2. Section 17(b) of the Act authorizes the Commission to exempt a transaction from the provisions of section 17(a) if the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and the proposed transaction is consistent with the policies of each registered investment company concerned and with the general purposes of the Act. Applicants submit that the Transaction has been approved by the Board, including a majority of the Independent General Partners, is reasonable and fair to SSF III and its Unit holders and meets the requirements of section 17(b) of the Act. Applicants state that the Transaction will not result in dilution to Unit holders of SSF III because (a) it will be effected at the NAV of SSF III's Units, which NAV will be calculated in accordance with SSF III's policies and procedures, as set forth in its registration statement, and computed using the same methodologies that SSF III has used to calculate its NAV in connection with each routine repurchase offer since its inception,[11] and (b) it will involve a pro rata transfer of SSF III's portfolio securities to SSF QP. Applicants further state that, prior to the Transaction, any Limited Partner not wishing to remain invested in SSF III or become invested in SSF QP will be able to have his or her Units repurchased for cash at the NAV of the Units, and all expenses of the Transaction will be paid by the Adviser or SSF QP, including the cost of separating SSF III's portfolio between SSF III and SSF QP in the Transaction.

**Applicants' Conditions**

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Exchange Tender Offer will be effected at the NAV of SSF III's Units determined in accordance with its registration statement under the Act.
2. The sale of portfolio securities by SSF III to SSF QP in the Transaction will comply with the terms of rule 17a–7(c), (d) and (f) under the Act.
3. At its next regular meeting following the Transaction, the Board of SSF III, including a majority of the Independent General Partners, will determine whether the Units were valued in accordance with condition 1 above.
4. SSF III will maintain and preserve for a period of not less than six years from the end of the fiscal year in which the Transaction occurs, the first two years in an easily accessible place, a written record of the Transaction setting forth a description of each security transferred, the terms of the Transaction, and the information or materials upon which the determination required by condition 3 was made.
5. In the Transaction, the portfolio securities will be distributed by SSF III to SSF QP on a pro rata basis, except that cash may be distributed in lieu of fractional shares.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 05–22163 Filed 11–7–05; 8:45 am]

**BILLING CODE 8010–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 7, 2005:

A Closed Meeting will be held on Thursday, November 10, 2005 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (6), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (6), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, November 10, 2005 will be:

Formal orders of investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Opinion; and a

Regulatory matter bearing enforcement implications.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: November 3, 2005.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 05–22292 Filed 11–3–05; 4:11 pm]

**BILLING CODE 8010–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52718; File No. SR–Amex–2005–060]**

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendments Nos. 1, 2, and 3 Thereto Relating to Amendments to the Obvious Error Rules

November 2, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 31, 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 Exchange. On September 21, 2005, the Amex submitted Amendment No. 1 to the proposed rule change.[3] On October 4, 2005, the Amex submitted Amendment No. 2 to the proposed rule change.[4] On October 27, 2005, the Amex submitted Amendment No. 3 to the proposed rule change.[5] 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 Amex proposes to: (i) Amend the equity and index options obvious error rules to revise the manner in which an obvious price error is determined for both equity and index options; (ii)

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[11] SSF QP has the same policies and procedures, and will employ the same methodologies to compute its NAV, as SSF III.

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

[2] 17 CFR 240.19b–4.

[3] *See* Form 19b–4 dated September 21, 2005, which replaced the original filing in its entirety (''Amendment No. 1'').

[4] Amendment No. 2 corrected technical errors in the proposed rule text.

[5] Amendment No. 3 incorporated certain proposed revisions to Amex Rules 936 and 936—ANTE contained in Amendment No. 1 to Amex Rules 936C and 936C—ANTE and corrected an error in the proposed rule text of Amex Rules 936C and 936C—ANTE.

clarify the determination of ''Fair Market Value'' in connection with the index option obvious error rule; (iii) amend the equity and index options obvious error rules relating to an erroneous quote in the underlying security; (iv) amend the equity and index options obvious error rules to permit transactions executed outside of trading hours to be cancelled; (v) amend how obvious errors based on ''verifiable disruptions or malfunctions of Exchange systems'' as set forth in both the equity and index obvious error rules are adjusted or cancelled; and (vi) revise the equity and index options obvious error rules to amend the terms that relate to the cancellation of ''no bid series.''

Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Rule 936. Cancellation and Adjustment of Equity Options Transactions

This Rule governs the cancellation and adjustment of transactions involving equity options. Rules 936C and 936C—ANTE govern the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds (''ETFs'') and trust issued receipts (''TIRs''). Paragraphs (a)(1) and (2) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject to Review. A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error occurs when the execution price of an electronic transaction is above or below the Theoretical Price for the series by an amount equal to at least the amount shown below:

| Theoretical price | Minimum amount |
|---|---|
| Below $2 | $0.25 |
| $2 to $5 | 0.40 |
| Above $5 to $10 | 0.50 |
| Above $10 to $20 | 0.80 |
| Above $20 | 1.00 |

Definition of Theoretical Price. For purposes of this Rule only, the Theoretical Price of an option series is, for series traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. *The Theoretical Price will not include the last bid price (erroneous sell transaction) or last offer price (erroneous buy transaction) of the competing options exchange that has the most liquidity in that options class in the previous two calendar quarters if such competing options exchange widens its quote to incorporate the prior erroneous quote of the Exchange. In such a case, the Theoretical Price shall be the last bid price (erroneous sell transaction) and the last offer price (erroneous buy transaction) just prior to the trade, disseminated by the competing options exchange with the next best liquidity. If there are no competing options exchanges left without an erroneous quote, the Theoretical Price shall be the first quote of the competing options exchange, that has the most liquidity in that options class in the previous two calendar quarters, after the transaction(s) in question that does not reflect the erroneous quote.* If there are no quotes for comparison, designated Trading Officials will determine the Theoretical Price. For transactions occurring as part of an opening, the Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(i) Cancellation or Price Adjustment. Obvious Pricing Errors will be cancelled or adjusted as follows.

- Transactions Between Amex specialists/registered options traders (ROTs): Where both parties to the transaction are Amex specialists/ROTs, the execution price of the transaction will be adjusted by Trading Officials to the prices provided in Paragraphs (A) and (B) below, minus (plus) an adjustment penalty (''adjustment penalty''), unless both parties agree to adjust the transaction to a different price or agree to cancel the trade within fifteen (15) minutes of being notified by Trading Officials of the Obvious Error.

(A) Erroneous buy transactions will be adjusted to their Theoretical Price plus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

(B) Erroneous sell transactions will be adjusted to their Theoretical Price minus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

- Transactions Involving at least one non-Amex specialist/ROT: Where one of the parties to the transaction is not an Amex specialist/ROT, the transactions will be cancelled by Trading Officials unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by Trading Officials of the Obvious Error.

(2) No Bid Series. Electronic transactions in series quoted no bid [at a nickel (*i.e.*, $0.05 offer)] will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid [at a nickel] at the time of execution.

(3) Verifiable Disruptions or Malfunctions of Exchange Systems: Electronic or open outcry transactions arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (*e.g.*, a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. *Unless the parties agree to a price adjustment, the transaction will be cancelled.* [Transactions that qualify for price adjustment will be adjusted to the Theoretical Price, as defined in paragraph (a)(1) above.]

(4) No Change

(5) Erroneous Quote in Underlying. (i) Electronic trades (this provision does not apply to trades executed in open outcry) resulting from an erroneous quote in the underlying security may be adjusted or canceled as set forth in paragraph (a)(1) above. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900 (b)(26)) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this Rule, the average quote width shall be determined by adding the

quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

*(ii) Electronic trades resulting from an erroneous quote in the underlying security may also be adjusted or cancelled as set forth in paragraph (a)(1)(i) above when (i) a national securities exchange or the Nasdaq Stock Market, Inc.'s quotes are not firm based upon direct communication from that market or dissemination of a message indicating the quotes are not firm or (ii) a national securities exchange or the Nasdaq Stock Market, Inc. has directly communicated or otherwise confirmed that it is experiencing systems or other problems affecting the reliability of its disseminated quotes.*

*(6) Transactions Executed Outside of Trading Hours. All equity options transactions that occur outside of the trading hours of the Exchange will be cancelled if it is determined by the Trading Officials that the transaction occurred outside of the Exchange's trading hours, except as set forth in Commentary .02 to Amex Rule 1.*

(b) through (e). No Change

Commentary

.01 through .03 No Change

*     *     *     *     *

**Rule 936C. Cancellation and Adjustment of Index Option Transactions**

This Rule only governs the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds (ETFs) and trust issued receipts (TIRs). Rule 936 governs the cancellation and adjustment of transactions involving equity options. Paragraphs (a)(1), (2), (6) and (7) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject to Review

A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error will be deemed to have occurred when the execution price of a transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask differentials as established in Rule 958(c), the prescribed amount shall be: (a) the greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 958(c), the prescribed error amount shall be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

(i) Definition of Fair Market Value: For purposes of this Rule only, the [f]*F*air [m]*M*arket [v]*V*alue of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). *Fair Market Value will not include the national best bid price (erroneous sell transaction) or national best offer price (erroneous buy transaction) of competing options exchanges if such competing options exchange(s) widen their quote(s) to incorporate the prior erroneous quote of the Exchange. In such a case, the Fair Market Value shall be the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous quote.* In multiply listed issues, if there are no quotes for comparison purposes, [f]*F*air [m]*M*arket [v]*V*alue shall be determined by Trading Officials. For singly listed issues, [f]*F*air [m]*M*arket [v]*V*alue shall be the midpoint of the first quote after the transaction(s) in question that does not reflect the *erroneous quote* [erroneous transaction(s)]. For transactions occurring as part of an opening, the Fair Market Value shall also be the midpoint of the first quote after the transaction(s) in question that does not reflect the *erroneous quote* [erroneous transaction(s)].

