

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55602; File No. SR-Amex-2007-33)

April 9, 2007

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)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on April 3, 2007, the American Stock Exchange LLC (the “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 substantially prepared by Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposed rule change effective upon filing with the Commission. 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

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.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

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

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 changes and discussed any comments it received regarding the proposal. 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 the 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 an unlisted trading privileges basis (the "Pilot Program") from April 6, 2007 through and including April 6, 2008. The text of the rules shall remain unchanged. The Commission previously approved, on a pilot basis, the Exchange's allocation and performance evaluation procedures for securities admitted to dealings on an unlisted trading privileges basis through two independent approval orders.<sup>6</sup> In 2003, the Pilot Program was extended through October 5, 2003<sup>7</sup> and April 5, 2004.<sup>8</sup> In 2004, the Pilot Program

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<sup>6</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>7</sup> See Securities Exchange Act Release No. 47779 (May 1, 2003), 68 FR 24777 (May 8, 2003).

<sup>8</sup> See Securities Exchange Act Release No. 48657 (October 17, 2003), 68 FR 61025 (October 24, 2003).

was extended a through April 6, 2005.<sup>9</sup> In 2005, the Pilot Program was extended through April 6, 2006.<sup>10</sup> In 2006, the Pilot Program was extended through April 6, 2007.<sup>11</sup> The instant proposed rule change makes no substantive change to the Pilot Program other than to extend it through and including April 6, 2008.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>12</sup> in general and furthers the objectives of Section 6(b)(5)<sup>13</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

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

Written comments on the proposed rule change were neither solicited nor received.

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<sup>9</sup> See Securities Exchange Act Release No. 49613 (April 26, 2004); 69 FR 24204 (May 3, 2004).

<sup>10</sup> See Securities Exchange Act Release No. 52004 (July 8, 2005); 70 FR 41061 (July 15, 2005) (retroactively reinstating the Pilot Program to April 6, 2005, and extending it through and including April 6, 2006).

<sup>11</sup> See Securities Exchange Act Release No. 53649 (April 13, 2006); 71 FR 20425 (April 20, 2006).

<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> 15 U.S.C. 78f(b)(5).

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

Because the 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</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.

A proposed rule change normally may not become operative prior to 30 days after the date of filing.<sup>16</sup> However, Rule 19b-4(f)(6)(iii)<sup>17</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii). Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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. On March 26, 2007, the Exchange provided such notice to the Commission in the form of a draft version of the proposed rule change. Despite providing such notice to the Commission, the Exchange subsequently requested that the Commission waive the five-day prefiling requirement. The Exchange's request to waive the five-day prefiling requirement is moot given that the Exchange has satisfied it by submitting the draft version of the proposed rule change.

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

Commission believes that waiver of the 30 day operative delay is consistent with the protection of investors and the public interest because the proposed rule change would merely permit the continuation of the Pilot Program in its current form on an uninterrupted basis through and including April 6, 2008.<sup>18</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2007-33 on the subject line.

##### Paper Comments:

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

All submissions should refer to File Number SR-Amex-2007-33. 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

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<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 Room. 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-2007-33 and should be submitted by [insert date 21 days from date of publication].

For the Commission by the Division of Market Regulation, pursuant to delegated authority<sup>19</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).