

**SECURITIES AND EXCHANGE COMMISSION**  
**(Release No. 34-52881; File No. SR-Amex-2005-119)**

December 2, 2005

**Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Certain Changes Pertaining to the Enforcement of Decorum Policies**

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 November 18, 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 substantially prepared by the Amex. The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(b) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 Amex proposes to amend Amex Rule 22 to authorize two Floor Officials, in consultation with a designated senior executive officer of the Exchange, to summarily exclude a member or person associated with a member or member organization from the Exchange premises for not longer than the remainder of the trading day for specified violations of the Exchange’s decorum policies.

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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> 15 U.S.C. 78s(b)(3)(A).

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

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 proposal. 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 Purpose

1. Purpose

In 2002, the Commission approved a Chicago Board Options Exchange, Inc. ("CBOE") rule change allowing two CBOE Floor Officials, in consultation with a designated senior executive officer of that exchange, to summarily exclude from the CBOE's premises a member or person associated with a member for the following serious violations of floor decorum: physical violence, unbusinesslike conduct, harassment, failure to abide by a Floor Official's ruling, property damage, enabling or assisting a suspended member or associated person to gain improper access to the floor, and failure to supervise a visitor.<sup>5</sup>

The Exchange believes that it should have similar explicit authority to summarily exclude for short periods of time members and associated persons that commit serious

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<sup>5</sup> See Securities Exchange Act Release No. 46823 (November 13, 2002), 67 FR 70275 (November 21, 2002).

breaches of floor decorum. In this regard, the Amex proposes to adopt a summary exclusion rule similar CBOE Rule 6.20.

The proposed Amex rule, like CBOE's Rule 6.20, would permit the summary suspension of a member or person associated with a member or member organization for the balance of a trading day by two Floor Officials, acting in consultation with a designated senior executive officer of the Exchange. Summary suspension from the Amex floor would be permitted in situations involving the following serious violation of floor decorum: physical violence, unbusinesslike conduct,<sup>6</sup> harassment (as set forth in Amex Rule 16), failure to abide by a Floor Official's ruling, property damage, enabling or assisting a suspended member or associated person to gain improper access to the floor, and failure to supervise a visitor. The proposed Amex rule also would permit an excluded person to request reinstatement to the trading floor from two Floor Officials after a sufficient cooling-off period has elapsed so that the excluded person no longer poses an immediate threat to the safety of persons or property or to the orderly conduct of business. The proposed rule requires that at least one of the Floor Officials who considers a request for reinstatement must have participated in the initial suspension decision to ensure that the persons considering reinstatement are adequately apprised of the circumstances of the suspension.

The Amex believes that having the authority to temporarily exclude disruptive or potentially dangerous persons from the Exchange's premises would assist the Exchange in defusing volatile situations, safeguarding trading floor personnel and facilities. The Amex further believes that the proposal also may benefit investors by

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<sup>6</sup> In general, "unbusinesslike conduct" is conduct, other than harassment, that disrupts trading.

minimizing disruptions to the maintenance of a fair and orderly market. The procedures for readmission would permit an excluded person to return to the Floor once he or she no longer poses a threat to persons or property or no longer threatens the maintenance of a fair and orderly market.

## 2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>8</sup> in particular, in that it 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.

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

The Exchange does not believe that the proposed rule change will 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

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

At any time within 60 days of the filing of the 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.

#### **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 Number SR-Amex-2005-119 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 Number SR-Amex-2005-119. 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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

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 Section. 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 No. SR-Amex-2005-119 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

Jonathan G. Katz  
Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).