SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51246; File No. SR-Amex-2005-11)

February 24, 2005

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto by the American Stock Exchange LLC to Adopt Obvious Error Rules for Options Transactions

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 January 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 and II below, which Items have been prepared by the Exchange. The proposed rule change has been filed by Amex as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b-4(f)(6) thereunder.[4] On January 24, 2005, Amex submitted Amendment No. 1 to the proposed rule change.[5] On January 26, 2005, Amex submitted Amendment No. 2 to the proposed rule change.[6] On February 3, 2005, Amex submitted Amendment No. 3 to the proposed rule change.[7] On February 24, 2005, Amex submitted Amendment No. 4 to the proposed rule change.[8] The

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 15 U.S.C. 78s(b)(3)(A).

4 17 CFR 240.19b-4(f)(6).

5 Amendment No. 1 superseded and replaced the original proposed rule change in its entirety.

6 Amendment No. 2 superseded and replaced the original proposed rule change and Amendment No. 1 in their entirety.

7 Amendment No. 3 superseded and replaced the original proposed rule change, Amendment No. 1, and Amendment No. 2 in their entirety.

8 In Amendment No. 4, Amex replaced the term "control room" with "Exchange's Service Desk" in paragraph (b)(2) of proposed Amex Rule 936C and paragraph (b)(2) of Amex Rule 936C--ANTE.

Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. <u>Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change</u>

Amex proposes to adopt new Amex Rules 936, 936C, 936—ANTE, and 936C—ANTE to provide for the cancellation and adjustment of options transactions resulting from obvious errors. The proposed rule text is set forth below.[9] Additions are italicized. Deletions are bracketed.

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Rule 950. Rules of General Applicability

(a) The following Floor Rules shall apply to Exchange option transactions and other transactions on the Exchange in options contracts: 100, 101, 104, 105, 106, 110, 112, 117, 123, 129, 130, [135,] 150, 151, 152, 153, 155, 157, 172, 173, 174, 175, 176, 177, 180, 181, 183, 184, 185, 192 and 193. Unless the context otherwise requires, the term "stock" wherever used in the foregoing Rules shall be deemed to include option contracts. Except as otherwise provided in this Rule, all other Floor Rules (series 100 et seq.) shall not be applicable to Exchange option transactions.

(b) – (n). No Change

<u>Rule 936. Cancellation and Adjustment of Equity Options Transactions</u>

24.16 and to make a technical correction to proposed paragraph (a)(1) of CBOE Rule 6.25 by replacing the word "with" with the word "within."

9 The proposed rule text below contains technical corrections as follows: (1) capitalize the word "Official" in proposed Amex Rule 936, Commentary .03; (2) change the abbreviation "EST" to "ET" in proposed Amex Rule 936C--ANTE (a)(6) and (b)(1), and the purpose section; and (3) make typographical corrections to proposed Amex Rules 936, 936--ANTE, 936C, and 936C--ANTE. Telephone conversations between Claire P. McGrath, Senior Vice President and General Counsel, Amex, and Frank N. Genco, Special Counsel, Division of Market Regulation, Commission, on February 9, 2005; and Jeffrey Burns, Associate General Counsel, Amex, and Frank N. Genco, Special Counsel, Division of Market Regulation, Commission, on February 9, 2005.

This Rule governs the cancellation and adjustment of transactions involving equity options. Rules 936C and 936C—ANTE govern the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds ("ETFs") and trust issued receipts ("TIRs"). Paragraphs (a)(1) and (2) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject to Review. A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error occurs when the execution price of an electronic transaction is above or below the Theoretical Price for the series by an amount equal to at least the amount shown below:

Theoretical Price	Minimum Amount
Below $2	$0.25
$2 to $5	0.40
Above $5 to $10	0.50
Above $10 to $20	0.80
Above $20	1.00

Definition of Theoretical Price. For purposes of this Rule only, the Theoretical Price of an option series is, for series traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. If there are no quotes for comparison, designated Trading Officials will determine the Theoretical Price. For transactions occurring as part of an opening, the Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(i) Cancellation or Price Adjustment. Obvious Pricing Errors will be cancelled or adjusted as follows.

- Transactions Between Amex specialists/registered options traders (ROTs): Where both parties to the transaction are Amex specialists/ROTs, the execution price of the transaction will be adjusted by Trading Officials to the prices provided in Paragraphs (A) and (B) below, minus (plus) an adjustment penalty ("adjustment penalty"), unless both parties agree to adjust the transaction to a different price or agree to cancel the trade within fifteen (15) minutes of being notified by Trading Officials of the Obvious Error.

  (A) Erroneous buy transactions will be adjusted to their Theoretical Price plus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

  (B) Erroneous sell transactions will be adjusted to their Theoretical Price minus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

- Transactions Involving at least one non-Amex specialist/ROT: Where one of the parties to the transaction is not an Amex specialist/ROT, the transactions will be cancelled by Trading Officials unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by Trading Officials of the Obvious Error.

