

the 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 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-2006-26 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-2006-26. 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-2006-26 and should be submitted on or before April 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Nancy M. Morris,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53525; File No. SR-Amex-2005-117]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Amendments to the Amex Membership Corporation's Certificate of Incorporation

March 21, 2006.

#### I. Introduction

On November 23, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the Amex Membership Corporation's ("AMC")<sup>3</sup> Restated Certificate of Incorporation ("AMC Certificate") and AMC Constitution. On January 24, 2006, Amex filed Amendment No. 1 to the proposed rule change.<sup>4</sup> On February 1, 2006, Amex filed Amendment No. 2 to the proposed rule change.<sup>5</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on February 16, 2006.<sup>6</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

#### II. Description and Discussion

Currently, section 6 of the AMC Certificate provides that AMC shall make available one Regular Trading Right for each Regular Member and one Options Principal Trading Right for each Options Principal Member and that such trading rights shall not be

transferred or leased apart from those memberships. In addition, section 7(a)(ii) of the AMC Certificate requires the consent of the AMC members (*i.e.*, the Amex members) to authorize, grant, or issue trading rights other than Regular Trading Rights, Options Principal Trading Rights, or Limited Trading Permits.

The proposed rule change would amend the AMC Certificate to: (i) Eliminate the reference in section 6 to one trading right, thus allowing the issuance of more than one right to Regular Members and Options Principal Members; (ii) eliminate the prohibition in section 6 on such trading rights being transferred or leased apart from Regular and Options Principal Memberships; and (iii) eliminate the requirement that a vote of the membership is required for the authorization, grant, or issuance of trading rights as described in section 7(a)(ii).<sup>7</sup> The AMC Board determined to make these changes to give flexibility to Amex to take prompt action to implement new forms of trading rights designed to enhance Amex's position in an increasingly competitive and fast moving marketplace. AMC membership's consent will still be required for any action taken to increase the number of memberships issued by AMC. The proposed rule change, as amended, also makes other non-substantive changes to the AMC Certificate and the Amex Constitution.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of section 6 of the Act,<sup>8</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>9</sup> In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,<sup>10</sup> 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, 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, and, in general, to protect investors and the public interest. The Commission notes that Amex will still need to obtain AMC Board approval for

<sup>17</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> AMC is the sole owner of the Exchange. Amex members (Regular and Options Principal Members) are members of AMC. See Securities Exchange Act Release No. 50927 (December 23, 2004), 69 FR 78486 (December 30, 2004).

<sup>4</sup> Amendment No. 1 replaced the original filing in its entirety.

<sup>5</sup> See Partial Amendment No. 2.

<sup>6</sup> See Securities Exchange Act Release No. 53264 (February 9, 2006), 71 FR 8320.

<sup>7</sup> Amex will still need to obtain the consent of the AMC Board to authorize, grant, or issue new trading rights. See Amex Constitution Article 11, section 8.

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

<sup>9</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

the issuance of new trading rights.<sup>11</sup> The AMC Board can, if it so chooses, seek the consent of its full membership for any proposal calling for the issuance of new trading rights. Further, any new trading rights would be subject to approval by the Commission pursuant to the rule filing process of section 19 of the Act. The Commission also notes that the AMC membership's consent will be required for any action taken by Amex to increase the number of memberships issued by AMC.<sup>12</sup> In addition, these changes to the AMC Certificate shall provide Amex with more flexibility to take prompt action to implement new forms of trading rights.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-Amex-2005-117), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53516; File No. SR-BSE-2006-14]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to Information Contained in a Directed Order on the Boston Options Exchange

March 20, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 14, 2006, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II

<sup>11</sup> See Amex Constitution Article II, section 8. The AMC Nominating Committee nominates director candidates for the AMC board of directors, and AMC members have the right to put up their own nominees by petition. The AMC board is then elected by the members of AMC. See Amended and Restated By-Laws of The Amex Membership Corporation Sections 1.10, 1.13 and 3.03.

