

connection with the adoption of an options licensing fee for VIG options, the Exchange believes that charging an options licensing fee, where applicable, to all market participant orders except for customer orders is reasonable, given the competitive pressures in the industry. Accordingly, the Exchange seeks, through this proposal, to better align its transaction charges with the cost of providing products.

2. Statutory Basis

Amex believes that the proposed rule change, as amended, is consistent with Section 6(b)(4) of the Act⁹ regarding the equitable allocation of reasonable dues, fees and other charges among exchange members and other persons using exchange facilities.

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

Amex believes that the proposed rule change, as amended, does not impose any 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 with respect to the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change was filed pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁰ and Rule 19b-4(f)(2) thereunder,¹¹ because it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization.

At any time within 60 days of the filing of such 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.

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. Please include File Number SR-Amex-2006-39 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-2006-39. 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 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-2006-39 and should be submitted on or before June 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6-7461 Filed 5-16-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53793; File No. SR-Amex-2005-103]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change and Amendment Nos. 1, 2, 3 and 4 Thereto Allowing Issuers of Listed Equity Securities, Structured Products, and Exchange Traded Funds a Right To Request a New Specialist

May 11, 2006.

On October 13, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Amex Rule 27 to give issuers of listed equity securities and structured products, as well as sponsors of exchange traded funds ("ETFs"), a right to request a new specialist. On January 26, 2006, Amex filed Amendment No. 1 to the proposed rule change.³ On January 30, 2006, Amex filed Amendment No. 2 to the proposed rule change.⁴ On February 17, 2006, Amex filed Amendment No. 3 to the proposed rule change.⁵ On March 6, 2006, Amex filed Amendment No. 4 to the proposed rule change.⁶ The proposed rule change, as amended, was published for comment in the **Federal Register** on April 4, 2006.⁷ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

I. Description of the Proposal

Amex Rule 27(e) currently gives the issuer of an equity security or a structured product and the sponsor of an ETF a one-time right to request a reallocation to a different specialist unit within twelve months after the listing of the security.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange proposed further changes to Amex Rule 27(e) and (f) and made revisions to the purpose section of the proposed rule change.

⁴ In Amendment No. 2, the Exchange made revisions to the purpose section of the proposed rule change to reflect changes to the text of Amex Rule 27(f) made in Amendment No. 1.

⁵ In Amendment No. 3, the Exchange proposed further changes to Amex Rule 27(e) and (f) and made revisions to the purpose section of the proposed rule change.

⁶ In Amendment No. 4, the Exchange proposed minor technical changes to the text of Amex Rule 27(e) and (f).

⁷ See Securities Exchange Act Release No. 53561 (March 29, 2006), 71 FR 16841.

other charges among its members and issuers and other persons using its facilities.

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

¹² 17 CFR 200.30-3(a)(12).

The Exchange proposed to amend Amex Rule 27(e)(ii) to permit the issuer of an equity security or structured product or the sponsor of an ETF to request a specialist reassignment for "good cause" by filing a written notice ("Notice") with the officer in charge of Equities Administration or the officer in charge of the ETF Marketplace, as applicable. The Notice must indicate the specific issues prompting the request and any steps previously taken to attempt to address these issues. Amex proposes to define "good cause" as the failure of the specialist to make competitive markets; the failure of the specialist unit to risk capital commensurate with the type of security; the failure of the specialist unit to assign competent personnel to the securities; or any statements made publicly by the specialist unit that substantially denigrate the security.

Further, the proposed revisions to Amex Rule 27(e) would require that copies of the Notice be provided to the Chief Regulatory Officer of the Exchange ("CRO") and to the Exchange's Committee on Floor Member Performance. In addition, the subject specialist unit would be notified that a mediation is being commenced with respect to the request for reassignment, and would be provided a copy of the Notice. The specialist unit may submit a written response within two weeks ("Specialist Response Date"), which response must be provided to the CRO and the Committee on Floor Member Performance. If the specialist unit does not submit a response during this two-week time period, there will be no mediation. In such case, the Allocations Committee will be convened to reallocate securities pursuant to Amex Rule 27(b).

