

### 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 such proposed rule change, as amended, or

(B) institute proceedings to determine whether the proposed rule change, as amended, 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, as amended, 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-2005-075 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-Amex-2005-075. 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 Section, Station Place, 100 F Street, NE., Washington, DC 20549. 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 Number SR-Amex-2005-075 and should be submitted on or before February 16, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53092A; File No. SR-CBOE-2005-105]

#### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to the CBOE's Membership Rules for Foreign Member Organizations**

January 19, 2006.

#### **Correction**

FR Doc. E6-465, issued on January 18, 2006 on page 2963, regarding Securities Exchange Act Release No. 53092, incorrectly cited the date of the notice as January 10, 2005. The date should read January 10, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>1</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53152; File No. SR-NYSE-2005-75]

#### **Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to a Proposed Rule Change Relating to Section 802.01E of the Listed Company Manual Concerning Continued Listing of Companies That Fail to File Their Securities Exchange Act of 1934 Annual Reports in a Timely Manner**

January 19, 2006.

#### **I. Introduction**

On October 26, 2005, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), 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 relating to amendments to the Listed Company Manual procedures applicable to companies that fail to file in a timely manner their annual report required by the Act. The proposed rule change was published for public comment in the **Federal Register** on November 16, 2005.<sup>3</sup> The Commission received four comments regarding the proposed rule change.<sup>4</sup> On December 14, 2005, the Exchange submitted a response to the comments.<sup>5</sup> This order approves the proposed rule change.

#### **II. Description of the Proposed Rule Change**

The Exchange recently amended Section 802.01E of the NYSE's Listed Company Manual, which codifies the Exchange's procedures relating to situations where companies fail to satisfy the Commission's filing requirements for annual reports on Forms 10-K, 10-KSB, 20-F, 40-F, or N-CSR in a timely manner.

<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. 52760 (November 10, 2005), 70 FR 69617.

<sup>4</sup> See comments from James J. Angel ("Angel"), Associate Professor of Finance, McDonough School of Business, Georgetown University, dated December 5, 2005 ("Angel Letter"); Steve Berman ("Berman"), SRIC-Atlantic Trust, dated December 6, 2005 ("Berman Letter"); Edward S. Knight, Executive Vice President and General Counsel, The Nasdaq Stock Market, Inc. ("Nasdaq"), dated December 7, 2005 ("Nasdaq Letter"); and Mark Patterson ("Patterson"), Managing Director, NWQ Investment Management, LLC, dated December 7, 2005 ("Patterson Letter").

<sup>5</sup> See letter from Mary Yaeger, Assistant Secretary, NYSE, to Jonathan G. Katz, Secretary, Commission, dated December 14, 2005 ("NYSE Response Letter").

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 17 CFR 200.30-3(a)(12).