

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54327; File No. SR-Amex-2006-47)

August 16, 2006

Self-Regulatory Organizations; American Stock Exchange LLC.; Order Approving Proposed Rule Change and Amendment No. 2 Thereto Relating to the Member Firm Guarantee for FLEX Equity Options

On May 12, 2006, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change 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> to amend Amex Rule 904G(e)(iii) to increase the member firm guarantee for FLEX equity options from 25% to 40%.<sup>3</sup> The Amex filed Amendment No. 1 to the proposed rule change on June 5, 2006 and subsequently withdrew Amendment No. 1. The Amex filed Amendment No. 2 to the proposed rule change on June 12, 2006. The proposed rule change, as amended, was published for comment in the Federal Register on July 12, 2006.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b) of the Act<sup>5</sup> and the rules and regulations

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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> A “member firm guarantee” provides, under certain conditions, a member firm with the ability to cross a specified percentage of a customer order with its own proprietary order before specialists and/or registered options traders in the trading crowd can participate in the transaction.

<sup>4</sup> See Securities Exchange Act Release No. 54104 (July 5, 2006), 71 FR 39374.

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

thereunder applicable to a national securities exchange,<sup>6</sup> and in particular with Section 6(b)(5) of the Act.<sup>7</sup> The Commission notes that under the proposal the member firm guarantee for FLEX equity options could not exceed 40% of an order. The Commission has found with respect to participation guarantees in other contexts that a maximum guarantee of 40% is not inconsistent with statutory standards of competition and free and open markets.<sup>8</sup>

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-Amex-2006-47), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Nancy M. Morris  
Secretary

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> See Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000). See also Securities Exchange Act Release No. 51275 (February 28, 2005), 70 FR 10709 (March 4, 2005) (File No. SR-Amex-2005-002).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).