The CRO would review the Notice and any specialist response, and may request a review of the matter by the Regulatory Oversight Committee ("ROC") of the Exchange's Board of Governors. In addition, the Committee on Floor Member Performance would review the Notice and any specialist response. Prior to the commencement of the mediation, the Committee on Floor Member Performance would make any determination that "good cause" does not exist. A determination that "good cause" does not exist would preclude the commencement of a mediation. In this circumstance, the security would not be reallocated and the issuer or sponsor may request an appeal of the decision of the Committee on Floor Member Performance to be heard by the

Amex Adjudicatory Council.⁸ If the decision of the Committee on Floor Member Performance is upheld, then the security will not be reallocated.

The mediation of the issues that have arisen between the issuer or sponsor and the specialist unit may be conducted pending the outcome of the CRO's and, if applicable, the ROC's review of the request. However, where a review by the ROC has been requested, no change of specialist unit may occur until the ROC makes a final determination that it is appropriate to permit such change. In making such determination, the ROC may consider all relevant regulatory issues, including without limitation whether the requested change appears to be in aid or furtherance of conduct that is illegal or violates Exchange rules, or in retaliation for a refusal by a specialist to engage in conduct that is illegal or violates Exchange rules. Notwithstanding reviews by the CRO, ROC and/or Committee on Floor Member Performance of any matter raised during the process described herein, the Amex Division of Regulation and Compliance (including Listing Qualifications) and/or the NASD Amex Division may at any time take any regulatory action that it may determine to be warranted. The Amex represents that reassignment may not occur without prior notice that the CRO has decided not to refer the matter to the ROC or that the ROC has determined that the change is appropriate.

A Mediation Committee would be appointed and would consist of at least one floor broker, one senior floor official, one upstairs governor, and two independent governors for each mediation.⁹ The Mediation Committee would meet with representatives of the issuer or sponsor and the specialist unit in an attempt to mediate the matters indicated in the Notice. During the course of the mediation, the issuer or sponsor may conclude the mediation if it determines that it wishes to continue with the same specialist unit. In the alternative, after the expiration of one month from the time of the specialist's response, subject to the conclusion of any review by the CRO and ROC, the issuer or sponsor may file written notice, signed by the issuer's or

⁸ See Article II, Section 7(a) of the Amex Constitution.

⁹ The Exchange represents that the Mediation Committee would consist of at least one floor broker, at least one senior floor official, at least one upstairs governor, and at least two independent governors for each mediation. Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex and David Michehl, Special Counsel, Division of Market Regulation, Commission on May 11, 2006.

sponsor's chief executive officer, that it wishes to proceed with the change of specialist unit. The new specialist unit would be selected by the Allocations Committee pursuant to Amex Rule 27(b).

Finally, the Exchange proposes to amend Amex Rule 27(f) to provide that, in addition to the circumstances provided for in the existing rule, the Allocations Committee would be convened to reallocate securities when an issuer or sponsor files a written notice requesting a change of specialist unit and the Mediation Committee orders reallocation pursuant to proposed paragraph (e)(viii) of Amex Rule 27, or an issuer or sponsor files a written notice requesting a change of specialist unit and the specialist unit does not submit a response.

II. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Act,¹⁰ and the rules and regulations thereunder applicable to a national securities exchange.¹¹ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹² which requires, among other things, that the Exchange's rules be 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.

The Commission believes that the proposed rule change, as amended, appropriately balances the need to revise the current Amex process by which issuers of equity securities or structured products or sponsors of ETFs request a new specialist with the need to incorporate appropriate procedures that are designed to provide that any such request is subject to mediation and review by the Exchange's Committee on Floor Member Performance and CRO and, if requested by the CRO, the ROC. While the proposal revises current time frame during which an issuer or sponsor may request a new specialist, it also introduces the involvement of the Exchange's Committee on Floor Member Performance and CRO to assure that the requested change of specialist unit is for a proper purpose. The Committee on Floor Member Performance and CRO would be provided copies of any Notice and response to such Notice by the specialist unit. When the CRO has

¹⁰ 15 U.S.C. 78f(b).

¹¹ In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78f(b)(5).

requested a review by the ROC, no change of specialist unit may occur until after the ROC makes a final determination that it is appropriate to permit such a change.

