

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57604; File No. SR-Amex-2008-27)

April 2, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Pilot Program for the Allocation and Performance Evaluation Procedures for Securities Admitted to Dealings on an Unlisted Basis

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 March 20, 2008, 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 the Exchange. 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

The Exchange 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 pilot programs to remain in effect.

The text of the proposed rule change is available on the Exchange’s Web site (<http://www.amex.com>), at the Exchange’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, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on

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

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

the proposed rule change. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to extend the pilot program for its allocations and performance evaluation procedures for securities admitted to dealings on a UTP basis (the "Pilot Program") from April 6, 2008 through and including April 6, 2009. The text of the rules would remain unchanged.

The Commission originally approved the Exchange's Pilot Program through two independent approval orders.<sup>3</sup> In 2003, the Pilot Program was subsequently extended through October 5, 2003<sup>4</sup> and April 5, 2004.<sup>5</sup> In 2004, the Pilot Program was extended through April 6, 2005.<sup>6</sup> In 2005, the program was extended through April 6, 2006.<sup>7</sup> In 2006, the Pilot Program was extended through April 6, 2007.<sup>8</sup> In 2007, the pilot was extended through April 6, 2008.<sup>9</sup>

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<sup>3</sup> See Securities Exchange Act Release Nos. 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>4</sup> See Securities Exchange Act Release No. 47779 (May 1, 2003), 68 FR 24777 (May 8, 2003).

<sup>5</sup> See Securities Exchange Act Release No. 48657 (October 17, 2003), 68 FR 61025 (October 24, 2003).

<sup>6</sup> See Securities Exchange Act Release No. 49613 (April 26, 2004), 69 FR 24204 (May 3, 2004).

<sup>7</sup> See Securities Exchange Act Release No. 52004 (July 8, 2005), 70 FR 41061 (July 15, 2005).

<sup>8</sup> See Securities Exchange Act Release No. 53649 (April 13, 2006), 71 FR 20425 (April 20, 2006).

<sup>9</sup> See Securities Exchange Act Release No. 55602 (April 9, 2007), 72 FR 18698 (April 13, 2007).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>10</sup> in general and furthers the objectives of Section 6(b)(5)<sup>11</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 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 rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder<sup>13</sup> because it does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.<sup>14</sup>

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<sup>10</sup> 15 U.S.C. 78f.

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> Rule 19b-4(f)(6) also requires the self-regulatory organization to give 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

Amex has requested that the Commission waive the 30-day operative delay pursuant to Rule 19b-4(f)(6)(iii).<sup>15</sup> The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption. Therefore, the Commission designates the proposal to be operative upon filing with the Commission.<sup>16</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the 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 the furtherance of the purposes of the Act.

#### 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 No. SR-Amex-2008-27 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.

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proposed rule change, or such shorter time as designed by the Commission. The Exchange has satisfied this requirement.

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

All submissions should refer to File Number SR-Amex-2008-27. 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 a.m. and 3:00 p.m. Copies of such 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

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<sup>16</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the propose rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2008-27 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

Florence E. Harmon  
Deputy Secretary

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