SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58716; File No. SR-Amex-2008-60)

October 2, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change Relating to Margin Requirements for Fixed Return Options

On July 21, 2008, 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" or "Exchange Act"),[1] and Rule 19b-4[2] thereunder, a proposed rule change to amend its margin requirements for fixed return options. The proposal was published in the Federal Register on August 18, 2008.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Exchange proposed to amend Rule 462(d)10 to clarify the margin requirements applicable to Fixed Return Options ("FROs" or "Fixed Return Options").[4] The Exchange stated that the purpose of this proposal is to add clarity regarding the application of FRO margin requirements in connection with "spreads" and "straddle/combination" strategies. In addition, the proposal also seeks to clarify the use of "cover" and a "cash account" in connection with FROs. The Exchange stated that it

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 Exchange Act Release No. 58341 (August 11, 2008), 73 FR 48258.

4 The Exchange commenced the trading of FROs on May 8, 2008. In August 2007, the Commission approved the Exchange proposal to list and trade FROs based on individual stocks and exchange-traded funds ("ETFs"). See Exchange Act Release No. 56251 (August 14, 2007), 72 FR 46523 (August 20, 2007).

believes that the proposed revision reducing the customer margin applicable to "spread" and "straddle/combination" positions in FROs is appropriate because risk exposure is reduced under these strategies.

Amex Rule 462(d)10 is silent regarding the use of "spread" and "straddle/combination" positions. With respect to a "spread" position in FROs, the Amex proposes that no margin be required on a Finish High[5] FRO (Finish Low[6] FRO) carried short in a customer's account that is offset by a long Finish High FRO (Finish Low FRO) for the same underlying security or instrument that expires at the same time and has an exercise or strike price that is less than (greater than) the exercise or strike price of the short Finish High (Finish Low). As set forth in Rule 462(d)10(B), the long Finish High (Finish Low) must be paid for in full.

In connection with a straddle/combination, when a Finish High FRO is carried short in a customer's account and there is also carried a short Finish Low FRO that expires at the same time and has an exercise price or strike price that is less than or equal to the exercise or strike price of the short Finish High, the initial and maintenance margin required would be the exercise settlement amount applicable to one contract.

With respect to the concept of "cover" the Exchange proposed a clarification that "cover" is applicable only to "cash accounts." In such a case, a FRO carried short in a customer's account will be deemed a covered position, and eligible for the cash account,

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[5] A "Finish High" FRO is defined in Rule 900 FRO(b)(2) as an option contract which returns $100 if the underlying security closes above the strike price at expiration.

[6] A "Finish Low" FRO is defined in Rule 900 FRO(b)(3) as an option contract which returns $100 if the underlying security closes below the strike price at expiration.

if either one of the following is held in the account at the time the FRO is written or is received into the account promptly thereafter:

- Cash or cash equivalents equal to 100% of the exercise settlement amount;
- A long FRO of the same type (Finish High or Finish Low) for the same underlying security or instrument that is paid for in full and expires at the same time, and has an exercise or strike price that is less than the exercise or strike price of the short in the case of a Finish High or greater than the exercise or strike price of the short in the case of a Finish Low; or
- An escrow agreement.

The escrow agreement must certify that the bank holds for the account of the customer as security for the agreement (A) cash, (B) cash equivalents, (C) one or more qualified equity securities, or (D) a combination thereof having an aggregate market value of not less than 100% of the exercise settlement amount and that the bank will promptly pay the member organization the cash settlement amount in the event the account is assigned an exercise notice.

After careful review of the proposal, 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.[7] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to

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

8 15 U.S.C. 78f(b)(5).

remove impediments to and to 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 proposal will benefit the marketplace and provide market participants with greater clarity in connection with their responsibilities in the trading and handling of FRO transactions.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR-Amex-2008-60), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon
Acting Secretary

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[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30-3(a)(12).