

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 general, to protect investors and the public interest. The Commission believes that prohibiting members from causing the entry into Hybrid of more than one order from options Market Makers or stock exchange specialists for the same beneficial account within a maximum 15-second period should help reduce the risk of exposure of CBOE market makers. The Commission notes that the 15-second restriction set forth in the rule provides a sufficient period to allow CBOE market makers to change their quotations following an execution, without placing an undue burden on market participants seeking to execute transactions on the Exchange.<sup>10</sup> The Commission further notes that market participants subject to the 15-second restriction will still be permitted to send orders to the Exchange for execution through the Intermarket Option Linkage pursuant to the terms of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-CBOE-2005-112) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53597; File No. SR-Amex-2005-112]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating to the Prohibition of Trade Shredding by Members

April 4, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended, (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that

<sup>10</sup> The Commission notes that the Exchange may not take punitive action against any non-member options market maker or stock exchange specialist who submits an order to a CBOE member for entry into Hybrid in the event that the CBOE member violates CBOE Rule 6.13(b)(i)(C)(iii).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</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.

on November 1, 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 March 27, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, 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 3 (“General Prohibitions and Duty to Report”) by adding a new paragraph (i) to prohibit a member or member organization from splitting trading interest into multiple orders for any purpose other than seeking the best execution of the entire order. The text of the proposed rule change, as amended, appears below. Additions are *in italics*.

\* \* \* \* \*

#### Rule 3. General Prohibitions and Duty To Report

(a) through (h)—no change.

*(i) It shall be inconsistent with just and equitable principles of trade for a member or member organization to split trading interest into multiple orders for any purpose other than seeking the best execution of the entire order.*

\* \* \* \* \*

### 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, as amended, and discussed any comments it received on the proposed rule change, as amended. 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.

<sup>3</sup> See Form 19b-4 dated March 27, 2006 (“Amendment No. 1”). Amendment No. 1 replaced the original filing in its entirety.

### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

“Trade shredding” is the practice of splitting large customer orders for securities into multiple smaller orders for the primary purpose of increasing the receipt of market data revenue by market centers that allow or encourage this practice. The practice is based on the fact that, as a result of the manner in which market data revenues are calculated, market centers can derive a greater share of market data revenue by increasing the number of trades they report to the consolidated tape. For example, Network B, which disseminates consolidated market information on securities listed on the Amex, allocates net income based solely on the number of trades reported by a self-regulatory organization (“SRO”), no matter how small each trade is.

The Amex has expressed its serious concern in the past over the practice of trade shredding. The Exchange believes that trade shredding is incompatible with just and equitable principles of trade. Among other things, it constitutes clearly misleading trade reporting in that it presents a false impression regarding the nature and extent of bona fide trading activity.

Some SROs provide incentives for trade shredding by sharing the increased market data revenue that results from the practice with the market participants, including non-members, who send in orders for execution. Such revenue sharing arrangements may create a conflict of interest between the customers and the market participants handling their orders if, for example, an order is routed to a market center based on such revenue incentives instead of the obligation to obtain best execution for the order.

The Commission has requested that each SRO adopt rule changes that would prohibit its members from trade shredding. Although the Amex does not rebate revenues from tape reporting to members or non-members and provides no other incentive for its order providers to engage in trade shredding on orders sent to the Exchange, the Amex is responding to the Commission’s request by adding a new paragraph (i) to Amex Rule 3 (“General Prohibitions and Duty to Report”). This new paragraph would prohibit a member or member organization from splitting trading interest into multiple orders for any purpose other than seeking the best execution of the entire order.

## 2. Statutory Basis

The proposed rule change, as amended, is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it is 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 is not designed to permit unfair discrimination between customers, brokers, or dealers, or to regulate by virtue of any authority matters not related to the administration of the Exchange.

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

The Exchange believes that the proposed rule change, as amended, 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

The Exchange has neither solicited nor received comments on this proposal, as amended.

## 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 self-regulatory organization consents, the Commission will:

(A) By order approve such 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, 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-2005-112 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 Number SR-Amex-2005-112. 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 offices 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 Number SR-Amex-2005-112 and should be submitted on or before May 3, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Nancy M. Morris,**

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53606; File No. SR-NASD-2006-028]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change To Allow Nasdaq To Take Certain Actions on Behalf of Its Issuers in Connection With Nasdaq's Transition to a National Securities Exchange

April 6, 2006.

On February 23, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("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 to adopt NASD Rule 4130 to allow Nasdaq and its subsidiary, The Nasdaq Stock Market LLC ("Nasdaq Exchange"), to file an application with the Commission or another appropriate regulator on behalf of its issuers to register their listed securities under Section 12(b) of the Act,<sup>3</sup> or seek a temporary exemption from Section 12 of the Act, in connection with Nasdaq Exchange's operation as a national securities exchange. The Commission published the proposed rule change for comment in the **Federal Register** on March 2, 2006.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.<sup>5</sup> The Commission believes the proposed rule change is consistent with Section 15A(b)(6) of the Act,<sup>6</sup> which requires, among other things, that the rules of a national securities association be designed to promote just and equitable principals 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

<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. 781(b).

<sup>4</sup> Securities Exchange Act Release No. 53362 (February 24, 2006), 71 FR 10734.

<sup>5</sup> In approving this rule proposal, 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>6</sup> 15 U.S.C. 78o-3(b)(6).

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>6</sup> 17 CFR 200.30-3(a)(12).