(2) No Change.

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Trades arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (*e.g.*, a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. *Unless the parties agree to a price adjustment, the transaction will be cancelled.* [Transactions that qualify for price adjustment will be adjusted to the Fair Market Value, as defined in paragraph (a)(1)(i) above.]

(4) No Change.

(5) Erroneous Quote in Underlying. *(i)* A trade resulting from an erroneous quote in the underlying security may be cancelled or adjusted. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900(b)(26)) during the time period encompassing two minutes before and after the dissemination of such quote.

*(ii) Electronic trades resulting from an erroneous quote in the underlying security may also be adjusted or cancelled as set forth in paragraph (a)(1)(i) above when (i) a national securities exchange or the Nasdaq Stock Market, Inc.'s quotes are not firm based upon direct communication from that market or dissemination of a message indicating the quotes are not firm or (ii) a national securities exchange or the Nasdaq Stock Market, Inc. has directly communicated or otherwise confirmed that it is experiencing systems or other problems affecting the reliability of its disseminated quotes.*

(6) No Change.

(7) No Bid Series. Electronic transactions in series quoted no bid [at a nickel (*i.e.*, $0.05 offer)] will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid [at a nickel] at the time of execution.

*(8) Transactions Executed Outside of Trading Hours. All index options transactions that occur outside of the trading hours of the Exchange will be cancelled if it is determined by the Trading Officials that the transaction occurred outside of the Exchange's trading hours, except as set forth in Commentary .02 to Amex Rule 1.*

(b) through (e). No Change.

Commentary

.01 through .02. No Change.

*     *     *     *     *

Rule 936—ANTE. Cancellation and Adjustment of Equity Options Transactions

This Rule governs the nullification and adjustment of transactions involving equity options. Rule 936C and 936C—ANTE governs the nullification and adjustment of transactions involving options on indexes, exchange-traded funds (''ETFs'') and trust issued receipts (''TIRs''). Paragraphs (a)(1) and (2) of this Rule have no applicability to trades executed in open outcry. (a) Trades Subject to Review. A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error occurs when the execution price of an electronic transaction is above or below the Theoretical Price for the series by an amount equal to at least the amount shown below:

| Theoretical price | Minimum amount |
|---|---|
| Below $2 | $0.25 |
| $2 to $5 | 0.40 |
| Above $5 to $10 | 0.50 |
| Above $10 to $20 | 0.80 |
| Above $20 | 1.00 |

Definition of Theoretical Price. For purposes of this Rule only, the Theoretical Price of an option series is, for series traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. *The Theoretical Price will not include the last bid price (erroneous sell transaction) or last offer price (erroneous buy transaction) of the competing options exchange that has the most liquidity in that options class in the previous two calendar quarters if such competing options exchange widens its quote to incorporate the prior erroneous quote of the Exchange. In such a case, the Theoretical Price shall be the last bid price (erroneous sell transaction) and the last offer price (erroneous buy transaction) just prior to the trade, disseminated by the competing options exchange with the next best liquidity. If there are no competing options exchanges left without an erroneous quote, the Theoretical Price shall be the first quote of the competing options exchange, that has the most liquidity in that options class in the previous two calendar quarters, after the transaction(s) in question that does not reflect the erroneous quote.* If there are no quotes for comparison, designated Trading Officials will determine the Theoretical Price. For transactions occurring as part of an opening, the Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(i) Cancellation or Price Adjustment. Obvious Pricing Errors will be cancelled or adjusted as follows.

• Transactions Between Amex specialists/registered options traders (ROTs): Where both parties to the transaction are Amex specialists/ROTs, the execution price of the transaction will be adjusted by Trading Officials to the prices provided in Paragraphs (A) and (B) below, minus (plus) an adjustment penalty (''adjustment penalty''), unless both parties agree to adjust the transaction to a different price or agree to cancel the trade within fifteen (15) minutes of being notified by Trading Officials of the Obvious Error.

(A) Erroneous buy transactions will be adjusted to their Theoretical Price plus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

(B) Erroneous sell transactions will be adjusted to their Theoretical Price minus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

• Transactions Involving at least one non-Amex specialist/ROT: Where one of the parties to the transaction is not an Amex specialist/ROT, the transactions will be cancelled by Trading Officials unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by Trading Officials of the Obvious Error.

(2) No Bid Series. Electronic transactions in series quoted no bid [at a nickel (*i.e.*, $0.05 offer)] will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid [at a nickel] at the time of execution.

