

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55719; File No. SR-Amex-2006-17)

May 7, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Amendment Nos. 3 and 4 Relating to Procedures for At-Risk Cross Transactions

On February 17, 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 adopt a new crossing procedure, the “at-risk cross,” as an alternative to the Exchange’s existing facilitation cross procedure. On November 9, 2006, the Exchange filed Amendment No. 1 to the proposed rule change, and on December 1, 2006, the Exchange filed Amendment No. 2 to the proposed rule change. The proposed rule change, as modified by Amendment Nos. 1 and 2, was published for comment in the Federal Register on January 17, 2007.<sup>3</sup> On March 28, 2007, the Exchange filed Amendment No. 3 to the proposed rule change, and on May 3, 2007, the Exchange filed Amendment No. 4 to the proposed rule change. Amendment Nos. 3 and 4 are described in Item II below. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended by Amendment Nos. 3 and 4, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to revise the procedures applicable to cross transactions in equity options to provide procedures for at-risk cross transactions. The text of the proposed rule change

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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> See Securities Exchange Act Release No. 55068 (January 9, 2007), 72 FR 2044 (“Notice”).

is available at the Amex, on the Amex's Web site at <http://amex.com>, 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 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.

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

1. Purpose

The Exchange proposes to provide an alternative crossing procedure to supplement the existing facilitation cross procedure in Commentary .02 to Amex Rule 950—ANTE(d). In this manner, the Amex would permit "at-risk" cross transactions by member firms. A complete description and statement of purpose of the proposed rule change, as modified by Amendment Nos. 1 and 2, may be found in the notice of filing previously published for comment in the Federal Register.<sup>4</sup>

In Amendment No. 3, the Exchange made technical and clarifying changes to the proposal<sup>5</sup> and stated that the proposed at-risk cross procedure would not apply to options classes

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<sup>4</sup> See Notice, *supra* note 3.

<sup>5</sup> Specifically, the Exchange made a clarifying change to the language of Commentary .03(vii) to Amex Rule 950—ANTE(d). The Exchange also confirmed that if a public customer order either on the book or represented in the trading crowd has priority over the at-risk cross, the member firm would be permitted to participate only in those contracts remaining after the public customer's order has been filled. Further, the Exchange represented that if there is a public customer order on the book or represented

that are part of the Exchange's options penny pilot program.<sup>6</sup> In Amendment No. 4, the Exchange proposes to allow the proposed at-risk crossing procedure to apply to options classes that are part of the options penny pilot program.<sup>7</sup>

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>8</sup> in general and furthers the objectives of Section 6(b)(5)<sup>9</sup> in particular in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest, to foster cooperation and coordination with persons engaged in facilitating transactions in securities and promote just and equitable principles of trade.

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

No written comments were solicited or received by the Exchange on this proposal.

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in the trading crowd on the same side of the market as, and priced at or better than, the public customer order that is part of the at-risk cross, the public customer order on the book or represented in the trading crowd would have priority.

<sup>6</sup> See Securities Exchange Act Release No. 55162 (January 24, 2007), 72 FR 4738 (February 1, 2007) (SR-Amex-2006-106).

<sup>7</sup> In addition, Amendment No. 4 makes non-substantive rule text changes and shows the text of the final proposal as marked against the current text of Amex Rule 950-ANTE(d).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

### 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 an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2006-17 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-2006-17. 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 Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2006-17 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).