

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52244; File No. SR-Amex-2005-026)

August 11, 2005

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change Relating to Quotes in Nasdaq UTP Stocks to be Disseminated by Amex Specialists before 9:30 a.m.

On February 24, 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 codify its existing practice of allowing indicative quotes in Nasdaq UTP stocks to be disseminated by specialists between 9:25 and 9:30 a.m. for testing purposes. On April 14, 2005, the Amex amended the proposed rule change.³ On May 26, 2005, the Amex amended the proposed rule change.⁴ The proposed rule change, as amended, was published for comment in the Federal Register on June 20, 2005.⁵ The Commission received no comments on the proposed rule change, as amended. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange made minor, non-substantive changes to the text of the proposed rule change and filing.

⁴ In Amendment No. 2, the Exchange made minor, non-substantive changes to the text of the proposed rule change and filing.

⁵ See Securities Exchange Act Release No. 51834 (June 13, 2005), 70 FR 35466 (June 20, 2005) (SR-Amex-2005-026).

securities exchange⁶ and, in particular, the requirements of Section 6 of the Act⁷ and the rules and regulations thereunder. Specifically, the Commission believes the proposal to be consistent with Section 6(b)(5) of the Act,⁸ in that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that by amending the Amex rules to allow specialists in Nasdaq securities to send quotations to the SIP between 9:25 and 9:30 a.m. for test purposes only⁹ more accurately reflects an existing practice.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-Amex-2005-026), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland
Deputy Secretary

⁶ In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

⁹ Any such pre-opening quotations are not available to create a binding contract.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).