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*Contact:* Sheena Whaley, Nuclear Engineer, Technical Review Directorate, High-Level Waste Repository Safety Division of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Comments can also be submitted by telephone, fax, or e-mail, which are as follows: *telephone:* (301) 415-7965; *fax number:* (301) 415-5399; or *e-mail:* saw2@nrc.gov.

Dated at Rockville, Maryland this 9th day of February 2007.

For the Nuclear Regulatory Commission.

**N. King Stablein,**

*Chief, Project Management Branch B, Division of High-Level Waste Repository Safety, Office of Nuclear Material Safety and Safeguards.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-55272; File No. SR-Amex-2006-77]

**Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change and Amendment No. 1 There to Amend Rules 918 and 918-Ante Regarding Trading Rotations, Halts and Suspensions**

February 12, 2007.

**I. Introduction**

On August 16, 2006, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change to amend Amex Rules 918 and 918-ANTE relating to trading rotations and trading halts. On December 5, 2006, Amex filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on December 29,

2006.<sup>1</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change as modified by Amendment No. 1.

**II. Discussion and Commission Findings**

The Exchange proposes to amend Amex Rules 918 and 918-ANTE relating to trading rotations and trading halts. Specifically, Amex Rules 918(a) and 918-ANTE(a) currently provide that a trading rotation shall be employed at the opening of each business day following the opening of the underlying security in the primary market. Amex Rules 918(b) and 918-ANTE(b) provide that trading on any Exchange option contract may be halted or suspended whenever the Exchange deems such action appropriate. Included in these rules is a list of factors that the Exchange may use to determine if a trading halt or suspension is warranted. Pursuant to Amex Rules 918(b)(1) and 918-ANTE(b)(1), the Exchange may halt or suspend trading in an option contract if the underlying security has been halted or suspended in the primary market. Similarly, the Exchange may also consider, pursuant to Amex Rules 918(b)(2) and 918-ANTE(b)(2), halting or suspending trading in an option contract if the opening of such underlying stock in the primary market has been delayed due to unusual circumstances.

"Primary market" is defined in Amex Rules 900(b)(26) and 900-ANTE(b)(26) as (i) With respect to an underlying equity security which is principally traded on a national securities exchange, the principal exchange market in which the underlying security is traded, (ii) with respect to an underlying equity security which is principally traded in the over-the-counter market, the market reflected by Nasdaq,<sup>2</sup> and (iii) with respect to any other type of security, the market reflected by any widely recognized quotation dissemination system.

The Exchange proposes to amend Amex Rules 918(a)(1) and Amex Rule 918-Ante(a)(1) to permit the opening rotation to begin once the underlying security has opened for trading in any market. In addition, Amex proposes to amend Amex Rule 918-Ante Commentary .01(d) to provide that the automated opening rotation shall begin

<sup>1</sup> See Securities Exchange Act Release No. 54995 (December 21, 2006), 71 FR 78474.

<sup>2</sup> The Commission notes that Nasdaq currently operates as a national securities exchange with respect to Nasdaq-listed securities and as a facility of the NASD with respect to non-Nasdaq exchange listed securities.

once the opening trade or quote is disseminated by any market. Amex proposes to amend Amex Rules 918(b)(1) and 918-ANTE(b)(1) to implement trading halts and suspensions in any options contract if the underlying security is subject to a trading halt or suspension across several markets or in the primary listed market. Amex also proposes to amend Amex Rules 918(b)(2) and 918-ANTE(b)(2) to institute trading halts and suspensions in any options contract if there is a delay in the opening of the underlying security across several markets or in the primary listed market because of unusual circumstances. Additionally, the Exchange proposes to amend Amex Rules 918 Commentary .01(c) and 918-ANTE Commentary .01(g) to permit the closing rotation to begin once the final price for the underlying security is established in the trading markets and/or the primary listed market. Finally, the Exchange proposes to make clarifying changes to Amex Rules 918 and 918-ANTE to clarify that trading rotations, halts and suspensions apply to any options on a stock, exchange traded fund and trust issued receipt.

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 exchange and, in particular, the requirements of Section 6(b)(5) of the Act,<sup>3</sup> which requires, among other things, Amex's rules be 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.<sup>4</sup>

Amex represented that the analysis of which market is the "primary market" for purposes of trading rotations and halts has become burdensome and uncertain due to trading of underlying securities in multiple markets. The Commission believes that the proposed rule change will provide Amex with flexibility to determine when to permit opening and closing rotations to begin by removing the requirement that it analyze which market is the primary market. As proposed, Amex may

<sup>3</sup> 15 U.S.C. 78f(b)(5).

