

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54691; File No. SR-Amex-2006-103]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Eliminating the Post-Trade Allocation Feature in ANTE

November 2, 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 October 27, 2006, the American Stock Exchange LLC (“Amex” or “Exchange”) submitted to the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Amex. The Exchange filed the proposal as a “non-controversial” proposed rule change 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 it effective upon filing with the Commission. 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 eliminate the concept of post-trade allocation codified in Amex Rule 935-ANTE(b). The text of the proposed rule change is available on the Amex’s Web site at <http://amex.com>, the Amex’s Office of the Secretary, 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, 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 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 proposes to eliminate Amex Rule 935-ANTE (b), governing ANTE post-trade allocation. Amex Rule 935-ANTE (b) currently provides for the post-trade allocation of contracts executed as the result of the submission of orders to trade with orders in the ANTE Central Book. Amex Rule 935-ANTE (b)(2) provides that if more than one ANTE Participant<sup>5</sup> and/or a floor broker representing a customer order submits an order to trade with an order in the ANTE Central book, within a period not to exceed five seconds after the initial ANTE Participant has submitted its order, all those ANTE Participants and the floor broker’s customer will be entitled to participate in the allocation of any executed contracts. Amex Rule 935-ANTE (b)(2) provides that the ANTE Participant to first submit the order to trade would be allocated executed contracts up to a size established on a class-by-class basis by the Options Trading Committee and referred to as the “Take Size.” The initial ANTE Participant receives the lesser of the number of executed contracts in his indicated order size or the “Take Size.” The Options Trading Committee considers the option’s liquidity and the size of the trading crowd in determining the appropriate “Take Size” for each option class. They are responsible for reviewing and in some cases revising the assigned “Take Size” on a periodic basis, but do not change a “Take Size” during the course of a trading day.

Other Exchanges have moved towards electronic trading, where the notion of “Take-Size” does not exist.<sup>6</sup> The Exchange believes that eliminating the concept of “Take-Size” at the Amex will further encourage competition with the liquidity providers on the Exchange’s Floor. Accordingly, the Exchange proposes that ANTE Participants will no longer be limited by the post-trade allocation process.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>7</sup> in general and

<sup>5</sup> Amex Rule 900-ANTE (b)(45) defines ANTE Participant as either the specialist, registered options trader(s), Remote Registered Options Trader or Supplemental Registered Options Trader, assigned to trade a specific options class on the ANTE System.

<sup>6</sup> See ISE Rule 714 and NYSEArca Rule 6.76B.

<sup>7</sup> 15 U.S.C. 78f.

further the objectives of Section 6(b)(5)<sup>8</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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The proposed rule change 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.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>9</sup> and subparagraph (f)(6) of Rule 19b-4<sup>10</sup> thereunder because it does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. 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.

Under Rule 19b-4(f)(6) of the Act,<sup>11</sup> the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Amex has requested that the Commission waive the 30-day operative

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> *Id.*

<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).

delay so that it may implement the proposal as quickly as possible. The Commission believes that the proposal raises no issues of regulatory concern. Therefore, the Commission, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative date so that the proposal may take effect upon filing.<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 Number SR-Amex-2006-103 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 20549-1090.

All submissions should refer to File Number SR-Amex-2006-103. 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-2006-103 and should be submitted on or before November 30, 2006.

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

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54698; File No. SR-Amex-2006-104]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Eliminate Certain Licensing Fees

November 2, 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 October 30, 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, II, and III below, which Items have been prepared by the Exchange. Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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

Amex proposes to modify its Options Fee Schedule and its Exchange-Traded Fund ("ETF") and Trust Issued Receipts Fee Schedule to eliminate certain licensing fees.

The text of the proposed rule change is available on the Exchange's Internet Web site (<http://www.amex.com>), at the Exchange's principal office, 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 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 amend its Options Fee Schedule to eliminate the licensing fee of \$0.10 a contract which is currently charged on (1) options on the S&P 500 Index Tracking Stock® ("SPY®") and (2) options on the Nasdaq-100 Index Tracking Stock® ("QQQQ®"). The Exchange is proposing to retroactively eliminate the licensing fee applicable to the SPY options as of the close of business on September 29, 2006. The Exchange is also proposing to retroactively eliminate the licensing fee applicable to the QQQQ options as of the close of business on October 11, 2006. The Exchange is proposing the termination of these licensing fees because said licensing fees are no longer being imposed on the Amex.<sup>5</sup>

The Exchange is further proposing to eliminate the licensing fee of \$0.10 a contract on the options on the SPDR O-Strip ETF. The Exchange further proposes to modify its Exchange-Traded Fund and Trust Issued Receipts Fee Schedule to eliminate the references to the SPDR O-Strip ETF, which has been delisted. The Exchange asserts that the proposal is equitable as required by Section 6(b)(4) of the Act.

###### 2. Statutory Basis

The Exchange believes that the proposed fee change is consistent with Section 6(b)(4) of the Act<sup>6</sup> regarding the equitable allocation of reasonable dues, fees, and other charges among its

<sup>12</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<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)(ii).

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

<sup>5</sup> The Exchange has represented that the licensing agreements for the SPY options and the QQQQ options were eliminated on September 29, 2006 and October 11, 2006, respectively. Email communication from Nyieri Nazarian, Assistant General Counsel, Amex, to Leah Mesfin, Special Counsel, Division of Market Regulation, Commission, on November 1, 2006.

<sup>6</sup> 15 U.S.C. 78f(b)(4).