

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53798; File No. SR-Amex-2006-25]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Manner in Which Executed Contracts Are Allocated

May 12, 2006.

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 March 14, 2006, 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 and II below, which Items have been prepared by the Exchange. Amex has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 935-ANTE to revise the manner in which executed contracts are allocated. The text of the proposed rule change is available on the Amex's Web site (<http://www.amex.com>), at the principal office of 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, 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. 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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange's ANTE System currently automatically allocates executed contracts among market participants on a trade (i.e., market participants who were either quoting or had orders at the Amex best bid or offer ("ABBO") at the time of execution) as follows: (i) All non-broker-dealer customer orders will be allocated first; (ii) specialist participating in the quote will be allocated executed contracts in accordance with the specialist participation schedules set forth in Amex Rule 935-ANTE; and (iii) remaining executed contracts will be allocated to broker-dealers and competing market makers as one ANTE Participant, and registered options traders as individual ANTE Participants in accordance with provisions also set forth in Amex Rule 935-ANTE. The specialist participation schedules provide specialists with an enhanced participation based upon their role as specialists and their heightened obligations and responsibilities to the marketplace. While this methodology creates an incentive for specialists and registered options traders to quote competitively, Amex believes that it does not create an incentive to display large size quotes. Amex believes that advertising liquidity through large size quotes is necessary in today's competitive options marketplace. In order to compete effectively with the other options exchanges, the Amex asserts that it must provide incentives to its specialists and registered options traders to display large size quotes.

Therefore, Amex is proposing to amend Amex Rule 935-ANTE to revise the manner in which executed contracts are allocated when more than one market participant is either quoting or has orders at the Amex best bid or offer at the time the execution occurs. The proposed methodology will incorporate parity splits, which reward participants for posting their best quotes, blended with a size pro rata component, which Amex believes will provide incentive for specialists and registered options traders to quote larger sizes. The requirement that all non-broker-dealer customer orders be allocated first will remain in place under the revised methodology. The allocation algorithm will have two components. Component A is the parity component of the algorithm. In this component all market participants (except for non-broker-dealer customers) who were either

quoting or had orders at the ABBO will be treated equally. Accordingly, the percentage used for Component A is an equal percentage derived by dividing 100 by the number of market participants at the ABBO. The Amex believes that the component gives market participants an incentive to quote at a better price than their counterparts, regardless of the size of their quote. Component B is the size pro rata component and is designed to reward market participants who quote in size. The percentage used for Component B is the percentage that the size of each market participant's quote or order at the ABBO represents relative to the total number of contracts in the disseminated bid (for sell orders) and offer (for buy orders). The weight each component will have in the final percentage used to allocate executed contracts will initially be equal. The Options Trading Committee<sup>6</sup> will have the ability to modify the weighting of Components A and B if the Committee believes such modifications will further enhance specialists' and registered options traders' incentives to quote competitively or will increase liquidity. The specialist will continue to receive an enhanced participation under the revised methodology. If the specialist is quoting at the ABBO the specialist's allocation will be the greater of (i) the amount the specialist would receive pursuant to the allocation algorithm; or (ii) the amount the specialist would be entitled pursuant to the current specialist participation schedule set forth in Amex Rule 935-ANTE. The proposed allocation algorithm will only apply to orders executed in the ANTE System. Orders executed outside the ANTE System will continue to be allocated pursuant to Amex Rule 950-ANTE (I), Commentary .03. The Exchange believes the proposed allocation algorithm with its blended parity and size pro rata components will provide further incentives to specialists and registered options traders to quote more competitively and in larger size.

The Exchange anticipates putting the proposed allocation methodology into effect once changes to the ANTE System to accommodate the methodology have been completed. The ANTE System changes were expected to be in place for all options products by April 7, 2006.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

<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).

<sup>5</sup> As required under Rule 19b-4(f)(6)(iii), Amex provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

<sup>6</sup> The Options Trading Committee is comprised of the two Floor Governors and the Chairman or their designees of the Options Specialist Association, the Options Market Makers Association and the Floor Brokers Association.

the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>7</sup> Specifically, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>8</sup> in that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

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

Amex does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

#### *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.

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

Because the foregoing proposed rule change (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)<sup>10</sup> thereunder. The Commission notes that the 30-day operative delay has elapsed and therefore the filing is effective.

At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such proposed 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 SR-Amex-2006-25 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-Amex-2006-25. 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 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-2006-25 and should be submitted on or before June 9, 2006.

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

**Jill M. Peterson,**

*Assistant Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-53804, File No. SR-MSRB-2006-02]

#### **Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to Restated Articles of Incorporation and By-Laws**

May 15, 2006.

On March 20, 2006, the Municipal Securities Rulemaking Board ("MSRB" or "Board"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposed rule change consisting of the MSRB's Restated Articles of Incorporation and By-Laws. The proposed rule change is intended to expand the indemnification provisions for Board members and employees and to make other revisions to the Board's Articles of Incorporation and By-Laws. The proposed rule change was published for comment in the **Federal Register** on April 14, 2006.<sup>3</sup> The Commission received no comment letters regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB<sup>4</sup> and, in particular, the requirements of Section 15B(b)(2)(C) of the Act<sup>5</sup> and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Act requires, among other things, that the MSRB's rules be 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.<sup>6</sup> In particular, the Commission finds that the proposed rule change will clarify provisions

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 53616 (April 7, 2006), 71 FR 19571 (April 14, 2006).

<sup>4</sup> In approving this rule the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>6</sup> *Id.*

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

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

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

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

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