(2) No Bid Series. Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Electronic or open outcry transactions arising out of a "verifiable disruption or malfunction" in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. Transactions that qualify for price adjustment will be adjusted to the Theoretical Price, as defined in paragraph (a)(1) above.

(4) Erroneous Print in Underlying. A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be cancelled. In order to be cancelled, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a

two minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying. Electronic trades (this provision does not apply to trades executed in open outcry) resulting from an erroneous quote in the underlying security may be adjusted or canceled as set forth in paragraph (a)(1) above. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900 (b)(26)) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

(b) Procedures for Reviewing Transactions

(1) Notification. Any member or person associated with a member that believes it participated in a transaction that may be cancelled or adjusted in accordance with paragraph (a) must notify any Trading Official promptly but not later than fifteen (15) minutes after the

execution in question. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination. Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the Exchange's Service Desk.

(c) Obvious Error Panel

(1) Composition. An Obvious Error Panel will be comprised of at least one (1) member of the Regulatory staff and four (4) Floor Officials. Fifty percent of the number of Floor Officials on the Obvious Error Panel must be directly engaged in market making activity and fifty percent of the number of Floor Officials on the Obvious Error Panel must act in the capacity of a non-specialist floor broker.

(2) Scope of Review. If a party affected by a determination made under this Rule so requests within the time permitted in paragraph (b), an Obvious Error Panel will review

decisions made by the Trading Officials under this Rule, including whether an obvious error occurred, whether the correct Theoretical Price was used, and whether the correct adjustment was made at the correct price. A party may also request that the Obvious Error Panel provide relief as required in this Rule in cases where the party failed to provide the notification required in paragraph (b) and the Trading Officials declined to grant an extension, but unusual circumstances must merit special consideration.

(3) Procedure for Requesting Review. A request for review must be made in writing within (30) minutes after a party receives verbal notification of a final determination by the Trading Officials under this Rule, except that if notification is made after 3:30 p.m. Eastern Time ("ET"), either party has until 9:30 a.m. ET the next trading day to request review. The Obvious Error Panel shall review the facts and render a decision on the day of the transaction, or the next trade day in the case where a request is properly made the next trade day.

(4) Panel Decision. The Obvious Error Panel may overturn or modify an action taken by the Trading Officials under this Rule upon agreement by a majority of the Panel representatives. All determinations by the Obvious Error Panel may be appealed in accordance with paragraph (d) of this rule.

(d) Review of Rulings. A member affected by a determination made under this rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials who have not already ruled on the matter. A request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials. Notwithstanding other Exchange rules to the contrary (e.g., Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the

Constitution. The parties may also elect to submit the matter to arbitration pursuant to Article VIII of the Constitution.

(e) Negotiated Trade Cancellation. A trade may be cancelled if the parties to the trade agree to the cancellation. When all parties to a trade have agreed to a trade cancellation one party must promptly disseminate cancellation information in OPRA format.

Commentary…………………

.01 The term "Trading Officials" means two Exchange members designated as Floor Officials and one member of the Regulatory staff.

.02 For purposes of this Rule, an "erroneous sell transaction" is one in which the price received by the person selling the option is erroneously low, and an "erroneous buy transaction" is one in which the price paid by the person purchasing the option is erroneously high.

.03 Applicability: Trading Officials may also allow for the execution of opening trades that were not executed on the opening but that should have been executed had the specialist opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed during the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

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Rule 936C. Cancellation and Adjustment of Index Option Transactions

This Rule only governs the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds (ETFs) and trust issued receipts (TIRs). Rule 936 governs the cancellation and adjustment of transactions involving equity options. Paragraphs (a)(1), (2), (6) and (7) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject to Review

A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error will be deemed to have occurred when the execution price of a transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask differentials as established in Rule 958(c), the prescribed amount shall be: (a) the greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 958(c), the prescribed error amount shall be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

(i) Definition of Fair Market Value: For purposes of this Rule only, the fair market value of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). In multiply listed issues, if there are no quotes for comparison purposes, fair market value shall be determined by Trading Officials. For singly-listed issues, fair market value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of an opening, the Fair Market Value shall also be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(2) Obvious Quantity Error. An obvious error in the quantity term will be deemed to occur when the transaction size exceeds the responsible broker or dealer's average disseminated size over the previous four hours by a factor of five (5) times. The quantity to which a transaction shall be adjusted from an obvious quantity error shall be the responsible broker or dealer's average disseminated size over the previous four trading hours (which may include the previous trading day).

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Trades arising out of a "verifiable disruption or malfunction" in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. Transactions that qualify for price adjustment will be adjusted to the Fair Market Value, as defined in paragraph (a)(1)(i) above.

