

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-53652; File No. SR-Amex-2005-100)

April 13, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendments No. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 Relating to the Establishment of a New Class of Registered Options Trader Called a Remote Registered Options Trader

I. Introduction

On September 30, 2005, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to establish a new class of Registered Options Trader called a Remote Registered Options Trader (“RROT”). On January 13, 2006, the Amex filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On January 26, 2006, the Amex filed Amendment No. 2 to the proposed rule change.<sup>4</sup> The proposed rule change, as amended, was published for comment in the Federal Register on February 10, 2006.<sup>5</sup> The Commission received no comments in response to the proposed rule change. The Amex filed Amendment No. 3 to the proposed rule change on March 29, 2006, but the amendment was subsequently withdrawn on April 10, 2006. The Amex filed Amendment No. 4 to the proposed rule change on April 13, 2006.<sup>6</sup> This order

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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> Amendment No. 1 replaced and superseded the original filing in its entirety.

<sup>4</sup> Amendment No. 2 made clarifying changes to the Purpose section, as well as changes to the proposed rule text.

<sup>5</sup> See Securities Exchange Act Release No. 53220 (February 3, 2006), 71 FR 7083.

<sup>6</sup> Amendment No. 4 proposes to clarify general statements in the Purpose section of Amendment No. 1, as well as changes to the proposed rule text that, among other things, incorporate changes recently approved by the Commission in SR-Amex 2005-075, which

approves the proposed rule, as amended by Amendments No. 1 and 2; grants accelerated approval to Amendment No. 4; and solicits comments from interested persons on Amendment No. 4.

## II. Description

Amex proposes to adopt new Rule 994 - ANTE to create a new category of registered options trader called an RROT. Amex also proposes to adopt amendments to existing Amex Rules 900 - ANTE, 918 - ANTE, 935 - ANTE, 936 - ANTE, 950 - ANTE, 951 - ANTE, 958 - ANTE and 958A - ANTE to incorporate this new category of trader into relevant existing rules.

The Amex proposes to define an RROT as a ROT that is a member organization so designated by the Exchange and would be granted remote quoting rights to enter bids and offers electronically from locations other than the trading crowd, both on and off the Exchange's trading floor, where the applicable options class is traded. A member organization requesting approval to act as an RROT would be required to file a written application with the Exchange, pursuant to Exchange Rules, indicating that it is qualified as a ROT. The proposed rule also includes provisions that govern RROT applicant withdrawal, as well as suspension and/or termination of RROT assignments and review of such actions. Furthermore, RROTs may make adjustments to the option classes in which they will remotely quote in a form and manner prescribed by the Exchange.

### Quoting Rights

RROTs would earn remote quoting rights based on the percentage of Amex floor volume

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established a new class of Amex market maker, Supplemental Registered Options Traders ("SROTs"). See Securities Exchange Act Release No. 53635 (April 12, 2006).

they execute.<sup>7</sup> Specialists would earn remote quoting rights in two ways: (1) based on the percentage of Amex floor volume they execute;<sup>8</sup> and (2) based on their percentage of the average market share of the industry volume in the option classes in which they specialize per quarter. The pool of quoting rights awarded by volume would be established quarterly by a Committee designated by the Board of Governors of the Exchange who would announce, not later than the first business day of each calendar quarter, the pool of available quoting rights available to be earned by percentage of Amex floor volume for the subsequent trading period.

The membership would be informed of the amount of quoting rights earned no later than one week prior to the commencement of the subsequent trading period. The award of remote quoting rights to specialists based upon their percentage of the average market share of the industry volume would depend on their percentage of the average market share of industry volume in the options classes in which they quote. The number of remote quoting rights earned<sup>9</sup> would vary quarterly, and no fractional remote quoting rights would be issued. The quoting rights earned by ROTs and specialists are not cumulative and are subject to change quarterly.<sup>10</sup> The quoting rights are calculated based solely on volume and market share earned from the previous quarter, and expire at the conclusion of each trading period.<sup>11</sup> Lastly, the remote quoting rights would be transferable between the members and member organizations, but the parties would be required to notify the Exchange of the transfer of any rights.

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<sup>7</sup> Volume executed via remote quoting would not count towards earning remote quoting rights.

<sup>8</sup> Volume executed via remote quoting would not count towards earning remote quoting rights.

<sup>9</sup> Each remote quoting right would permit an RROT to remotely quote one option class.

<sup>10</sup> See Amendment No. 4, supra note 6.

<sup>11</sup> Id.

## RROT Obligations

In exchange for remote quoting rights, RROTs would be required to fulfill a number of obligations. RROTs would be required to have at least one active floor member acting as a ROT, subject to certain limitations.<sup>12</sup> RROTs would be permitted to quote in up to five (5) option classes per seat owned or leased without any additional seat requirements, but would be required to purchase or lease one additional seat for every forty (40) option classes remotely quoted in excess of the five option classes. Exchange memberships used to satisfy membership requirements to remotely quote as an RROT would not be permitted to be used for any other purpose while being used in an RROT capacity, including being leased to another member or for trading on the trading floor.

RROTs would also be required to provide continuous two-sided quotations in at least 60% of the series of their assigned classes and may be called upon to submit a single quote or maintain continuous quotes in one or more series of an option class to which the RROT is assigned whenever it is in the interest of maintaining a fair and orderly market.

## Limitation on RROT Activities

RROTs would be subject to the current designation of options areas that exist for ROTs.<sup>13</sup> In addition, the proposal would prohibit an RROT from executing an option transaction on a Paired Security if the RROT is standing in the Designated Stock Area where the related security is traded, unless given an exemption pursuant to Amex Rule 175(c).<sup>14</sup> The Exchange

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<sup>12</sup> See Amendment No. 2, supra note 4.

