

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51642; File No. SR-Amex-2005-041)

May 2, 2005

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Revisions to the Implementation Date of the ANTE System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 18, 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. 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 Amex proposes to amend: (i) Rule 900—ANTE to provide a revised date for the implementation of the ANTE System to the three hundred most actively traded option classes; and (ii) Rule 935—ANTE, Commentary .01 to establish a revised date for increased floor broker functionality in the ANTE System. The text of the proposed rule change is available on the Amex’s Web site (<http://www.amex.com>), at the Amex’s Office of the Secretary, and at the Commission’s Public Reference Room.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change 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 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

Revised Implementation Date -- Rule 900—ANTE

On May 20, 2004, the Commission approved the Amex's proposal to implement a new options trading platform known as the Amex New Trading Environment ("ANTE"). On May 25, 2004, the Amex began rolling out the ANTE System on its trading floor on a specialist's post-by-specialist's post basis. At that time it was anticipated that the three hundred most actively traded option classes would be trading on the ANTE System by January 31, 2005. On January 28, 2005, the Amex submitted a proposal to revise its implementation schedule and amend Rule 900-ANTE to provide that the 300 most active option classes will be on the ANTE System by March 31, 2005.³ The Amex is now proposing to further revise its implementation schedule to provide that the remaining 10 of the 300 most active classes will be on the ANTE System by April 30, 2005. Due to various issues the Amex decided to slow the ANTE implementation schedule down for the more active option classes while it assess the impact of recent systems enhancements.

Thus, it is now anticipated that all of the three hundred most active option

³ Securities Exchange Act Release No. 51306 (March 3, 2005), 70 FR 12250 (March 11, 2005) (SR-Amex-2005-013).

classes (that is, the remaining 10 classes) will be on the ANTE System by April 30, 2005. Maintaining two systems for the trading of options -- the legacy system (XTOPS, AODB and Auto-Ex) and ANTE is costly. As a result, the Exchange is working diligently to have all option classes on the ANTE System by May 30, 2005 so that it can retire its legacy systems before its original estimated date of completion, which is the end of the second quarter.

Increased Floor Broker Functionality -- Rule 935—ANTE

Rule 935—ANTE (b) provides for the post trade allocation of contracts executed as the result of the submission of orders to trade with orders in the ANTE Central Book. If more than one ANTE Participant⁴ and/or a floor broker representing a customer order submits an order to trade with an order in the ANTE Central book within a period not to exceed five seconds after the initial ANTE Participant has submitted its order, all those ANTE Participants and the floor broker's customer will be entitled to participate in the allocation of any executed contracts. The ANTE System is currently unable to provide the functionality necessary for floor brokers representing customer orders in the trading crowd the ability to directly participate in the post trade allocation of orders taken off the Central Book. Commentary .01 to Rule 935—ANTE provides a temporary methodology for the specialist to disengage the post trade allocation system in a specific series, which allows the floor broker to alert the specialist within the five second timeframe whenever his customer wants to participate in post trade allocation, and allows the specialist to provide for the

⁴ Rule 900—ANTE (b)(45) defines ANTE Participant as the specialist and/or registered options trader(s) assigned to trade a specific options class on the ANTE System.

customer's participation in post trade allocation when appropriate. The Commission approved the procedures set forth in Commentary .01 as a "reasonable, temporary solution."⁵ Commentary .01 to Rule 935—ANTE also provides that the ANTE System will give floor brokers greater functionality accessing the Central Book on March 31, 2005 or such other date as established by the Exchange and submitted to the Commission pursuant to Section 19(b) of the Act. The Exchange is now proposing to amend Commentary .01 to establish June 30, 2005, as the date the increased functionality will be available in the ANTE System.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁶ in general and furthers the objectives of Section 6(b)(5) of the Act⁷ in particular in that it is designed to prevent fraudulent and manipulative acts and practices and 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; and is designed to prohibit unfair discrimination between customers, issuers, brokers and dealers.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

⁵ Securities Exchange Act Release No. 49747 (May 20, 2004) 69 FR 30344 (May 27, 2004).

⁶ 15 U.S.C. 78f(b).

⁷ 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder⁹ because it does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such 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

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

<http://www.sec.gov/rules/sro.shtml>); or

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2005-041 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2005-041. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. 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-2005-041 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.¹⁰

Margaret H. McFarland
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).