statistical rating organization ("NRSRO") under section 15E of the Securities Exchange Act of 1934 ("Exchange Act") for the classes of credit ratings described in clauses (i) through (v) of section 3(a)(62)(B) of the Exchange Act.

Based on the information provided in the application, LACE has a conflict of interest relating to the fourth class that would cause the firm to be in violation of Exchange Act Rule 17g–5(c)(1) (17 CFR 240.17g–5(c)(1)) if it became registered. LACE requested that the Commission grant LACE an exemption from the conflict of interest prohibition in Exchange Act Rule 17g–5(c)(1). Simultaneously with this Order, the Commission is issuing an Order ("Exemptive Order") granting LACE an exemption from Exchange Act Rule 17g–5(c)(1) until January 1, 2009.[1]

The Commission finds that the application furnished by LACE is in the form required by Exchange Act section 15E, Exchange Act Rule 17g–1 (17 CFR 240.17g–1), and Form NRSRO (17 CFR 249b.300) and contains the information described in subparagraph (B) of section 15E(a)(1) of the Exchange Act.

Based on the application and Exemptive Order, the Commission finds that the requirements of section 15E of the Exchange Act are satisfied.

Accordingly,

It is ordered, under paragraph (a)(2)(A) of section 15E of the Exchange Act, that the registration of LACE Financial Corp. with the Commission as an NRSRO under section 15E of the Exchange Act for the classes of credit ratings described in clauses (i) through (v) of section 3(a)(62)(B) of the Exchange Act is granted.

By the Commission.

Nancy M. Morris,
Secretary.

[FR Doc. E8–2772 Filed 2–13–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57301]

Order Granting Temporary Exemption of LACE Financial Corp. From the Conflict of Interest Prohibition in Rule 17a–5(c)(1) of the Securities Exchange Act of 1934

February 11, 2008.

I. Introduction

The Credit Rating Agency Reform Act of 2006 ("Rating Agency Act"),[1] enacted

on September 29, 2006, defined the term "nationally recognized statistical rating organization" ("NRSRO"), added Section 15E to the Securities Exchange Act of 1934 ("Exchange Act"), and provided authority for the Securities and Exchange Commission ("Commission") to implement registration, recordkeeping, financial reporting, and oversight rules with respect to registered credit rating agencies. Exchange Act Rule 17g–1 (17 CFR 240.17g–1), and Form NRSRO (17 CFR 249b.300), prescribe the process for a credit rating agency to apply for registration. Rule 17g–1 and Form NRSRO were effective on June 18, 2007, and the other rules, Rules 17g–2 through 17g–6 (17 CFR 240.17g–2 through 17g–6), became effective on June 26, 2007.[2]

In particular, Rule 17g–5(c)(1) prohibits an NRSRO from issuing or maintaining a credit rating solicited by a person that, in the most recently ended fiscal year, provided the NRSRO with net revenue equaling or exceeding 10% of the total net revenue of the NRSRO for the fiscal year. In adopting this rule, the Commission stated that such a person would be in a position to exercise substantial influence on the NRSRO, which in turn would make it difficult for the NRSRO to remain impartial.[3]

II. Application and Exemption Request of LACE Financial Corporation

LACE Financial Corp. ("LACE"), a credit rating agency, furnished to the Commission an application for registration as an NRSRO under Section 15E of the Exchange Act for the classes of credit ratings described in clauses (i) through (v) of Section 3(a)(62)(B) of the Exchange Act. Based on the information provided in the application, LACE has a conflict of interest relating to the fourth class[4] that would cause the firm to be in violation of Rule 17g–5(c)(1) if LACE became registered. Specifically, for the fiscal year ending December 31, 2007, LACE maintained credit ratings on asset-backed securities solicited by a person that provided LACE with 10% or more of its total revenues for that year.

LACE has requested that the Commission exempt it from Rule 17g–5(c)(1) on the grounds that the prohibition hinders its ability as a small entity to grow its business issuing credit

ratings on asset-backed securities. LACE indicated in its application that it expects the percentage of revenue attributable to the relevant client to decrease based on LACE's revenue trend, continued growth, and the problems in the asset-backed securities market.

III. Discussion

The Commission, when adopting Rule 17g–5(c)(1), noted that it intended to monitor how the prohibition operates in practice, particularly with respect to asset-backed securities, and whether exemptions may be appropriate.[5] The Commission notes that the revenue in question was earned by LACE before it submitted its application for registration and in the year before Rule 17g–5 was adopted, which limited the time for LACE to adjust its activities to conform to the requirements of the Rule. In addition, the Commission recognizes that, given LACE's size, it is more likely that the firm would be affected by Rule 17g–5(c)(1) than a larger credit rating agency with a more diversified client base. Further, the Commission notes that LACE has stated that it expects that the percentage of total revenue provided by the client will decrease. Finally, the Commission notes that the threshold in Rule 17g–5(c)(1) is, of necessity, a bright line, but activities that exceed that threshold may or may not necessarily raise the concerns that are the basis for the rule. Hence, the Commission believes that it is important for the Commission to consider for each application the specific facts and circumstances of the applicant and whether to grant an exemption from Rule 17g–5(c)(1). Moreover, in this instance, the Commission recognizes that granting this exemption furthers the primary purpose of the Rating Agency Act, which is to enhance competition in the highly concentrated ratings industry. Granting LACE registration in the asset-backed security class will increase the number of NRSROs registered in this class, which could increase competition.