(4) Erroneous Print in Underlying. A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying

market may be cancelled or adjusted. In order to be cancelled or adjusted, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying. A trade resulting from an erroneous quote in the underlying security may be cancelled or adjusted. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900 (b)(26)) during the time period encompassing two minutes before and after the dissemination of such quote.

(6) Trades Below Intrinsic Value. An obvious pricing error will be deemed to occur when the transaction price of an equity option is more than $0.10 below the intrinsic value of the same option (an option that trades at its intrinsic value is sometimes said to trade at "parity"). Paragraph (6) shall not apply to transactions occurring during the last two minutes of the trading day (which is typically 4:00:01 p.m. (ET) to 4:02 p.m. (ET)) on days with regular trading hours).

(i) Definition of Intrinsic Value: For purposes of this Rule, the intrinsic value of an equity call option equals the value of the underlying stock (measured from the bid or offer as described below) minus the strike price, and the intrinsic value of an equity put option equals the strike price minus the value of the underlying stock (measured from the bid or offer as described below), provided that in no case is the intrinsic value of an option less than zero. In the case of purchasing call options and selling put options, intrinsic value is measured by reference to the bid in the underlying security, and in the case of purchasing put options and selling call options, intrinsic value is measured by reference to the offer in the underlying security.

(7) No Bid Series. Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

(b) Procedures for Reviewing Transactions

(1) Notification. Any member or person associated with a member that believes it participated in a transaction that may be cancelled or adjusted in accordance with paragraph (a) must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. For transactions occurring after 3:45 p.m. (ET), notification must be provided promptly but not later than fifteen (15) minutes after the close of trading of that security on the Exchange. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action

pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination. Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. If the transaction(s) in question occurred after 3:30 p.m. (ET), Trading Officials shall have until 10:30 a.m. (ET) the following morning to render a determination. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the Exchange's Service Desk.

(c) Adjustments. Unless otherwise specified in Rule 936C(a)(1)–(6), transactions will be adjusted provided the adjusted price does not violate the customer’s limit price. Otherwise, the transaction will be cancelled. With respect to 936C(a)(1)–(5), the price to which a transaction shall be adjusted shall be the national best bid or offer (NBBO) immediately following the erroneous transaction with respect to a sell (buy) order entered on the Exchange. For opening transactions, the price to which a transaction shall be adjusted shall be based on the first non-erroneous quote after the erroneous transaction on the Exchange. With respect to Rule 936C(a)(6), the transaction shall be adjusted to a price that is $0.10 under parity.

(d) Review of Rulings. A member affected by a determination made under this rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials who have not already ruled on the matter. A request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials. Notwithstanding other Exchange rules to the contrary (e.g., Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Constitution. The parties may also elect to submit the matter to arbitration pursuant to Article VIII of the Constitution.

(e) Negotiated Trade Cancellation. A trade may be cancelled if the parties to the trade agree to the cancellation. When all parties to a trade have agreed to a trade cancellation one party must promptly disseminate cancellation information in OPRA format.

Commentary………………….

.01 The term "Trading Officials" means two Exchange members designated as Floor Officials and one member of the Regulatory staff.

.02 Applicability: Trading Officials may also allow for the execution of opening trades that were not executed on the opening but that should have been executed had the specialist opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed during the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

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Rule 936—ANTE. Cancellation and Adjustment of Equity Options Transactions

This Rule governs the nullification and adjustment of transactions involving equity options. Rule 936C and 936C—ANTE governs the nullification and adjustment of transactions involving options on indexes, exchange-traded funds ("ETFs") and trust issued receipts ("TIRs"). Paragraphs (a)(1) and (2) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject to Review. A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error occurs when the execution price of an electronic transaction is above or below the Theoretical Price for the series by an amount equal to at least the amount shown below:

Theoretical Price	Minimum Amount
Below $2	$0.25
$2 to $5	0.40
Above $5 to $10	0.50
Above $10 to $20	0.80
Above $20	1.00

Definition of Theoretical Price. For purposes of this Rule only, the Theoretical Price of an option series is, for series traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. If there are no quotes for comparison, designated Trading Officials will determine the Theoretical Price. For transactions occurring as part of an opening, the Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(i) Cancellation or Price Adjustment. Obvious Pricing Errors will be cancelled or adjusted as follows.

- Transactions Between Amex specialists/registered options traders (ROTs): Where both parties to the transaction are Amex specialists/ROTs, the execution price of the transaction will be adjusted by Trading Officials to the prices provided in Paragraphs (A) and (B) below, minus (plus) an adjustment penalty ("adjustment penalty"), unless both parties agree to adjust the transaction to a different price or agree to cancel the trade within fifteen (15) minutes of being notified by Trading Officials of the Obvious Error.

