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Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 16, 2006.

**Nancy M. Morris**,  
Secretary.

[FR Doc. E6-2687 Filed 2-24-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53332; File No. SR-Amex-2006-16]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rule 903 To Provide That the Exchange Will Typically Open Four Expiration Months for Each Class of Options Open for Trading

February 17, 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 February 15, 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 Amex. The Amex filed this proposal as a "non-

controversial" 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 903 to provide that the Exchange will typically open four expiration months for each class of options open for trading. 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 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, 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 IV 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

The Exchange is proposing to amend Amex Rule 903 in order to avoid confusion and conform to industry standard. The Amex states that this proposal will not change the manner in which options expiration months are offered and listed, but instead, will clearly set forth how the Exchange will add these additional series.

Current Amex Rule 903 sets forth the manner in which options series are offered and listed on the Exchange. In connection with expiration month series, the rule provides that at the commencement of trading on the Exchange of a particular class of options relating to an underlying stock or

Exchange-Traded Fund Share, series of options having three different expiration months in three-month intervals will normally be opened. Although Amex Rule 903 does not specifically provide that four expiration months will be open for trading for each options class, the Exchange in 1989 received approval together with the other options exchanges to provide four expiration months.<sup>6</sup> Accordingly, the Exchange submits that this amendment to Amex Rule 903 largely implements the prior Commission approval permitting four outstanding expiration months.

The other options exchanges provide that they will open four expiration months for each class of options open for trading with the first two months being the two nearest months, regardless of the quarterly cycle on which the class trades; and the third and fourth being the next two months of the quarterly cycle previously designated by the exchange for that specific class.<sup>7</sup> The Exchange believes that it is necessary to amend its rules to codify and conform the listing of options expiration months to the industry standard. Specifically, the Exchange is proposing to add new paragraph (b) to Amex Rule 903 to provide that the Exchange will usually open four expiration months for each class of options open for trading on the Exchange. The first two expiration months will be the two nearest term months, regardless of the quarterly cycle on which the options class trades while the third and fourth expiration months will be the next two months of the quarterly cycle previously designated by the Exchange for the specific class. For example, if the Exchange listed, in late April, a new stock option on a January-April-July-October quarterly cycle, the Exchange would list the two nearest term months (May and June) and the next two expiration months of the cycle (July and October). When the May series expires, the Exchange would then add the January series. When the June series expires, the Exchange would add the August series as the next nearest month, and would not add April.

Current Exchange Rule 903 permits additional expiration month series of the same options class to be added at or about the time a prior expiration month series expires. The rules of the other options exchanges provide that, due to unusual market conditions, new series of options on an individual stock (including an Exchange-Traded Fund

<sup>1</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>5</sup> As required by Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii), the Amex submitted written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.

<sup>6</sup> See Securities Exchange Act Release Nos. 26934 (June 14, 1989), 54 FR 26283 (June 22, 1989) and 22099 (May 31, 1985), 50 FR 23862 (June 6, 1985).

<sup>7</sup> See, e.g., Chicago Board Options Exchange, Incorporated ("CBOE") Rule 5.5 and International Securities Exchange, Inc. ("ISE") Rule 504.

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

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

Share) may be added up until five business days prior to expiration.<sup>8</sup> The Amex states that the rules of the other options exchanges also permit new series of options on individual stocks and Exchange-Traded Fund Shares to be added until the beginning of the month in which the options contracts expire. In order to conform to market convention, the Exchange is proposing to add new paragraph (d) to Amex Rule 903 as well as Commentary .04. New paragraph (d) provides for the opening of additional series of options of the same class, which new series would not affect the prior series of the same class previously opened, in the event the Exchange deems such to be necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock or Exchange-Traded Fund Share moves substantially from the initial exercise price or prices. Commentary .04 provides that such new series of options on individual stocks and Exchange-Traded Fund Shares may be added until five business days prior to expiration. It also provides that a new series of FLEX Equity Options may be added on any business day prior to the expiration date.

The Exchange believes that its Rule 903 should be amended as proposed in order to conform the Exchange's options offering and listing standards to previously approved rule filings as well as to conform to industry standard.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act<sup>9</sup> in general and furthers the objectives of section 6(b)(5) of the Act<sup>10</sup> in particular in that it is 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 securities, 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; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related

<sup>8</sup> The Exchange received Commission approval in 1985 relating to the manner of adding additional options series. See Securities Exchange Act Release No. 21929 (April 10, 1985), 50 FR 15258 (April 17, 1985). This proposal seeks to implement this prior Commission approval.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

to the purpose of the Act or the administration of the Exchange.

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

The Amex does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in the 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

The Amex has neither solicited nor received comments on the proposed rule change.

### 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) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Amex has asked the Commission to waive the 30-day operative delay. The Commission believes that the proposed rule change does not raise any new regulatory issues; the proposed rule is identical to CBOE Rule 5.5 and ISE Rule 504. Waiver of the 30-day operative period would enable the Exchange to implement the proposal as quickly as possible, and thereby provide for greater uniformity with respect to the manner in which options series are offered and listed. Therefore, the Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>11</sup> For this reason, the Commission designates that the proposal has become effective and operative immediately upon filing with the Commission.

