

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56273; File No. SR-Amex-2007-91)

August 16, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add an Additional Exemption to Rule 24–AEMI Relating to Intermarket Sweep Orders

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 August 16, 2007, 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 substantially prepared by Amex. Amex filed the proposal as a “non-controversial” rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal 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 proposes to amend Rule 24–AEMI to add an additional exemption to its general rule against a member executing a proprietary order while in possession of a customer order which could trade at the same price. The exemption would permit a member organization to send an intermarket sweep order (“ISOs”) as principal under Regulation NMS, provided that the member organization yields its principal execution to any open customer order that is required to be protected by Rule 24–AEMI and is capable of being filled. In addition, if the member

---

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

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

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

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

organization executed the ISO to facilitate a customer order at a price inferior to one or more protected quotations, that customer must consent to not receiving the better prices obtained by the ISO or the firm must yield its principal execution to that customer. The Exchange proposes this change to better harmonize Rule 24–AEMI with recent changes to the corresponding Rule 92 of the New York Stock Exchange (“NYSE”).

The text of the proposed rule change is available on Exchange’s Web site ([www.amex.com](http://www.amex.com)), at Amex’s principal office, 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, 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. Amex 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 proposes to amend Rule 24–AEMI to add an exemption so that a member organization can comply with its Regulation NMS obligation without also violating Rule 24–AEMI when facilitating a customer order that would otherwise require the firm to either violate Rule 24–AEMI or trade through protected quotations. Under the current rule, if a member organization is required to route an ISO as principal to execute against the full displayed size of any protected quotation in a security, for example, when facilitating a customer order at a price inferior to the national best bid or offer or other protected quotations and in compliance with

Rules 600(b)(30)(ii) and 611(b)(6) of Regulation NMS,<sup>5</sup> the ISO could violate Rule 24–AEMI by trading ahead of or along with an open customer order.

The proposed exemption provides that, when routing an ISO, the member organization must yield its principal execution to any open customer order that is required to be protected by Rule 24–AEMI and is capable of accepting the fill. As defined in Rule 24–AEMI(a), a customer order that is required to be protected is an open customer order that is known to the member organization before entry of the ISO. In addition, the proposed exemption would require that, if a firm executes an ISO to facilitate a customer order at a price inferior to one or more protected quotations, that customer must consent to not receiving the better price obtained by the ISO or the firm must yield its principal execution to that customer. For purposes of this amendment, the Exchange further proposes adopting the definitions of Regulation NMS in connection with the terms “protected quotation” and “intermarket sweep order.”<sup>6</sup>

## 2. Statutory Basis

The proposed rule change is designed to be consistent with Regulation NMS and with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> in particular in that the Exchange’s proposed rules are designed to prevent fraudulent and manipulative acts and practices, 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>5</sup> 17 CFR 242.600(b)(30)(ii) and 17 CFR 242.611(b)(6).

<sup>6</sup> See 17 CFR 242.600(b)(30) and (58).

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

The proposed rule change does not impose any 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 with respect to the proposed rule change.

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

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(iii) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder<sup>10</sup> because the proposal: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission 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.

Amex has requested that the Commission waive the five-day pre-filing requirement and the 30-day operative delay in order to enable the Exchange to implement this rule change on an expeditious basis, noting, in particular, the commencement of full industry compliance with Rules 610 and 611 of Regulation NMS during the "All Stocks Phase" that begins on August 20, 2007. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change adds an

---

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

exemption to Rule 24–AEMI that is identical to that approved as part of recent amendments to corresponding Rule 92 of the NYSE and does not raise any new issues of regulatory concern.<sup>11</sup> For these reasons, the Commission waives the 30-day operative delay.<sup>12</sup> The Commission also waives the five-day pre-filing requirement.

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.<sup>13</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 an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2007-91 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.

---

<sup>11</sup> See Securities Exchange Act Release No. 56017 (July 5, 2007), 72 FR 38110 (July 12, 2007).

<sup>12</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>13</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

All submissions should refer to File Number SR-Amex-2007-91. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of 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-2007-91 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>14</sup>

Florence E. Harmon  
Deputy Secretary

---

<sup>14</sup> 17 CFR 200.30-3(a)(12).