  (A) Erroneous buy transactions will be adjusted to their Theoretical Price plus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

  (B) Erroneous sell transactions will be adjusted to their Theoretical Price minus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

- Transactions Involving at least one non-Amex specialist/ROT: Where one of the parties to the transaction is not an Amex specialist/ROT, the transactions will be cancelled by Trading Officials unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by Trading Officials of the Obvious Error.

(2) No Bid Series. Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Electronic or open outcry transactions arising out of a "verifiable disruption or malfunction" in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. Transactions that qualify for price adjustment will be adjusted to the Theoretical Price, as defined in paragraph (a)(1) above.

(4) Erroneous Print in Underlying. A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be cancelled. In order to be cancelled, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying. Electronic trades (this provision does not apply to trades executed in open outcry) resulting from an erroneous quote in the underlying security may be adjusted or canceled as set forth in paragraph (a)(1) above. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900 (b)(26)—ANTE) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

(b) Procedures for Reviewing Transactions

(1) Notification. Any member or person associated with a member that believes it participated in a transaction that may be cancelled or adjusted in accordance with paragraph (a) must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the

occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination. Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the Exchange's Service Desk.

(c) Obvious Error Panel

(1) Composition. An Obvious Error Panel will be comprised of at least one (1) one member of the regulatory staff and four (4) Floor Officials. Fifty percent of the number of Floor Officials on the Obvious Error Panel must be directly engaged in market making activity and fifty percent of the number of Floor Officials on the Obvious Error Panel must act in the capacity of a non-specialist floor broker.

(2) Scope of Review. If a party affected by a determination made under this Rule so requests within the time permitted in paragraph (b), an Obvious Error Panel will review decisions made by the Trading Officials under this Rule, including whether an obvious error occurred, whether the correct Theoretical Price was used, and whether the correct adjustment was made at the correct price. A party may also request that the Obvious Error Panel provide relief as required in this Rule in cases where the party failed to provide the notification required

in paragraph (b) and the Trading Officials declined to grant an extension, but unusual circumstances must merit special consideration.

(3) Procedure for Requesting Review. A request for review must be made in writing within (30) minutes after a party receives verbal notification of a final determination by the Trading Officials under this Rule, except that if notification is made after 3:30 p.m. Eastern Time ("ET"), either party has until 9:30 a.m. ET the next trading day to request review. The Obvious Error Panel shall review the facts and render a decision on the day of the transaction, or the next trade day in the case where a request is properly made the next trade day.

(4) Panel Decision. The Obvious Error Panel may overturn or modify an action taken by the Trading Officials under this Rule upon agreement by a majority of the Panel representatives. All determinations by the Obvious Error Panel may be appealed in accordance with paragraph (d) of this rule.

(d) Review of Rulings. A member affected by a determination made under this rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials who have not already ruled on the matter. A request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials. Notwithstanding other Exchange rules to the contrary (e.g., Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Constitution. The parties may also elect to submit the matter to arbitration pursuant to Article VIII of the Constitution.

(e) Negotiated Trade Cancellation. A trade may be cancelled if the parties to the trade agree to the cancellation. When all parties to a trade have agreed to a trade cancellation one party must promptly disseminate cancellation information in OPRA format.

Commentary…………………

.01 The term "Trading Officials" means two Exchange members designated as Floor Officials and one member of the Regulatory staff.

.02 For purposes of this Rule, an "erroneous sell transaction" is one in which the price received by the person selling the option is erroneously low, and an "erroneous buy transaction" is one in which the price paid by the person purchasing the option is erroneously high.

.03 Applicability: Trading Officials may also allow for the execution of opening trades that were not executed on the opening but that should have been executed had the specialist opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed during the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

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Rule 936C—ANTE. Cancellation and Adjustment of Index Option Transactions

This Rule only governs the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds (ETFs) and trust issued receipts (TIRs). Rule 936 and 936—ANTE governs the cancellation and adjustment of transactions involving equity options. Paragraphs (a)(1), (2), (6) and (7) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject to Review

A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error will be deemed to have occurred when the execution price of a transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask differentials as established in Rule 958(c)—ANTE, the prescribed amount shall be: (a) the greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 958(c)—ANTE, the prescribed error amount shall be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

(i) Definition of Fair Market Value: For purposes of this Rule only, the fair market value of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). In multiply listed issues, if there are no quotes for comparison purposes, fair market value shall be determined by Trading Officials. For singly-listed issues, fair market value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of an opening, the Fair Market Value shall also be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(2) Obvious Quantity Error. An obvious error in the quantity term will be deemed to occur when the transaction size exceeds the responsible broker or dealer’s average disseminated

size over the previous four hours by a factor of five (5) times. The quantity to which a transaction shall be adjusted from an obvious quantity error shall be the responsible broker or dealer's average disseminated size over the previous four trading hours (which may include the previous trading day).

