

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54509; File No. SR-Amex-2006-70)

September 26, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment No. 1 Thereto to Apply Certain Provisions of Its Minor Rule Violation Plan to Registered Options Traders, Supplemental Registered Options Traders, and Remote Registered Options Traders.

On July 31, 2006, 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 amend Amex Rule 590, which applies certain provisions the Exchange’s Minor Rule Violation Plan to Registered Options Traders (“ROT”), Supplemental Registered Options Traders (“SROT”), and Remote Registered Options Traders (“RROT”).<sup>3</sup> These provisions relate to quoting obligations and restrictions on quoting outside of assigned classes. On August 14, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on August 21, 2006.<sup>4</sup> The Commission received no comments regarding the proposal.

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

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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> Amex recently created these new classes of market participants. See Securities Exchange Act Release Nos. 53635 (April 12, 2006), 71 FR 20144 (April 19, 2006) (creating the SROT class) and 53652 (April 13, 2006), 71 FR 20422 (April 20, 2006) (creating the RROT class).

<sup>4</sup> See Securities Exchange Act Release No. 54317 (August 15, 2006), 71 FR 48566.

securities exchange.<sup>5</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act<sup>6</sup> because a proposed rule change that is reasonably designed to promote compliance by ROTs, SROTs, and RROTs with applicable quoting obligations and restrictions should help protect investors and the public interest.

The Commission further believes that handling violations of these quoting rules pursuant to Amex's Minor Rule Violation Plan is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,<sup>7</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing Amex Rule 590 provides procedural rights to a person fined for any violation of an Exchange rule that is determined to be minor in nature to contest the fine and permits disciplinary proceedings on the matter, the Commission believes Amex Rule 590, as amended by this proposal, provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.<sup>8</sup>

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act<sup>9</sup> which governs minor rule violation plans. The Commission believes that the proposed change to Amex Rule 590 will strengthen the Exchange's ability to

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<sup>5</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(1) and 78f(b)(6).

<sup>8</sup> 15 U.S.C. 78f(b)(7) and 78f(d)(1).

<sup>9</sup> 17 CFR 240.19d-1(c)(2).

carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with Amex rules and all other rules subject to the imposition of fines under the minor rule violation plan of the Exchange. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, the Exchange's minor rule violation plan under Amex Rule 590 provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that Amex will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the minor rule violation plan or whether a violation requires formal disciplinary action under Amex's Rules of Procedure in Disciplinary Matters.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act<sup>10</sup> and Rule 19d-1(c)(2) under the Act,<sup>11</sup> that the proposed rule change (SR-Amex-2006-70), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Nancy M. Morris  
Secretary

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<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 240.19d-1(c)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).