mergers which are often the cause for the relocation and thus the Exchange believes that the three (3) month extension is the best alternative.

In order to send electronic orders in a formerly assigned options class under this proposal, a ROT would be required to submit an application in writing to the Exchange's Division of Regulation and Compliance ("R&C") and the R&C must approve such application.<sup>6</sup> The Exchange stated that the R&C would take into consideration several factors in determining whether to grant the ROT approval, including, but not limited to, if the ROT is in good standing with the Exchange, whether the ROT has had any recent regulatory issues and whether advance notice of the relocation was provided. The Exchange stated that the R&C would generally approve a ROT application to take advantage of the ability to send electronic orders under this proposal consistent with the absence of regulatory issues and sufficient advance notice of relocation. Once approved by R&C, a ROT would be able to send proprietary electronic orders, representing a bona fide hedge or position liquidation, in a formerly assigned option class, when

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<sup>6</sup> Proposed Commentary .10 to Amex Rule 958—ANTE.

such ROT is no longer physically present in the trading crowd, for a period of up to three (3) months, without extension.

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>7</sup> and, in particular, the requirements of Section 6(b) of the Act<sup>8</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>9</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, 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. The Commission believes that providing ROTs with a limited ability to send orders in connection with a bona fide hedge or liquidating position in a formerly assigned options class is a reasonable response by the Exchange to the need for ROTs to reduce the position risk that occurs when an options class is relocated.

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<sup>7</sup> 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>8</sup> 15 U.S.C. 78f(b).

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

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-Amex-2005-096), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

Jill M. Peterson  
Assistant Secretary

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

<sup>11</sup> 17 CFR 200.30-3(a)(12).