<sup>13</sup> See Securities Exchange Act Release Nos. 39631 (February 9, 1998), 63 FR 8229 (February 18, 1998) and 46362 (August 15, 2002), 67 FR 54243 (August 21, 2002).

<sup>14</sup> Id. See also Amendment No. 4, supra note 6.

further proposes to amend Amex Rule 958 – ANTE (e) and (f) to include RROT's.<sup>15</sup> In this regard, no RROT may act as such in a class of stock options on a stock in which he is registered in the primary market. An RROT may, however, act as such if the RROT meets the criteria set forth in Commentary.03(a) to Amex Rule 1000 or Commentary .02(a) to Amex Rule 1000A, or is approved by the Commission as eligible for trading arrangements under Amex Rule 958 - ANTE(e) and Amex Rule 175(c)(2). The proposed changes to Amex Rule 958 – ANTE (f) provide that no member, while acting as an RROT, if also registered as a registered equity trader or registered equity market-maker, would be required to execute a proprietary Exchange option transaction on a Paired Security if during the preceding 60 minutes he has been in the Designated Stock Area where the related security is traded.

The proposed rule would require that RROT's maintain information barriers and that no RROT be assigned to an options class where the RROT has a direct or indirect affiliate who is a specialist, ROT, SROT,<sup>16</sup> or RROT in such option class. The proposal further requires RROT's to comply with Amex Rule 193 regarding the misuse of material non-public information between the affiliate and the specialist member organization.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 4, including whether Amendment No. 4 is consistent with the Act. Comments may be submitted by any of the following methods:

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<sup>15</sup> See Amendment No. 4, *supra* note 6.

<sup>16</sup> *Id.* Amendment No. 4 also amends the “Affiliation Limitations” provision of Amex Rule 993 – ANTE, which governs SROT's, to account for the establishment of RROT's.

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-2005-100 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 20549-9010.

All submissions should refer to File Number SR-Amex-2005-100. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, Station Place, 100 F Street, NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2005-100 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

#### IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>17</sup> In particular, the Commission finds that the proposal, as amended, is consistent with the provisions of Section 6(b)(5) of the Act,<sup>18</sup> which requires, among other things, that a national securities exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Currently, the Exchange permits ROTs to submit quotes only from the physical trading floor. Under the proposal, RROTs would be permitted to quote electronically from locations other than the trading crowd where the applicable options class is traded on the Exchange's physical trading floor. Providing Registered Options Traders with the opportunity to quote in additional options classes should increase the liquidity available in those classes to which the RROTs are assigned.

Proposed Amex Rule 994(c) - ANTE sets forth the obligations that an RROT would be required to fulfill. Specifically, an RROT would be required to generate continuous, two-sided quotations in not less than 60% of the series of their assigned classes. The Commission believes that these obligations for RROTs are consistent with the Act. In particular, the Commission

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<sup>17</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

believes that RROT's affirmative obligations are sufficient to justify the benefits they receive as market makers.

Exchange rules require that information barriers would be in place to prevent the misuse of material, non-public information with any affiliates that may conduct a brokerage business in option classes assigned to an RROT, or that may act as a market maker in any security underlying options assigned to an RROT. RROTs would be required to also comply with Amex Rule 193 regarding the misuse of material non-public information between the affiliate and the specialist organization. In addition, RROTs would be prohibited from executing options transactions on a paired security if the RROT is standing in the Designated Stock area where the related security is traded, unless given an exemption by Amex Rule 175(c). Further, RROTs would be included in Amex Rule 958 –ANTE(e) and (f), which would impose limits on an RROT's ability to act as an RROT in an option on a stock in which the RROT is registered in the primary market. The Commission believes these provisions should help to ensure that options and equity trading will be sufficiently separated such that no time or place advantage is derived from the RROT's ability to stream quotes in a given option class from a location other than the post at which that option is traded on the Exchange floor.

Furthermore, the Commission finds good cause for approving Amendment No. 4 to the proposed rule change prior to the thirtieth day after publication for comment in the Federal Register pursuant to Section 19(b)(2) of the Act.<sup>19</sup> Amendment No. 4 incorporates changes recently approved by the Commission, which modified many of the same rule provisions as proposed in the RROT filing. Additionally, the changes to the "Affiliation Limitations" sections

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<sup>19</sup> 15 U.S.C. 78s(b)(2).

of Amex Rules 993 – ANTE and 994 – ANTE should ensure that both SROTs and RROTs maintain appropriate information barriers and are assigned only to options classes where the SROT or RROT does not have a direct or indirect affiliate in such options classes and should help to ensure that equity trading will be sufficiently separated so that no time or place advantage is derived from the RROT’s ability to stream quotes in a given option class from a location other than the post at which that option is traded on the Exchange floor. The Commission does not believe that Amendment No. 4 materially affects the original proposed rule change, as amended. Rather, Amendment No. 4 more accurately reflects the Exchange’s current rules. Accordingly, the Commission finds good cause to accelerate approval of Amendment No. 4, consistent with Sections 6(b)(5) of the Act,<sup>20</sup> and Section 19(b) of the Act.<sup>21</sup>

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<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> 15 U.S.C. 78s(b).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>22</sup> that the proposed rule change (SR-Amex-2005-100), as amended by Amendments No. 1 and 2, be, and it hereby is, approved, and that Amendment No. 4 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>23</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>22</sup> 15 U.S.C. 78s(b)(2).

<sup>23</sup> 17 CFR 200.30-3(a)(12).