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Trades arising out of a "verifiable disruption or malfunction" in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. Transactions that qualify for price adjustment will be adjusted to the Fair Market Value, as defined in paragraph (a)(1)(i) above.

(4) Erroneous Print in Underlying. A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be cancelled or adjusted. In order to be cancelled or adjusted, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the

underlying security during a two minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying. A trade resulting from an erroneous quote in the underlying security may be cancelled or adjusted. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900 (b)(26)—ANTE) during the time period encompassing two minutes before and after the dissemination of such quote.

(6) Trades Below Intrinsic Value. An obvious pricing error will be deemed to occur when the transaction price of an equity option is more than $0.10 below the intrinsic value of the same option (an option that trades at its intrinsic value is sometimes said to trade at "parity"). Paragraph (6) shall not apply to transactions occurring during the last two minutes of the trading day (which is typically 4:00:01 p.m. (ET) to 4:02 p.m. (ET)) on days with regular trading hours).

(i) Definition of Intrinsic Value: For purposes of this Rule, the intrinsic value of an equity call option equals the value of the underlying stock (measured from the bid or offer as described below) minus the strike price, and the intrinsic value of an equity put option equals the strike price minus the value of the underlying stock (measured from the bid or offer as described below), provided that in no case is the intrinsic value of an option less than zero. In the case of purchasing call options and selling put options, intrinsic value is measured by reference to the bid in the underlying security, and in the case of purchasing put options and selling call options, intrinsic value is measured by reference to the offer in the underlying security.

(7) No Bid Series. Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

(b) Procedures for Reviewing Transactions

(1) Notification. Any member or person associated with a member that believes it participated in a transaction that may be cancelled or adjusted in accordance with paragraph (a) must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. For transactions occurring after 3:45 p.m. (ET), notification must be provided promptly but not later than fifteen (15) minutes after the close of trading of that security on the Exchange. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination. Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. If the transaction(s) in question occurred after 3:30 p.m. (ET), Trading Officials shall have until 10:30 a.m. (ET) the following morning to render a determination. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the Exchange's Service Desk.

(c) Adjustments. Unless otherwise specified in Rule 936C—ANTE (a)(1)–(6), transactions will be adjusted provided the adjusted price does not violate the customer's limit price. Otherwise, the transaction will be cancelled. With respect to Rule 936C—ANTE (a)(1)–(5), the price to which a transaction shall be adjusted shall be the national best bid or offer (NBBO) immediately following the erroneous transaction with respect to a sell (buy) order entered on the Exchange. For opening transactions, the price to which a transaction shall be adjusted shall be based on the first non-erroneous quote after the erroneous transaction on the Exchange. With respect to Rule 936C—ANTE (a)(6), the transaction shall be adjusted to a price that is $0.10 under parity.

(d) Review of Rulings. A member affected by a determination made under this rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials who have not already ruled on the matter. A request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials.

Notwithstanding other Exchange rules to the contrary (e.g., Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Constitution. The parties may also elect to submit the matter to arbitration pursuant to Article VIII of the Constitution.

(e) Negotiated Trade Cancellation. A trade may be cancelled if the parties to the trade agree to the cancellation. When all parties to a trade have agreed to a trade cancellation one party must promptly disseminate cancellation information in OPRA format.

Commentary………………….

.01 The term "Trading Officials" means two Exchange members designated as Floor Officials and one member of the Regulatory staff.

.02 Applicability: Trading Officials may also allow for the execution of opening trades that were not executed on the opening but that should have been executed had the specialist opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed during the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

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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 Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The purpose of the proposed rule change is to adopt new Amex Rules 936, 936C, 936—ANTE, and 936C—ANTE to allow the Exchange to either cancel or adjust equity, index, exchange-traded fund ("ETF"), and trust issued receipt ("TIR") options transactions, the terms of which are obviously in error. The proposal would apply to transactions in both the Amex New Trading Environment ("ANTE")[10] as well as the existing floor-based auction market traditionally available on the Exchange. The proposed rule contains objective criteria for determining when an options transaction constitutes an "obvious error," provides an objective process members must follow to seek relief under the rule, and provides an appeals process for members seeking to challenge an initial determination. Because of the lack of uniform obvious error rules among the options exchanges, customers that routinely send orders to multiple exchanges have indicated that a more uniform obvious error pricing rule with respect to equity options would be beneficial to them. Accordingly, in response to the requests of its customers, the Amex proposes to adopt an obvious error pricing rule for equity options that is similar to other options exchanges. The Exchange is also proposing an obvious error rule for index, ETF and TIR options.

