

60611–2092 or send an e-mail to Ronald.Hodapp@RRB.GOV. Written comments should be received within 60 days of this notice.

Charles Mierzwa,
Clearance Officer.

[FR Doc. 05–19582 Filed 9–29–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 3, 2005:

A Closed Meeting will be held on Thursday, October 6, 2005 at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the Closed Meeting scheduled for Thursday, October 6, 2005 will be:

Formal orders of private investigations; Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings of an enforcement nature; and Adjudicatory matters.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: September 27, 2005.

Jonathan G. Katz,
Secretary.

[FR Doc. 05–19698 Filed 9–28–05; 11:40 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52505; File No. SR–Amex–2005–056]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Requirement that Registered Options Traders May Only Sign on to Auto-Ex for ETFs Traded by the Same or Adjoining Specialists and Shall Sign on to Auto-Ex for a Maximum of Fifteen ETFs

September 23, 2005.

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 May 23, 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 Exchange. On September 13, 2005, the Amex submitted Amendment No. 1 to the proposed rule change.³ 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 amendments to Amex Rule 958, Commentary .10 and Amex Rule 958–ANTE, Commentary .09, to establish that Registered Options Traders (“ROT”) may only sign on to Auto-Ex for Portfolio Depository Receipts, Index Fund Shares, and Trust Issued Receipts (collectively “Exchange-Traded Funds” or “ETFs”) traded by the same or adjoining specialists, for a maximum of three (3) contiguous panels, and shall also not sign on to Auto-Ex for more than a maximum of fifteen (15) ETFs.

Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Rule 958. Options Transactions of Registered Traders

(a)–(h)—No change.

Commentary * * *

.01–.09—No change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Form 19b–4 dated September 13, 2005, which replaced the original filing in its entirety (“Amendment No. 1”).

.10 (a) Transactions on the Floor in index warrants, currency warrants, securities listed pursuant to Section 107 of the Company Guide (“Other Securities”), and Trust Issued Receipts listed pursuant to Amex Rules 1200 *et seq.* which are otherwise traded under the Exchange’s equity trading rules, shall be effected in accordance with the provisions of this rule, and shall only be effected by Registered Traders who are regular members. Transactions by Registered Traders on the Floor in derivative products (as defined in Article I, Section 3(d) of the Exchange Constitution) which are otherwise traded under the Exchange’s equity trading rules, shall be effected in accordance with the provisions of this rule. In addition, Amex Rule 111, Commentary .01 shall not apply to such transactions. (See Amex Rule 111, Commentary .12, and Amex Rule 114, Commentary .14.)

(b) A Registered Trader who is logged onto Auto-Ex shall only sign on to Auto-Ex for Portfolio Depository Receipts, Index Fund Shares and Trust Issued Receipts (collectively “Exchange Traded Funds” or “ETFs”) traded on the same or contiguous panels, i.e. ETFs traded by two adjoining Specialists, or ETFs traded by the same Specialist for a maximum of three (3) panels. A Registered Trader also shall not sign on to Auto-Ex for more than fifteen (15) ETFs. A Senior Floor Official may modify the foregoing restrictions if he determines that a Registered Trader is able to appropriately fulfill his obligations to the market due to the level of activity in the ETFs and their proximity.

* * * * *

Rule 958. ANTE Options Transactions of Registered Options Traders

(a)–(i)—No change.

Commentary * * *

.01–.08—No change.

.09 (a) Transactions on the Floor and through the facilities of the Exchange in index warrants, currency warrants, securities listed pursuant to Section 107 of the Company Guide (“Other Securities”), and Trust Issued Receipts listed pursuant to Amex Rules 1200 *et seq.* which are otherwise traded under the Exchange’s equity trading rules, shall be effected in accordance with the provisions of this rule, and shall only be effected by registered options traders who are regular members. Transactions by registered options traders on the Floor in derivative products (as defined in Article I, Section 3(d) of the Exchange Constitution) which are otherwise traded under the Exchange’s equity

trading rules, shall be effected in accordance with the provisions of this rule. In addition, Amex Rule 111, Commentary .01 shall not apply to such transactions. (See Amex Rule 111, Commentary .12, and Amex Rule 114, Commentary .14.)

