

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52067; File No. SR-Amex-2005-048)

July 20, 2005

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change Establishing a De Minimis Exception to the 80/20 Test

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 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 Amex. 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 proposes to amend Amex Rule 944 to provide a de minimis exception to the limitation on principal order access imposed by the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan")³ and related rules.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage") proposed by Amex, Chicago Board Options Exchange, Inc., and International Securities Exchange, Inc. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Philadelphia Stock Exchange, Inc., Pacific Exchange, and Boston Stock Exchange, Inc. joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

The text of the proposed rule change is available on the Amex's Web site at <http://www.amex.com>, the Office of the Secretary, the Amex 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. The 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to implement proposed Joint Amendment No. 17 to the Linkage Plan. Joint Amendment No. 17, together with this proposed rule change, would establish a "de minimis" exception to the "80/20 Test" set forth in Section 8(b)(iii) of the Linkage Plan and Amex Rule 944.

Section 8(b)(iii) of the Linkage Plan provides that Eligible Market Makers should send Principal Orders through the Linkage on a limited basis and not as a primary aspect of their business. The 80/20 Test implements this policy in the Linkage Plan and Amex Rule 944 by prohibiting a specialist or registered options trader ("ROT") from sending Principal Orders in an eligible option class if, in the last calendar quarter, the specialist or ROT's Principal Order contract volume is disproportionate to the specialist or ROT's contract volume executed against customer orders in its own market.

The Exchange believes that applying the 80/20 Test has resulted in anomalies for ROTs with limited volume in an eligible option class. In particular, if a ROT has very little overall trading volume in an option, the execution of one or two Principal Orders during a calendar quarter could result in the ROT failing to meet the 80/20 Test. This would then prohibit the ROT from using the Linkage to send Principal Orders in that options class for the following calendar quarter. The Exchange believes that it is not the intent of the Linkage Plan and Exchange rules to prohibit ROTs with limited volume from sending Principal Orders through the Linkage in these circumstances since such trading clearly is not “a primary aspect of their business.”

Accordingly, the proposed rule change seeks to establish a “de minimis” exception from the 80/20 Test in Amex Rule 944 for specialists and ROTs that have total contract volume of less than 1,000 contracts in an option class for a calendar quarter.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act⁴ in general and furthers the objectives of Section 6(b)(5)⁵ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

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

The Amex does not believe that the proposed rule change will impose any burden on competition.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

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

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 at <http://www.sec.gov/rules/sro.shtml> or send an e-mail to rule-comments@sec.gov. Please include File No. SR-Amex-2005-048 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File No. SR-Amex-2005-048. 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. 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 information that you wish to make available publicly. All submissions should refer to File No. SR-Amex-2005-048 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.⁶

Jonathan G. Katz
Secretary

⁶ 17 CFR 200.30-3(a)(12).