

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51306; File No. SR-Amex-2005-013)

March 3, 2005

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments No. 1 and 2 thereto by the American Stock Exchange LLC Relating to Revisions to the ANTE Roll-Out Schedule

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 January 28, 2005, 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, II, and III below, which Items have been prepared by the Exchange. On February 11, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On February 24, 2005, the Exchange filed Amendment No. 2 to the proposed rule change.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Amex proposes to amend Rule 900-ANTE to provide a revised date for the implementation of the Amex New Trading Environment (“ANTE”) System for the three hundred most actively traded option classes. The text of the proposed rule change is set forth below. Proposed new language is in *italics*. Deleted language is in [brackets].

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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> Amendment No. 1 made technical corrections to the rule text and discussion section, which are incorporated herein.

<sup>4</sup> Partial Amendment No. 2 made technical corrections to underline the word “began” and insert a comma in the proposed rule text.

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Rule 900—ANTE                      Applicability, Definitions and References

(a) Applicability-- The Exchange's new trading system (known as the ANTE System or ANTE) will be rolled-out over a period of time (approximately eighteen months) on a specialist post-by-specialist post basis. [It is anticipated that t]The roll-out [will begin] began on [or about March 1]May 25, 2004 and will continue until the end of the [third] second quarter of 2005 at which time all equity and index option classes traded by the Exchange will be on the ANTE System. It is anticipated that by [August 31, 2004] March 31, 2005, the three hundred most actively traded option classes will be traded on the ANTE System. Therefore, during the roll-out period, while the Exchange has option classes trading on both systems, current rules (as they are amended from time to time) will apply to those option classes continuing to trade on its current system while the following ANTE rules will apply to those option classes trading on the new trading system. Once the roll-out of ANTE is complete, the amendments to the Exchange's options rules reflecting the implementation of ANTE set forth below will replace, where applicable, the corresponding provisions in Rules 900 through 958A. The following Trading of Option Contracts Rules shall apply to the trading of option contracts on the ANTE System: 901, 902, 903, 904, 905, 906, 907, 908, 909, 915, 916, 917, 920, 921, 922, 923, 924, 925, 926, 927, 928, 930, 932, 940, 942, 943, 944, 952, 953, 954, 956, 957, 959, 960, 961, 962, 963, 964, 965, 966, 967, 970, 971, 972, 980, 981, 982, 990, 991, and 992. In addition, the following Trading of Option Contract Rules, which have been amended to reflect usage in the ANTE System, shall apply to the trading of options contracts on the ANTE System.

Moreover, the Rules in this Chapter (Trading of Options Contracts) shall be applicable to (i) the trading on and through the facilities of the Exchange of option contracts issued by the Options Clearing Corporation and the terms and conditions thereof; and (ii) the exercise and settlement, the handling of orders, and the conduct of accounts and other matters, relating to option contracts dealt in by any member or member organization. Except to the extent that specific Rules in this Chapter govern, or unless the context otherwise requires, the provisions of the Constitution and of all other Rules and policies of the Board of Governors shall be applicable to the trading on the Exchange of option contracts. Pursuant to the provisions of Article I, Section 3(i) of the Constitution, option contracts (as defined below) are included within the definition of "security" or "securities" as such terms are used in the Constitution and the Rules of the Exchange.

(b) through (d) -- No changes.

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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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 20, 2004, the Commission approved the Amex's proposal to implement a new options trading platform known as the ANTE. On May 25, 2004, the Amex began rolling out the ANTE System on its trading floor on a specialist's post-by-specialist's post basis. At that time, the Exchange anticipated the three hundred most actively traded option classes would be trading on the ANTE System by January 31, 2005. However, as of January 31, 2005, 260 of the 300 most active options classes, and 1,627 out of 1,920 total option classes are trading on the ANTE System.

The Exchange now anticipates that all of the three hundred most active option classes (that is, the remaining 40 classes) will be on the ANTE System by March 31, 2005. The Amex plans to put a systems enhancement in place in February 2005, which will alleviate the capacity issues that can occur when the most active classes begin trading on ANTE. Once the enhancement is in place, the most active classes will begin to be traded on ANTE. The Exchange believes that maintaining two systems for the trading of options—the legacy system (XTOPS, AODB and Auto-Ex) and ANTE—is costly. As a result, the Exchange is working diligently to have all option classes on the ANTE System by March 31, 2005 in order to retire its legacy systems before its original estimated date of completion, which was the end of the second quarter.

Furthermore, the Exchange notes that the roll-out schedule presently contained in Rule 900 (a) ANTE does not reflect the roll-out schedule approved by the Commission on

May 20, 2004.<sup>5</sup> The roll-out schedule currently set forth in Rule 900 (a)–ANTE was part of an amendment to the original proposal seeking to implement the ANTE system.<sup>6</sup> Filed on February 9, 2004, Amendment No. 3 to the proposal anticipated for Commission approval of the ANTE implementation date by March 1, 2004 and accordingly provided a roll-out schedule based on that date. However, the Order describes the actual roll-out schedule based upon the Commission’s approval date of May 20, 2004.<sup>7</sup> Accordingly, the Exchange seeks to amend Rule 900 (a)–ANTE to correct where appropriate the roll-out schedule and to set forth adjustments to the schedule proposed by the Exchange.

## 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>9</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 regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, 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, and is designed to prohibit unfair discrimination between customers, issuers, brokers and dealers.

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<sup>5</sup> See Securities Exchange Act Release No. 49747 (May 20, 2004), 69 FR 30344 (May 27, 2004) (SR-Amex-2003-89) (“Order”).

<sup>6</sup> See Amendment No. 3 to SR-Amex-2003-89, supra note 5.

<sup>7</sup> See Order, supra note 5, at 30345-30346.

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

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

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

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

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, as amended.

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

The foregoing proposed rule change, as amended, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>10</sup> and Rule 19b-4(f)(1) thereunder<sup>11</sup> because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange. At any time within 60 days of the filing of such 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>12</sup>

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>11</sup> 17 CFR 240.19b-4(f)(1).

<sup>12</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 24, 2005, the date on which the Amex filed Partial Amendment No. 2. See 15 U.S.C. 78s(b)(3)(C).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2005-013 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2005-013. 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 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-2005-013 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>13</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).