<sup>12</sup> See AMC Certificate section 7(a)(ii); Amex Constitution Article II, section 8; and Amex Constitution Article IV, section 1(a)(1) and section 1(b)(1).

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</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.

below, which Items have been prepared by the BSE. On March 16, 2006, the BSE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On March 17, 2006, the BSE filed Amendment No. 2 to the proposed rule change.<sup>4</sup> The BSE filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(f)(6) thereunder,<sup>6</sup> which renders the proposed rule change effective upon filing with the Commission. 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 Boston Stock Exchange, Inc. ("BSE" or "Exchange") is proposing to amend its rules governing its Directed Order process on the Boston Options Exchange ("BOX"). The Exchange is proposing to clearly state that the BOX Trading Host identifies to an Executing Participant ("EP")<sup>7</sup> the identity of the firm entering a Directed Order. This rule will be effective until June 30, 2006, while the Commission considers a corresponding Exchange proposal<sup>8</sup> to amend its rules to permit EPs to choose the firms from whom they will accept Directed Orders, while providing complete anonymity of the firm entering a Directed Order.<sup>9</sup> In addition, the Exchange commits that it will cease to provide the identity of order entry firms prior to June 30, 2006, if the Commission staff prohibits all options exchanges from disclosing the identity of order entry firms in their Directed Order systems.

#### 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 BSE included statements concerning the

<sup>3</sup> In Amendment No. 1, which supersedes and replaces the original filing in its entirety, the BSE changed the statutory basis of the filing.

<sup>4</sup> In Amendment No. 2, which supersedes and replaces the original filing and Amendment No. 1 in its entirety, the BSE changed the statutory basis of the filing.

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

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

<sup>7</sup> BSE proposes that a Market Maker who desires to accept Directed Orders must systemically indicate that it is an EP whenever the Market Maker wishes to receive Directed Orders.

<sup>8</sup> See Securities Exchange Act Release No. 53357 (February 23, 2006), 71 FR 10730 (March 2, 2006) (SR-BSE-2005-52).

<sup>9</sup> In the event that the issue of anonymity in the Directed Order process is not resolved by June 30, 2006, the Exchange intends to submit another filing under Rule 19b-4(f)(1) under the Act extending this rule and system process.

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 BSE 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

BSE seeks to amend its rules to clearly state that the BOX Trading Host identifies to an EP the identity of the firm entering a Directed Order. Market Makers are able to handle orders on an agency basis directed to them by Order Flow Providers ("OFPs"). In Section 1, Chapter I of the BOX Rules, a Directed Order is defined as a Customer Order directed to a Market Maker by an OFP. An OFP sends a Directed Order to BOX with a designation of the Market Maker to whom the order is to be directed. BOX then routes the Directed Order to the appropriate Market Maker. Under Chapter VI, Section 5(c)(ii) of the BOX Rules, a Market Maker only has two choices when he receives a Directed Order: (1) Submit the order to the PIP process; or (2) send the order back to BOX for placement onto the BOX Book.

The BSE proposes to amend Chapter VI, Section 5(c)(i) of the BOX Rules to clarify that unlike all other orders submitted to the BOX Trading Host, Directed Orders are not anonymous. The Options Participant identification number ("Participant ID") of the OFP sending the Directed Order will be revealed to the Market Maker recipient. The Market Maker must submit this Participant ID to BOX whenever the Market Maker chooses to submit the Directed Order and his Primary Improvement Order to the PIP process. However, once the Directed Order is submitted to the PIP process or the BOX Book, the Participant ID is not shown to any market participant and the identity of the OFP will be anonymous pursuant to Chapter V, Section 14(e) of the BOX Rules.

Chapter VI, Section 5(c)(i) of the BOX Rules prohibits a Market Maker from rejecting a Directed Order. The BSE wishes to clarify that upon systematically indicating its desire to accept Directed Orders, a Market Maker that receives a Directed Order is not, under any circumstances, to reject the receipt of the Directed Order from the BOX Trading Host nor reject the Directed Order back to the OFP who