Obvious Error Rule for Equity Options (Amex Rules 936 and 936—ANTE)

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10 The Commission approved the ANTE system in May 2004. See Securities Exchange Act Release No. 49747 (May 20, 2004), 69 FR 30344 (May 27, 2004) (approving File No. SR-Amex-2003-89). Amex represents that the rollout of ANTE is expected for completion by the end of the third quarter 2005 with the top 300 option classes on ANTE by the end of January 2005. Accordingly, the proposal initially would require application to both the traditional floor-based system as well as ANTE. Upon completion of the rollout of ANTE, the proposed rule would only need to apply to ANTE.

Criteria for Determining an Erroneous Transaction

For purposes of proposed Amex Rules 936 and 936—ANTE, an options transaction must satisfy one of the following "obvious error" categories in order for such transaction to be reviewed for cancellation or adjustment by the Exchange.

Obvious Price Error. The Exchange proposes to adopt an obvious price error rule that operates identically to that of Chicago Board Options Exchange, Inc. ("CBOE") Rule 6.25. As such, an obvious pricing error will be deemed to have occurred when the execution price of an electronic transaction (not open outcry) varies from the Theoretical Price[11] by a requisite amount.[12] When an obvious price error occurs, Amex either will adjust or cancel the transaction in the following manner.

Transactions Between Amex Specialists/Registered Options Traders ("ROTs"). Transactions between Amex specialists/ROTs will be adjusted to the Theoretical Price plus/minus an "adjustment penalty" of either $0.15 or $0.30. Erroneous buy transactions will be adjusted to the Theoretical Price plus an adjustment penalty of either $0.15 if the Theoretical Price is below $3 or $0.30 if the Theoretical Price is $3 or higher. Conversely, erroneous sell transactions will be adjusted to the Theoretical Price minus an adjustment penalty of either $0.15 if the Theoretical Price is below $3 or $0.30 if the Theoretical Price is $3 or higher. Both parties

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11 The Exchange proposes to use the definition of Theoretical Price currently employed by the CBOE and the International Securities Exchange ("ISE"). See CBOE Rule 6.25(a)(1) and ISE Rule 720(b). For multiply traded options, Theoretical Price will be the last bid (offer) price with respect to an erroneous sell (buy) transaction just prior to the trade that is disseminated by the competing options exchange with the most liquidity in that class over the preceding two calendar months. If there are no quotes for comparison purposes, trading officials shall determine Theoretical Price. For transactions occurring as part of an opening, Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

12 The requisite amount is: $0.25 for options below $2, $0.40 for options priced from $2 to

to the transaction may agree to adjust to a different price or cancel the transaction altogether provided they do so within fifteen (15) minutes of being notified by trading officials that an obvious error occurred.

Transactions where One Party is not an Amex specialist/ROT. In cases where at least one party is not an Amex specialist/ROT, the transaction will be cancelled by trading officials unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by trading officials of the obvious error. This is identical to CBOE Rule 6.25.

Series Quoted No Bid. An obvious pricing error will also be deemed to exist for "series quoted no bid." Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same class were quoted no bid at a nickel ($0.05) at the time of execution. This proposed rule provision would correct errors in out-of-the-money options that often have no intrinsic value.

Verifiable Disruptions or Malfunctions of Exchange Systems. Transactions arising out of a "verifiable disruption or malfunction" in the use or operation of any Exchange (1) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (2) automated quotation, dissemination, or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or

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$5, $0.50 for options priced above $5 to $10, $0.80 for options priced above $10 to $20, and $1.00 for options priced above $20.

malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred, and due to the disruption or malfunction, the quote was not updated or cancelled. This Rule will apply to transactions occurring both electronically and in open outcry.

Erroneous Print in Underlying Market. A trade resulting from an erroneous print disseminated by the underlying market that is later cancelled or corrected by that underlying market may be cancelled. In order to be cancelled, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two (2) minute period before and after the erroneous print by an amount at least five (5) times greater than the average quote width for such underlying security during the same period. This Rule will apply to transactions occurring both electronically and in open outcry.

Erroneous Quote in Underlying Security. A trade resulting from an erroneous quote in the underlying security may be adjusted or cancelled. An erroneous quote occurs when the underlying security has a width of at least $1.00 and a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Amex Rule 900(b)(26) and Amex Rule 900(b)(26)—ANTE) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this proposed Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four-minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

Erroneous Transactions During the Opening. A trading rotation in options is held each business day promptly following the opening of the underlying security or the availability of opening quotations in the underlying security. Included in the opening rotation are pre-opening market and limit orders as well as orders on the book from the previous trading day. As described in Commentary .01 to Amex Rule 918 and Commentary .01 to Amex Rule 918—ANTE, an opening price will be established and all market and marketable limit orders will be executed. Depending upon the opening price some limit orders may not be eligible for execution. If that opening price is erroneous and later corrected, Trading Officials may also allow for the execution of trades that were not executed on the opening but that should have been executed had the specialist or ANTE System opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed pursuant to the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

Procedures for Reviewing Options Transactions Deemed Erroneous.