<sup>4</sup> In approving this proposed rule change the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

institute opening and closing rotations based on any market trading the underlying security. With regard to trading halts, however, Amex proposes to halt trading if multiple underlying markets have halted trading or if the primary listed market halted trading. The Commission believes that this standard is sufficient to establish when Amex should halt trading in its option contracts.

### III. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> that the proposed rule change (SR-Amex-2006-77), as modified by Amendment No. 1, be and hereby is, approved.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55277; File No. SR-Amex-2007-19]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise the AEMI Rules to Conform to Changes Previously Made to the AEMI-One Rules for the Pilot

February 12, 2007.

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 9, 2007, 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 substantially prepared by the Exchange. Amex has filed this proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(5) 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 adopt changes to its AEMI rules to match several changes that have already been approved and implemented as part of the Exchange’s AEMI-One rules. The proposed changes would: (i) Eliminate the order types “buy minus” and “sell plus”; (ii) revise the descriptions of “stop order” and “stop limit order” to provide that “too marketable” stop and stop limit orders for exchange-traded funds (“ETFs”) will be executed, not rejected; (iii) codify the Exchange’s interpretation that a Specialist will not be deemed to be “trading ahead” of a percentage order if an aggressing order that executes against the Specialist’s quote automatically elects the percentage order but the percentage order is not executed by that aggressing order due to insufficient remaining interest; (iv) revise the definition of “specialist emergency quote” to provide for an Exchange-wide upper limit on the number of such quotes that can be sequentially generated; (v) revise the definition of “stabilizing quote” to provide that such a quote may be issued when orders or quotes on the AEMI Book are exhausted and that auto-ex would be disabled after such a quote is generated so that the Specialist may step in to re-quote the market; (vi) revise two rules (including the definition of “intermarket sweep order”) to provide, as required by Regulation NMS, that members who choose to send intermarket sweep orders to the Exchange will be obligated to protect the same quotations of other market centers that the Exchange is obligated to protect; and (vii) correct two internal references in Rule 205-AEMI and add a new subparagraph to provide for the execution of an unexecuted odd-lot balance on an aggressing order that is the result of an unexecuted odd-lot balance on an intermarket sweep order that was routed to another market by the AEMI platform to access a better-priced protected quotation.

The text of the proposed rule change is available on the Amex’s Web site at <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 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. 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange has recently adopted two sets of rules in connection with the operation of its new hybrid market trading platform for equity products and ETFs, designated as AEMI<sup>SM</sup> (the “Auction and Electronic Market Integration” platform). The initial version of AEMI is referred to as “AEMI-One” and is currently operational on a pilot basis<sup>5</sup> through the day prior to the final date set by the Commission for full operation of all automated trading centers that intend to qualify their quotations for trade-through protection under Rule 611<sup>6</sup> of Regulation NMS (the latter date being referred to as the “Trading Phase Date”).<sup>7</sup> On the Trading Phase Date, the regular AEMI rules will become effective<sup>8</sup> and the AEMI-One rules will cease to be operative. In the final amendment to the AEMI-One rules just prior to their approval by the Commission, the Exchange made several changes that are now reflected in those AEMI-One rules. In addition, the Exchange subsequently filed with the Commission a proposed change to the AEMI-One rule on odd-lot order execution that was immediately effective on filing and that provides for the execution of an unexecuted odd-lot balance on an aggressing order that is the result of an unexecuted odd-lot

<sup>5</sup> See Securities Exchange Act Release No. 54709 (November 3, 2006), 71 FR 65847 (November 9, 2006) (SR-Amex-2006-72) (Order Approving a Proposed Rule Change and Amendment No 1 Thereto, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3, to Adopt New Rules to Implement on a Pilot Basis an Initial Version of AEMI, Its Proposed New Hybrid Market Trading Platform for Equity Products and Exchange Traded Funds).

<sup>6</sup> 17 CFR 242.611. The Order Protection Rule requires trading centers to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution of trades at prices inferior to protected quotations displayed by other trading centers, subject to certain exceptions.

<sup>7</sup> The Trading Phase Date is currently established as March 5, 2007.

<sup>8</sup> See Securities Exchange Act Release No. 54552 (September 29, 2006), 71 FR 59546 (October 10, 2006) (SR-Amex-2005-104) (Order Approving a Proposed Rule Change and Amendments No. 1, 2, 3, 4, and 5 Thereto, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 6, to Establish a New Hybrid Trading System Known as AEMI).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</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).

<sup>4</sup> 17 CFR 240.19b-4(f)(5).