

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56811; File No. SR-Amex-2007-118)

November 19, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Revising the AEMI Rules to Eliminate the Post-Opening Pair-Off of Marketable Orders Held in a Message Queue

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 13, 2007, 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 substantially by the Amex. The Amex has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(5) thereunder<sup>4</sup> as one that effects a change in an existing order-entry or trading system, which renders the proposal effective upon filing with the Commission. 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 adopt changes to the rules governing the Exchange’s new hybrid market trading platform for equity products and exchange-traded funds, designated as AEMI<sup>SM</sup> (“AEMI”), to eliminate the existing post-opening pair-off of marketable orders that are held in a Message Queue<sup>5</sup> during the main pair-off at an opening or reopening.

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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).

<sup>4</sup> 17 CFR 240.19b-4(f)(5).

<sup>5</sup> See Rule 1A–AEMI for a description of a Message Queue.

The proposed rule change is available at the Amex's principal office, the Commission's Public Reference Room, and the Amex's Web site at <http://www.amex.com>.

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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex recently adopted new Commentary .06 to Rule 126–AEMI, “Precedence of Bids and Offers,” which provides that AEMI will function at all times in a manner that assures compliance with the Exchange's priority and parity rules.<sup>6</sup> The Amex adopted Commentary .06 to comply with an undertaking in Section III.F.1 of the settlement order in a recent administrative proceeding.<sup>7</sup> In the September Proposal, the Exchange noted that there were two exceptions to its compliance with the requirements of Commentary .06 that the Exchange had recently become aware of and was working to correct in the near future.<sup>8</sup>

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<sup>6</sup> See Securities Exchange Act Release No. 56495 (September 21, 2007), 72 FR 55262 (September 28, 2007) (notice of filing and immediate effectiveness of File No. SR-Amex-2007-105) (“September Proposal”).

<sup>7</sup> See In the Matter of American Stock Exchange LLC, Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions, a Censure, and a Cease-and-Desist Order Pursuant to Sections 19(h)(1) and 21C of the Securities Exchange Act of 1934, Securities Exchange Act Release No. 55507 (March 22, 2007) (Administrative Proceeding File No. 3-12594).

<sup>8</sup> See September Proposal, supra note 6, at note 7.

The Exchange has subsequently changed its trading system to eliminate the first exception mentioned above. The purpose of this proposal is to resolve the second exception to Rule 126–AEMI, Commentary .06 mentioned above by amending Amex Rules 108–AEMI, “Priority and Parity at Openings and Reopenings,” and 128A–AEMI, “Automatic Execution,” to eliminate the existing post-opening pair-off of marketable orders that are briefly held in a Message Queue during the main pair-off at an opening or reopening. System issues associated with this post-opening pair-off, which takes place at the time the Message Queue is terminated, can, under certain circumstances, result in the violation of the Exchange’s priority and parity rules.

The Amex is filing this proposal simultaneously with the implementation of the related changes to the AEMI system eliminating the post-opening pair-off. As provided in the proposed rule language, the orders from the Message Queue following the opening pair-off will be treated in the same manner as incoming orders during the regular session, including the generation of intermarket sweep orders as required, and they will enter the AEMI Book in the same time sequence in which they entered the Message Queue.<sup>9</sup>

The Exchange asserts that the proposal to effect the foregoing changes to the AEMI trading system does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and does not have the effect of limiting the access to or availability of the system. The Exchange believes that the proposed rule changes are non-controversial and that the related changes to the AEMI system will benefit investors by eliminating an existing system function that could potentially result in a violation of the

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<sup>9</sup> The Exchange also proposes to make a conforming change to the definition of “Message Queue” in Rule 1A–AEMI to clarify that queued messages that enter the AEMI Book do so in the aforementioned time sequence under the current functioning of the AEMI system.

Exchange's rules. The Amex believes that the changes also should have the additional benefit of simplifying the Amex's market structure and making its pricing more transparent.

2. Statutory Basis

The proposed rule change is designed to be consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</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 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.

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

The proposed rule change will impose no 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 Amex has designated the proposed rule change as effecting a change in an existing order-entry or trading system of the Amex that does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) have the effect of limiting the access to or availability of the system, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

4(f)(5) thereunder.<sup>13</sup>

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 the 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 at <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to [rulecomments@sec.gov](mailto:rulecomments@sec.gov). Please include File No. SR-Amex 2007-118 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 No. SR-Amex 2007-118. 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 at <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

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<sup>13</sup> 17 CFR 240.19b-4(f)(5).

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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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 2007-118 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).