The proposed Amex Rule would allow the Exchange to cancel or adjust options transactions that are obviously erroneous where either the parties agree or do not agree that the transaction should be cancelled or revised. Under the proposed Rule, a member or person associated with a member may request trading officials to review an option transaction(s) claimed to be erroneous. The Exchange proposes to require notification within 15 minutes of the transaction in question, regardless of the time it occurred. Once a ruling is requested, the trading officials must review the trade unless both parties agree to withdraw an application before ruling is made. The proposed Rule requires trading officials to render a determination within 60 minutes of notification, regardless of the time the transaction occurred. [13]

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[13] The Amex represents that trading officials will remain at the Exchange until a determination is rendered.

The process for appealing determinations regarding obvious errors is proposed in new Amex Rules 936(d) and 936(d)—ANTE. The Exchange proposes to create an Obvious Error Panel ("Panel") that will review decisions rendered by trading officials. The rules creating and governing the Panel are substantially similar to CBOE Rule 6.25(c) and ISE Rule 720(e). Regarding the composition of the Panel, Amex, in addition to including one member of the regulatory staff, will require that the Panel be comprised of an equal number of Amex specialists and ROTs, and floor broker members. Decisions of the Panel are subject to review by a panel of three (3) Exchange Officials who have not already ruled on the matter presented on appeal. Notwithstanding other Exchange rules to the contrary (e.g., Rule 22(d)), the decision or ruling of the three (3) Exchange Official panel is binding on members subject to any right of appeal pursuant to Article II, Section 3 of the Amex Constitution. The parties may also submit the matter to arbitration pursuant to Article VIII of the Amex Constitution.

Obvious Error Rule for Index, ETF and TIR Options (Amex Rules 936C and 936C—ANTE)

Criteria for Determining an Erroneous Transaction

For purposes of proposed Amex Rules 936C and 936C—ANTE, an options transaction must satisfy one of the following "obvious error" categories in order for such transaction to be reviewed for cancellation or adjustment by the Exchange. The Exchange represents that the proposal is identical to CBOE Rule 24.16.

Obvious Price Error. An obvious price error will be deemed to have occurred when the execution price of a transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask spreads as set forth in Amex Rule 958(c) and Amex Rule 958(c)—ANTE, the prescribed amount shall be: (a) the greater of $0.10

or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask spreads that are greater than the bid-ask spreads established in Rule 958(c) and 958(c)—ANTE, the prescribed error amount shall be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

Fair market value for these purposes is deemed to be the midpoint of the national best bid and national best offer (the "NBBO") for the series for multiple-traded classes. If there are no quotes for comparison purposes, fair market value shall be determined by trading officials. In connection with single-listed classes, fair market value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of the opening, fair market value shall also be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

Obvious Quantity Error. An obvious error in quantity will be deemed to occur when the transaction size exceeds the responsible broker or dealer’s average disseminated size over the previous four (4) hours by a factor of ten (10) times. The quantity to which a transaction shall be adjusted from an obvious quantity error shall be the responsible broker or dealer’s average disseminated size over the previous four (4) trading hours (which may include the previous trading day).

Verifiable Disruptions or Malfunctions of Exchange Systems. Transactions arising out of a "verifiable disruption or malfunction" in the use or operation of any Exchange (1) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (2) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred, and due to the disruption or malfunction, the quote was not updated or cancelled. This Rule will apply to transactions occurring both electronically and in open outcry.

Erroneous Print in Underlying Market. A trade resulting from an erroneous print disseminated by the underlying market that is later cancelled or corrected by that underlying market may be cancelled or adjusted. In order to be cancelled or adjusted, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two (2) minute period before and after the erroneous print by an amount at least five (5) times greater than the average quote width for such underlying security during the same period. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four (4) minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

Erroneous Quote in Underlying Security. A trade resulting from an erroneous quote in the underlying security may be cancelled or adjusted. An erroneous quote occurs when the underlying security has a width of at least $1.00 and that width is at least five (5) times greater than the average quote width for such underlying security on the primary market (as defined in Amex Rule 900(b)(26) and Amex Rule 900(b)(26)—ANTE during the time period encompassing two (2) minutes before and after the dissemination of such quote.

Trades Below Intrinsic Value. An obvious pricing error will be deemed to exist where a trade is automatically executed at a price so that the specialist or ROT sells at $0.10 or more below intrinsic value. An option that trades at its intrinsic value is known as trading at "parity." Parity describes an option contract's total premium when that premium is equal to its intrinsic value. Parity for calls is measured by reference to the offer price of the underlying security at the time of the transaction minus the strike price for the call. Parity for puts is measured by the strike price of an underlying security minus its bid price at the time of the transaction.