(b) A Registered Trader who is logged onto Auto-Ex shall only sign on to Auto-Ex for Portfolio Depository Receipts, Index Fund Shares and Trust Issued Receipts (collectively "Exchange Traded Funds" or "ETFs") traded on the same or contiguous panels, i.e. ETFs traded by two adjoining Specialists, or ETFs traded by the same Specialist for a maximum of three (3) panels. A Registered Trader also shall not sign on to Auto-Ex for more than fifteen (15) ETFs. A Senior Floor Official may modify the foregoing restrictions if he determines that a Registered Trader is able to appropriately fulfill his obligations to the market due to the level of activity in the ETFs and their proximity.

* * * * *

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 Exchange 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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex Rule 958(c) and Amex Rule 958(c)-ANTE currently provide that an ROT is required to make competitive bids and offers necessary to contribute to the maintenance of a fair and orderly market. ROTs must reasonably engage in dealings for their own accounts when there exists a lack of price continuity and a temporary disparity between the supply and demand of ETFs. As part of their market making activities in ETFs, ROTs may sign on to Auto-Ex, the Exchange's automatic execution system.

The Exchange proposes to amend Amex Rule 958, Commentary .10 and Amex Rule 958-ANTE, Commentary .09 to state that if an ROT logs onto Auto-Ex for ETFs, the ROT would only be

allowed only to log onto contiguous panels, or on panels traded on by the same or adjoining specialists (i.e., electronic order book work stations).⁴ ROTs would be permitted to log onto a maximum of three (3) contiguous panels. The amendments to Amex Rule 958, Commentary .10 and Amex Rule 958-ANTE, Commentary .09 would also limit an ROT to trading in a maximum of fifteen (15) ETFs while signed onto Auto-Ex.⁵ A Senior Floor Official would be permitted to modify these restrictions if he determines that an ROT is able to appropriately fulfill his obligations to the market due to the level of activity in the ETFs and their proximity.

The Exchange believes the foregoing amendments are necessary to ensure that ROTs fulfill their market-making obligations to make competitive bids and offers as reasonably necessary to contribute to the maintenance of a fair and orderly market in ETFs, by encouraging ROTs logged onto Auto-Ex to remain in the crowd. In order to make competitive bids, ROTs must remain in the crowd near the specialist panels. If ROTs were allowed to log onto Auto-Ex panels throughout the trading floor, it would be difficult for them to remain in the crowd. The Exchange notes that ROTs logged onto Auto-Ex may not be actively quoting because they do not post their own quotes on Auto-Ex; instead they receive executions, which are allocated to ROTs and specialists on the wheel, at the specialist quote. However, the Exchange's proposal, which only would permit a ROT to log onto three contiguous panels, would confine the ROT to one section of the trading floor with the intent of encouraging the ROT to remain in that area as part of the crowd in order to make competitive bids and offers in ETFs.

2. Statutory Basis

The Exchange believes the proposal is consistent with Section 6(b) of the Act⁶, in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ 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.

⁴ Each panel has one specialist assigned to it. Numerous ETFs may be traded on one panel.

⁵ Although ETFs are traded on NETS (New Equity Trading System) and not ANTE (Amex New Trading Environment), Amex Rule 958-ANTE applies to ETFs.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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

The Exchange believes the proposed rule change will impose no 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 by the Exchange on this proposal.

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 the 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2005-056 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-2005-056. 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 the 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 Number SR-Amex-2005-056 and should be submitted on or before October 21, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz,
Secretary.

[FR Doc. E5-5325 Filed 9-29-05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52503; File No. SR-Amex-2005-066]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Exchange's Determination of the National Best Bid or Offer When Another Exchange Is Disconnected From the Intermarket Option Linkage

September 23, 2005.