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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.<sup>12</sup>

### 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 No. SR-Amex-2006-16 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-2006-16. 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 will also 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

<sup>12</sup> See Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii).

submissions should refer to File No. SR-Amex-2006-16 and should be submitted on or before March 20, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-2688 Filed 2-24-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53331; File No. SR-CBOE-2006-17]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program Relating to Market-Maker Bid-Ask Width Requirements for Non-Hybrid System Classes

February 17, 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 February 15, 2006, the Chicago Board Options Exchange, Incorporated (“CBOE” 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. The CBOE has filed this proposal pursuant to section 19(b)(3)(A)(iii) 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 CBOE proposes to extend until February 17, 2007, a pilot program establishing a limited exemption from the bid/ask differential requirements of CBOE Rule 8.7(b)(iv). The text of the proposed rule change appears below. Proposed new language is *italicized*; proposed deletions are [bracketed].

#### Chicago Board Options Exchange, Incorporated Rules

\* \* \* \* \*

#### Rule 8.7. Obligations of Market-Makers

(a)–(e) No Change.

\* \* \* Interpretations and Policies:

.01–.12 No Change.

.13 Market-Makers will be exempt from the requirements of subparagraph (b)(iv) of this Rule for a period of 30 seconds in cases where the Exchange automatically adjusts one side of the disseminated quote to one minimum increment below (above) the NBBO bid (offer): (1) because the size associated with that quote has been exhausted by automatic executions; or (2) to comply with the terms of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage. This exemption will be in effect until [February 17, 2006] *February 17, 2007* on a pilot basis.

\* \* \* \* \*

#### 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

The Exchange is proposing to extend until February 17, 2007, a pilot program that provides a limited exemption from the Market-Maker bid/ask differential requirements contained in CBOE Rule 8.7(b)(iv).<sup>6</sup> As part of accommodating compliance with the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (the

“Linkage Plan”),<sup>7</sup> the Exchange introduced an “autofade” functionality for classes NOT trading on the CBOE’s Hybrid platform (“Hybrid”) (there are currently fewer than 10 classes that are not on Hybrid).<sup>8</sup> Because dynamic quoting is a feature of the Hybrid system, it does not require the autofade enhancement. Autofade causes one side of the CBOE’s disseminated quote to move to an inferior price when the quote is required to fade pursuant to the terms of the Linkage Plan and/or when the size associated with the quote has been depleted by automatic Retail Automatic Execution System (“RAES”) executions (of both Linkage orders and non-Linkage orders). Without this enhancement, the system would not change the quote as required.

Linkage orders are generally Immediate or Cancel limit orders priced at the national best bid or offer (“NBBO”) that must be acted upon within 15 seconds. The Linkage Plan provides several instances in which a Participant receiving a Linkage order must fade its quote. For example, if a Participant receives a Principal Acting as Agent (“PA”) order for a size greater than the Firm Customer Quote Size and does not execute the entirety of the PA Order within 15 seconds, the Participant is required to fade its quote. The CBOE’s autofade functionality automates the fading process to ensure that members (and the Exchange) are in full compliance with this aspect of the Linkage Plan. Autofade moves the CBOE’s quote to a price that is one tick inferior to the NBBO.<sup>9</sup> This ensures that the Exchange will not immediately receive additional Linkage orders to allow the quote to refresh (either manually or through an autoquote update).

As mentioned above, autofade also applies any time an automatic execution of any order via RAES has depleted the size of the CBOE’s quote. Once a quote is exhausted, autofade moves the quote to a price that is one tick inferior to the NBBO, as described above. For equity option classes that are not trading on the Hybrid System, the CBOE quote is generally derived from an autoquote system that is maintained by the

<sup>7</sup> The Commission approved the Linkage Plan on July 28, 2000. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

<sup>8</sup> Hybrid is the CBOE’s trading platform that allows individual Market Makers to submit electronic quotes in their appointed classes. See CBOE Rule 1.1(aaa).

<sup>9</sup> The only exception is when CBOE’s NBBO quote (or next best quote) is represented by a customer order in the book. In such cases, the Exchange does not fade a booked order (it would have to be traded).

<sup>6</sup> The Commission approved the pilot program on September 10, 2003. See Securities Exchange Act Release No. 48471 (September 10, 2003), 68 FR 54251 (September 16, 2003) (order approving File No. SR-CBOE-2003-08). The pilot program was subsequently extended for an additional 18 months, until February 17, 2006. See Securities Exchange Act Release No. 50292 (August 31, 2004), 69 FR 54167 (September 7, 2004) (notice of filing and immediate effectiveness of File No. SR-CBOE-2004-39).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<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)(iii).

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

<sup>5</sup> The CBOE has asked the Commission to waive the 30-day operative delay provided in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).