The ROC, in making its determination of whether to permit a change in specialist unit, may consider all relevant regulatory issues, including whether the requested change appears to be in aid or furtherance of conduct that is illegal or violates Exchange rules, or is in retaliation for a refusal by a specialist to engage in conduct that is illegal or violates Exchange rules. The Amex Division of Regulation and Compliance and/or the NASD Amex Division may at any time take any regulatory action that it may determine to be warranted. Therefore, the Commission believes that the proposed process would provide an appropriate mechanism for the Exchange to maintain independent oversight over an issuer's or sponsor's request to change specialist units, to ascertain that such requests are confined to proper reasons, and to obtain a review by the ROC when appropriate.

The Commission notes that the proposed rule change requires the Mediation Committee to commence to meet with representatives of the issuer or sponsor and the specialist unit "as soon as practicable" after the Specialist Response Date and does not limit the Mediation Committee's attempt to mediate the matters indicated in the Notice. The proposal further provides that the issuer or sponsor may at any time file a written notice stating that it wishes to conclude the mediation because it wishes to continue with the same specialist unit. After the expiration of one month from the Specialist Response Date, the issuer or sponsor may file a notice that it wishes to proceed with the change of specialist unit. The Commission believes that the proposed process is designed to provide the issuer or sponsor and the specialist unit ample opportunity to attempt to resolve the issues that prompted the issuer or sponsor to seek a new specialist unit and to allow the issuer or sponsor to seek a new specialist unit a reasonable period of time after the issuer or sponsor files its Notice.

Accordingly, the Commission finds that the proposed rule change, as amended, is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-Amex-2005-103), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6-7463 Filed 5-16-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53652A; File No. SR-Amex-2005-100]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendments No. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 Relating to the Establishment of a New Class of Registered Options Trader Called a Remote Registered Options Trader

May 11, 2006.

Correction

FR Doc. E6-5918, beginning on page 20422 in the issue of April 20, 2006,¹ incorrectly stated the Exchange's proposal to modify Amex Rule 958—ANTE, which governs options transactions of Registered Options Traders, Supplemental Registered Options Traders, and Remote Registered Options Traders. On page 20423, in the 3rd column, the incorrect portion of the order stated as follows:

"The proposed changes to Amex Rule 958—ANTE (f) provide that no member, while acting as an RROT, if also registered as a registered equity trader or registered equity market-maker, would be required to execute a proprietary Exchange option transaction on a Paired Security if during the preceding 60 minutes he has been in the Designated Stock Area where the related security is traded."

The corrected sentence reads as follows:

"The proposed changes to 958—ANTE (f) provide that no member, while acting as an RROT, if also registered as a registered equity trader or registered equity market-maker, would be permitted to execute a proprietary Exchange option transaction on a Paired Security if during the preceding 60 minutes he has been in the Designated Stock Area where the related security is traded."

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6-7467 Filed 5-16-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53635A; File No. SR-Amex-2005-075]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendments No. 2 and 3 Thereto Relating to the Establishment of a New Class of Registered Options Trader Called a Supplemental Registered Options Trader ("SROT")

May 11, 2006.

Correction

FR Doc. E6-5800, beginning on page 20144 in the issue of April 19, 2006,¹ incorrectly stated the Exchange's proposal to modify Amex Rule 935—ANTE, which governs the allocation of unexecuted contracts. On page 20144, in the 3rd column, the incorrect portion of the order stated as follows:

"However, when more than one market participant is quoting at the ABBO, and an SROT is interacting with its own firm's orders, the ANTE System will allocate the remaining contracts after non-broker dealer customer orders as follows: (i) 20% to an SROT interacting with its own firm's orders; (ii) 20% to the specialist; and (iii) the balance to registered options traders."

The corrected sentence reads as follows:

"However, when more than one market participant is quoting at the ABBO, and an SROT is interacting with its own firm's orders, the ANTE System will allocate the remaining contracts after non-broker dealer customer orders as follows: (i) 40% to an SROT interacting with its own firm's orders and (ii) the balance to registered options traders and to the specialist."

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6-7468 Filed 5-16-06; 8:45 am]

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² 17 CFR 200.30-3(a)(12).

¹ See Securities Exchange Act Release No. 53635 (April 12, 2006), 71 FR 20144.

² 17 CFR 200.30-3(a)(12).

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹ See Securities Exchange Act Release No. 53652 (April 13, 2006), 71 FR 20422.