Series Quoted No Bid. An obvious pricing error will also be deemed to exist for "series quoted no bid." In this situation, the trade resulted in an execution price in a series quoted no bid and at least one strike price below (for calls) or above (for puts) in the same class were quoted no bid immediately before the time of the erroneous execution, and the bid following the execution in that series was zero. This proposed rule provision would correct errors in out-of-the-money options that often have no intrinsic value.

Adjustments

If the trading officials determine that the particular option transaction fits within one of the categories set forth above and the complaining party has timely documented a request for relief, then the trade will be cancelled or adjusted. In general, transactions will be adjusted provided the adjusted price does not violate the customer's limit price. Otherwise, the transaction will be cancelled.

With respect to transactions deemed in error as set forth in Amex Rules 936C(a)(1)-(5) and 936C(a)(1)-(5)—ANTE, the price to which a transaction will be adjusted is the NBBO immediately following the erroneous transaction order entered on the Exchange. For opening transactions in ANTE, the price to which a transaction shall be adjusted is based on the first non-erroneous quote after the erroneous transaction on the Amex. In connection with transactions below intrinsic value set forth in Amex Rules 936C(a)(6) and 936C(a)(6)—ANTE, the transaction would be adjusted to a price that is $0.10 under parity.

Negotiated Trade Cancellation

A trade may also be cancelled if the parties to the trade agree to the cancellation. When a cancellation has been agreed to, one of the parties is required to disseminate cancellation information in OPRA format.

Erroneous Transactions During the Opening. A trading rotation in options is held each business day promptly following the opening of the underlying security or the availability of opening quotations in the underlying security. Included in the opening rotation are pre-opening market and limit orders as well as orders on the book from the previous trading day. As described in Commentary .01 to Amex Rule 918 and Commentary .01 to Amex Rule 918—ANTE, Commentary .01, an opening price will be established and all market and marketable limit orders will be executed. Depending upon the opening price some limit orders may not be eligible for execution. If that opening price is erroneous and later corrected, trading officials may also allow for the execution of trades that were not executed on the opening but that should have been executed had the specialist or ANTE System opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed pursuant to the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

Procedures for Reviewing Options Transactions Deemed Erroneous

The proposed Rule would allow the Exchange to cancel or adjust options transactions that are obviously erroneous where either the parties agree or do not agree that the transaction should be cancelled or revised. Under the proposed rule change, a member or person associated with a member may request trading officials to review an option transaction(s) claimed to be erroneous. Once a ruling is requested, the trading officials must review the trade unless both parties agree to withdraw an application before ruling is made.

Notification of trading officials by a member indicating that a transaction should be cancelled or adjusted should occur promptly but no later than fifteen (15) minutes after the execution in question. For transactions occurring after 3:45 p.m. Eastern Time (ET), notification may not occur later than fifteen (15) minutes after the close of trading. Absent unusual circumstances, trading officials must render a determination within sixty (60) minutes of receiving notification. If the transaction(s) in question occurred after 3:30 p.m. ET, trading officials have until 10:30 a.m. (ET) the following morning to render a determination.

A member affected by a determination made under the proposed Rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials. A request for review must be made in writing no later than the close of trading on the next trade date after a party receives verbal notification of a final determination by trading officials. Notwithstanding other Exchange rules to the contrary (e.g., Amex Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Amex

Constitution. The parties may also submit the matter to arbitration pursuant to Article VIII of the Amex Constitution.

2. Statutory Basis

Amex represents that the filing provides objective guidelines for the nullification or adjustment of transactions executed at clearly erroneous prices. Moreover, the proposed rule change provides more uniformity regarding obvious pricing errors, which will serve to benefit customers. For these reasons, the Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act[15] that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

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

Amex does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange 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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

14 15 U.S.C. 78(f)(b).

15 15 U.S.C. 78(f)(b)(5).

Because the foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative until 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, it has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b-4(f)(6) thereunder.[17]

The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change immediately operative. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[18] The proposed Amex obvious error rules are substantially similar to CBOE Rules 6.25 and 24.16. Thus, the Commission does not believe that the proposed rule change raises any new regulatory issues. In addition, the Commission believes that waiver of the 30-day operative delay would enable the Exchange to implement the proposal as quickly as possible, and thereby should provide Amex members and users of Amex facilities with greater clarity with respect to whether a particular options transactions involves an obvious error.

At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b-4(f)(6).

[18] For purposes of waiving the operative delay of this proposal, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[19]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2005-11 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-2005-11. 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

19 For purposes of calculating the sixty-day abrogation period, the Commission

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 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-2005-11 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.[20]

Margaret H. McFarland
Deputy Secretary

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considers the abrogation period to have begun on February 22, 2005, the date Amex submitted Amendment No. 4. See 15 U.S.C. 78s(b)(3)(C).

[20] 17 CFR 200.30-3(a)(12).