For these reasons, the Commission finds that granting LACE an exemption from Rule 17g–5(c)(1) for calendar year 2008 is necessary and appropriate in the public interest and is consistent with the protection of investors.[6] The

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[1] Release No. 34–57301 (February 11, 2008).
[1] Public Law 109–291 (2006).

[2] Release No. 34–55857 (June 5, 2007), 72 FR 33564, 33564–65 (June 18, 2007).
[3] *Id.* at 33598.
[4] The fourth class of credit ratings is for "issuers of asset-backed securities (as that term is defined in section 1101(c) of part 229 of title 17, Code of Federal Regulations* * *) ("asset-backed securities"). Section 3(a)(62)(B)(iv) of the Exchange Act.

[5] Release No. 34–55857 (June 5, 2007), 72 FR 33564, 33598 (June 18, 2007).
[6] Section 36 of the Exchange Act authorizes the Commission, by rule, regulation, or order, to conditionally or unconditionally exempt any person from any rule under the Exchange Act, to the extent that the exemption is necessary or appropriate in the public interest and is consistent with the protection of investors. 15 U.S.C. 78mm.

exemption will expire on January 1, 2009 (LACE's fiscal year ends on December 31, 2008). The Commission believes that providing LACE with the opportunity to be registered in the asset-backed security class during this time frame is an appropriate approach to addressing the unique circumstances of a small credit rating agency, while balancing this against the goal of Rule 17g–5(c)(1)—to prohibit a conflict that has the potential to influence a credit rating agency's impartiality. Consequently, this exemption is conditioned on LACE disclosing in Exhibit 6 to Form NRSRO that the firm received more than 10% of its net revenue in fiscal year 2007 from a client that paid it to rate asset-backed securities. This disclosure is designed to alert users of credit ratings to the existence of this specific conflict.

Simultaneously with this Order, the Commission is issuing an Order granting the registration of LACE with the Commission as an NRSRO under Section 15E of the Exchange Act.[7]

IV. Conclusion

Accordingly, pursuant to Section 36 of the Exchange Act,

It is hereby ordered that LACE Financial Corp. is exempt from the conflict of interest prohibition in Exchange Act Rule 17g–5(c)(1) until January 1, 2009, provided that LACE Financial Corp. discloses in Exhibit 6 to Form NRSRO that the firm received more than 10% of its net revenue in fiscal year 2007 from a client that paid it to rate asset-backed securities.

By the Commission.

Nancy M. Morris,
Secretary.

[FR Doc. E8–2771 Filed 2–13–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57296; File No. SR–Amex–2008–08]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Eliminate Percentage Orders and Passive Price Improving Orders on the AEMI Platform

February 8, 2008.

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 February 6, 2008, 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 substantially by the Amex. The Amex has submitted the proposed rule change under section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] 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 revise its rules to eliminate percentage orders and passive price improvement (''PPI'') orders as valid order types for securities traded on the Amex's AEMI platform. According to the Amex, neither order type is currently being used.

The text of the proposed rule change is available at *http://www.amex.com,* the principal office of the Amex, and 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 III 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

In March 2007, the Commission approved PPI orders as a valid order type on AEMI.[5] According to the Amex, PPI orders were designed to encourage specialists and Registered Traders to provide inbound aggressing orders with increased opportunities for price improvement. PPI orders would provide undisplayed liquidity on the AEMI

Book and would react to aggressing orders according to criteria met at the time of order entry. The Amex states that it never implemented PPI orders and, therefore, that PPI orders are not being used currently by Amex market participants. The Amex now proposes to eliminate PPI orders from the AEMI rules.

The percentage order is another valid order type under the Amex's AEMI rules that, according to the Amex, is not in use currently. The Amex states that on November 30, 2006, it issued Amex Notice 2006–60, ''Disablement of Percentage Orders in AEMI,'' which prohibited the entry of percentage orders for securities that had migrated from the Amex's legacy systems onto the AEMI platform. That prohibition, which the Amex originally expected to be temporary, has remained in effect. The Amex notes, further, that percentage orders, which involve discretionary action by the specialist, inherently require the specialist to act in an agency capacity for the order. Because the Amex intends to move toward a specialist model that deemphasizes the broker role, the Amex proposes to eliminate percentage orders from the AEMI rules.

The Amex therefore proposes to delete the definitions of percentage order and PPI order from Rule 131–AEMI, ''Types of Orders,'' and all cross-references to such orders in other AEMI rules. In addition, the Amex proposes to delete from Rule 1A–AEMI, ''Applicability, Definitions, References, and Phase-In,'' the definitions of Automatic Conversion, Manual Conversion, Active Manual Conversion, and Passive Manual Conversion, all of which relate only to percentage orders. The Amex also proposes to delete the detailed requirements for percentage order conversions in paragraph (j) of Rule 154–AEMI, ''Orders in AEMI.''

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Regulation NMS,[6] as well as Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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

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[7] Release No. 34–57300 (February 11, 2008).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 55464 (March 13, 2007), 72 FR 13146 (March 20, 2007) (order approving File No. SR–Amex–2007–08).

[6] 17 CFR 242.600 *et seq.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).