

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-53649; File No. SR-Amex-2006-29)

April 13, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of the Allocation and Performance Evaluation Procedures for Securities Admitted to Dealings on an Unlisted Basis

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 April 6, 2006, 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 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 seeks a one year extension of its allocations and performance evaluation procedures for securities admitted to dealings on an unlisted trading privileges (“UTP”) basis to permit these programs to remain in effect while the Commission considers permanent approval of these procedures.

The text of the proposed rule change is available on the Amex’s Web site at <http://www.amex.com>, the Amex’s Office of the Secretary, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

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

1. Purpose

The Exchange is proposing to extend its allocations and performance evaluation procedures for securities admitted to dealings on a UTP basis from April 6, 2006 through and including April 6, 2007. The text of the rules shall remain unchanged.

The Commission previously approved the Exchange's allocation and performance evaluation procedures on a pilot basis through two independent approval orders ("Pilots").<sup>3</sup> In 2003, the Pilots were extended until October 5, 2003,<sup>4</sup> and April 5, 2004.<sup>5</sup> In 2004, the Pilots were extended through April 6, 2005.<sup>6</sup> In 2005, the Pilots were extended through April 6, 2006.<sup>7</sup> The instant proposed rule change makes no substantive

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<sup>3</sup> See Securities Exchange Act Release No. 45698 (April 5, 2002), 67 FR 18051 (April 12, 2002)(SR-Amex-2001-107); and 46750 (October 30, 2002), 67 FR 67880 (November 7, 2002)(SR-Amex-2002-19).

<sup>4</sup> See Securities Exchange Act Release No. 47779 (May 1, 2003), 68 FR 24777 (May 8, 2003)(SR-Amex-2003-23).

<sup>5</sup> See Securities Exchange Act Release No. 48657 (October 17, 2003), 68 FR 61025 (October 24, 2003) (SR-Amex-2003-87).

<sup>6</sup> See Securities Exchange Act Release No. 49613 (April 26, 2004), 69 FR 24204 (May 3, 2004)(SR-Amex-2004-22).

<sup>7</sup> See Securities Exchange Act Release No. 52004 (July 8, 2005), 70 FR 41061

change to the Pilots other than to extend them through April 6, 2007.<sup>8</sup>

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>10</sup> in particular, in that it is designed 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.<sup>11</sup>

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

According to the Exchange, 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 by the Exchange on this proposal.

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(July 15, 2005)(SR-Amex-2005-043).

<sup>8</sup> See e-mail from Nyieri Nazarian, Assistant General Counsel, Amex, to Terri Evans, Special Counsel, Division of Market Regulation ("Division"), Commission, dated April 10, 2006 (clarifying the establishment of two Pilots, as well as the dates and citations of prior extensions of the Pilots). The Amex also clarified that it was not seeking retroactive approval of the proposed rule change. Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and Terri Evans, Special Counsel, Division, Commission, on April 10, 2006.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and Terri Evans, Special Counsel, Division, Commission, on April 10, 2006 (clarifying the statutory basis for the proposed rule change).

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

Because the foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of the filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>13</sup>

The Amex has requested that the Commission waive the 5-day pre-filing notice requirement and the 30-day operative delay. The Commission is exercising its authority to waive the 5-day pre-filing requirement and believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest since it will allow the Pilots to continue without interruption in service to investors. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>14</sup> At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6)

<sup>14</sup> For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2006-29 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2006-29. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit

personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2006-29 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.<sup>15</sup>

Nancy M. Morris  
Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).