

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52414; File No. SR-Amex-2005-046]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto To Amend the Exchange's Trade-Through and Locked Markets Rules

September 13, 2005.

On April 28, 2005, the American Stock Exchange LLC ("Amex"), filed with the Securities and Exchange Commission ("Commission") a proposed rule change 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> to implement Amendment No. 15 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage<sup>3</sup> by amending Amex Rules 940 and 943 to add a "trade and ship" exception to the definition of "Trade-Through" and add a "book and ship" exception to the provision relating to locked markets, respectively. On July 6, 2005, the Amex filed Amendment No. 1 to the proposed rule change.<sup>4</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on August 5, 2005.<sup>5</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

Under the proposed rule change, an Amex member could trade an order at a price that is one minimum quoting increment inferior to the national best bid or offer ("NBBO") if a Linkage Order<sup>6</sup> is sent contemporaneously to the market(s) disseminating the NBBO

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket option linkage proposed by the Amex, the Chicago Board Options Exchange, Incorporated, and the International Securities Exchange, Inc. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) ("Linkage Plan"). Subsequently, upon separate requests by the Philadelphia Stock Exchange, Inc., the Pacific Exchange, Inc., and the Boston Stock Exchange, Inc., the Commission issued orders to permit these exchanges to participate in the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

<sup>4</sup> In Amendment No. 1, the Amex revised the rule text to use terms consistent with Amex's current rules and made clarifying changes in the purpose, statutory basis, and burdens sections.

<sup>5</sup> See Securities Exchange Act Release No. 52172 (July 29, 2005), 70 FR 45449.

<sup>6</sup> See Amex Rule 940(b)(10).

to satisfy all interest at the NBBO price. The proposed rule change also would provide that an Amex member may book an order that would otherwise lock another market if a Linkage Order is sent contemporaneously to such other market to satisfy all interest at the lock price and only the remaining portion of the order is booked. The Amex proposes that, under trade and ship, any execution received from the market disseminating the NBBO must (pursuant to agency obligations) be reassigned to the customer order that is underlying the Linkage Order that was sent to trade with the market disseminating the NBBO.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act<sup>7</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>8</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>9</sup> which requires, among other things, that the rules of an exchange be 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, in general, to protect investors and the public interest. The Commission believes that the proposed rule change should help to implement the Linkage Plan by facilitating the ability of Amex's members to execute their customer orders in a timely manner and potentially could decrease the incidence of Trade-Throughs and locked markets.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-Amex-2005-046) as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jonathan G. Katz,**

*Secretary.*

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

<sup>8</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52428; File No. SR-Amex-2005-047]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Definition of Firm Customer Quote Size and the Removal of Certain Restrictions on Sending Principal Acting as Agent (P/A) Orders Through the Linkage

September 14, 2005.

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 April 28, 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 Amex. On September 12, 2005, the Exchange submitted 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 from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules governing the operation of the intermarket option linkage to conform with a proposed amendment<sup>4</sup> to the Plan for the Purpose of Creating and Operating an Intermarket Linkage ("Linkage Plan").<sup>5</sup> Accordingly, the Exchange is proposing to amend Amex Rules 940 and 941 to modify the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> In Amendment No. 1, the Exchange made clarifying changes to the proposed rule text relating to the availability of Participant exchanges' automatic execution system.

<sup>4</sup> See Securities Exchange Act Release No. 34-52401 (September 9, 2005) (File No. 4-429) ("Amendment No. 16").

<sup>5</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket option market linkage proposed by the Amex, Chicago Board Options Exchange, Incorporated, and International Securities Exchange, Inc. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, upon separate requests by the Philadelphia Stock Exchange, Inc., Pacific Exchange, Inc. and Boston Stock Exchange, Inc. the Commission issued orders to permit these exchanges to participate in the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70850 (November 28, 2000), 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000) and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).