

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51460; File No. SR-Amex-2005-007)

March 31, 2005

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto to Require Specialists to Use and Maintain a Back-Up Automatic Quote System in ANTE Classes

On January 12, 2005, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Amex Rule 950-ANTE(1), Commentary .02(a) to require specialists to use and maintain a back-up automatic quote system in ANTE classes, and to incorporate violations of this requirement in the Exchange’s minor rule violation plan (“Plan”). The proposed rule change was published for comment in the Federal Register on February 23, 2005.³ The Commission received no comments on the proposal. On March 15, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ This order approves the proposed rule change, as amended.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,⁵ and, in particular, the requirements of Section 6 of the Act⁶ and the rules

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 51209 (February 15, 2005), 70 FR 8859.

⁴ See Partial Amendment dated March 15, 2005 (“Amendment No. 1”). In Amendment No. 1, the Exchange made technical corrections to the proposed rule text. Accordingly, this Amendment is not subject to notice and comment.

⁵ In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f.

and regulations thereunder. The Commission finds specifically that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act⁷ because it is designed 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. The Commission also finds that the Exchange's Plan is consistent with Section 6(b)(6) of the Act,⁸ which require that the rules of an exchange enforce compliance and provide appropriate discipline for violations of Commission and Exchange rules.

The Commission believes that requiring Amex specialists to use and maintain an Exchange-provided automatic quote system as a back-up to the Exchange-approved proprietary automatic quote system in ANTE classes should help to assure an orderly market. In addition, the Commission believes that including this requirement in the Exchange's Plan should strengthen the ability of the Exchange to carry out its oversight and enforcement responsibilities as a self-regulatory organization ("SRO"). In approving this proposed rule change, as amended, the Commission in no way minimizes the importance of compliance with Amex Rule 950-ANTE(1), Commentary .02(a) and all other rules subject to the imposition of fines under the Exchange's Plan. The Commission believes that the violation of any SRO's rules, as well as Commission rules, is a serious matter. However, the Exchange's Plan provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Amex will continue to conduct surveillance with due diligence and make a determination based on its findings, whether fines of more or less than the recommended amount

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(6).

are appropriate for violations under the Plan, on a case-by-case basis, or a violation requires formal disciplinary action.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-Amex-2005-007), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland
Deputy Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).