I. Introduction

On June 17, 2005, the American Stock Exchange LLC ("Amex"), filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to amend Amex Rules 933(g) and 933(g)-ANTE regarding the determination of the National Best Bid or Offer ("NBBO") when another participant in the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage

("Linkage Plan")³ is disconnected from the Linkage.⁴ On August 4, 2005, the Amex filed Amendment No. 1 to the proposed rule change.⁵ The proposed rule change, as amended, was published for comment in the **Federal Register** on August 23, 2005.⁶ The Commission received one comment letter on the proposal.⁷ This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The Amex proposes to amend Amex Rules 933(g) and 933(g)-ANTE to add a provision regarding the determination of the NBBO when another Participant Exchange⁸ is disconnected from the Linkage. Amex Rules 933(g) and 933(g)-ANTE currently provide that a Floor Governor or Exchange Official may determine that certain quotes from another Participant Exchange are not reliable when such other Participant Exchange either (i) declares its quotes non-firm and directly communicates or disseminates a message through Options Price Reporting Authority (OPRA), or (ii) communicates to the Amex that such Participant Exchange is experiencing systems or other problems affecting the reliability of its disseminated quotes.

The Amex proposes to add to Amex Rules 933(g) and 933(g)-ANTE that when another Participant Exchange is disconnected from the Linkage and is not accepting Linkage orders, a Floor Governor or Exchange Official may determine the quotes from such Participant Exchange are unreliable and may exclude such quotes from the Amex's determination of the NBBO. The

Amex believes that adding this third circumstance is necessary because there are times when due to system malfunctions, a Participant Exchange is disconnected from the Linkage but has not declared its quotes to be "non-firm" and has not informed the other exchanges that the disconnected Participant Exchange may have quote problems. As a result, access to the disconnected Participant Exchange is limited, and the Amex believes such Participant Exchange's quotes should be excluded from the Amex's determination of the NBBO.

III. Comment Received

As noted above, the Commission received one comment letter on the proposal.⁹ The commenter was strongly supportive of the Amex's proposed rule change, including the Amex's proposed method of determining that a Participant Exchange's quote is unreliable.¹⁰

IV. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act¹¹ and the rules and regulations thereunder applicable to a national securities exchange.¹² In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹³ which requires, among other things, that the rules of the Amex be designed 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 general, to protect investors and the public interest. The Commission believes that it is appropriate for the Amex to remove a Participant Exchange's disseminated quote(s) from the Amex's determination of the NBBO when such Participant Exchange is disconnected from Linkage and is not

⁹ See *supra* note 7.

¹⁰ The comment letter also addressed File No. SR-BSE-2005-30, a proposal to allow the Boston Options Exchange ("BOX") to exclude a Participant Exchange's quotes from BOX's determination of the NBBO when, among other circumstances, such Participant Exchange is disconnected from Linkage. The commenter supported the Boston Stock Exchange, Inc.'s proposal, but suggested a modification to the proposal, as discussed in an order issued separately. See Securities Exchange Act Release No. 52501 (September 23, 2005). In addition, the commenter urged the Commission to address issues related to non-firm quotes that are outside the scope of these proposed rule changes.

¹¹ 15 U.S.C. 78f.

¹² In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78f(b)(5).

⁸ 17 CFR 200.30-3(a)(12).

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 option linkage proposed by the Amex, the Chicago Board Options Exchange, Incorporated, and the International Securities Exchange, Inc. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, upon separate requests by the Philadelphia Stock Exchange, Inc., the Pacific Exchange, Inc., and the Boston Stock Exchange, Inc., the Commission issued orders to permit these exchanges to participate in 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).

⁴ See Amex Rule 940(b)(9).

⁵ Amendment No. 1 superseded and replaced the original filing in its entirety.

⁶ See Securities Exchange Act Release No. 52270 (August 16, 2005), 70 FR 49335.

⁷ See letter from Matthew Hinerfeld, Managing Director and Deputy General Counsel, Citadel Investment Group, L.L.C., on behalf of Citadel Derivatives Group LLC, to Jonathan G. Katz, Secretary, Commission, dated August 26, 2005.

⁸ A "Participant Exchange" is a registered national securities exchange that is a party to the Linkage Plan. See Amex Rule 940(b)(14).