(3) Verifiable Disruptions or Malfunctions of Exchange Systems: Electronic or open outcry transactions arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (*e.g.*, a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. *Unless the parties agree to a price adjustment, the transaction will be cancelled.* [Transactions that qualify for price adjustment will be adjusted to the Theoretical Price, as defined in paragraph (a)(1) above.]

(4) No Change.

(5) Erroneous Quote in Underlying. *(i)* Electronic trades (this provision does not apply to trades executed in open outcry) resulting from an erroneous quote in the underlying security may be adjusted or canceled as set forth in paragraph (a)(1) above. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900 (b)(26)) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

*(ii) Electronic trades resulting from an erroneous quote in the underlying security may also be adjusted or canceled as set forth in paragraph (a)(1)(i) above when (i) a national securities exchange or the Nasdaq Stock Market, Inc.'s quotes are not firm based upon direct communication from that market or dissemination of a message indicating the quotes are not firm or (ii) a national securities exchange or the Nasdaq Stock Market, Inc. has directly communicated or otherwise confirmed that it is experiencing systems or other problems affecting the reliability of its disseminated quotes.*

*(6) Transactions Executed Outside of Trading Hours. All equity options transactions that occur outside of the trading hours of the Exchange will be canceled if it is determined by the Trading Officials that the transaction occurred outside of the Exchange's trading hours, except as set forth in Commentary .02 to Amex Rule 1.*

(b) through (e). No Change.

Commentary

.01 through .03. No Change.

* * * * *

**Rule 936C—ANTE. Cancellation and Adjustment of Index Option Transactions**

This Rule only governs the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds (ETFs) and trust issued receipts (TIRs). Rule 936 and 936—ANTE governs the cancellation and adjustment of transactions involving equity options. Paragraphs (a)(1), (2), (6) and (7) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject to Review

A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error will be deemed to have occurred when the execution price of a transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask differentials as established in Rule 958(c), the prescribed amount shall be: (a) the greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 958(c), the prescribed error amount shall be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

(i) Definition of Fair Market Value: For purposes of this Rule only, the [f]*F*air [m]*M*arket [v]*V*alue of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). *Fair Market Value will not include the national best bid price (erroneous sell transaction) or national best offer price (erroneous buy transaction) of competing options exchange(s) if such competing options exchanges widen their quote(s) to incorporate the prior erroneous quote of the Exchange. In such a case, the Fair Market Value shall be the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous quote.* In multiple listed issues, if there are no quotes for comparison purposes, [f]*F*air [m]*M*arket [v]*V*alue shall be determined by Trading Officials. For singly-listed issues, [f]*F*air [m]*M*arket [v]*V*alue shall be the midpoint of the first quote after the transaction(s) in question that does not reflect the *erroneous quote* [erroneous transaction(s)]. For transactions occurring as part of an opening, the Fair Market Value shall also be the midpoint of the first quote after the transaction(s) in question that does not reflect the *erroneous quote* [erroneous transaction(s)].

(2) No Change.

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Trades arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (*e.g.*, a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or canceled. *Unless the parties agree to a price adjustment, the transaction will be canceled.* [Transactions that qualify for price adjustment will be adjusted to the Fair Market Value, as defined in paragraph (a)(1)(i) above.]

(4) No Change.

(5) Erroneous Quote in Underlying. *(i)* A trade resulting from an erroneous quote in the underlying security may be canceled or adjusted. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900(b)(26)) during the time period encompassing two minutes before and after the dissemination of such quote.

*(ii) Electronic trades resulting from an erroneous quote in the underlying security may also be adjusted or canceled as set forth in paragraph (a)(1)(i) above when (i) a national securities exchange or the Nasdaq Stock Market, Inc.'s quotes are not firm based upon direct communication from that market or dissemination of a message indicating the quotes are not firm or (ii) a national securities exchange or the Nasdaq Stock Market, Inc. has directly communicated or otherwise confirmed that it is experiencing systems or other problems affecting the reliability of its disseminated quotes.*

(6) No Change.

(7) No Bid Series. Electronic transactions in series quoted no bid [at a nickel (i.e., $0.05 offer)] will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid [at a nickel] at the time of execution.

*(8) Transactions Executed Outside of Trading Hours. All index options transactions that occur outside of the trading hours of the Exchange will be cancelled if it is determined by the Trading Officials that the transaction occurred outside of the Exchange's trading hours, except as set forth in Commentary .02 to Amex Rule 1.*

(b) through (e). No Change

Commentary

.01 through .02. No Change.

* * * * *

**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's equity option obvious error rules, Amex Rules 936 and 936—ANTE, and index option obvious error rules, Amex Rules 936C and 936C—ANTE (the ''Obvious Error Rules'') establish guidelines for the adjustment and cancellation of transactions in equity and index options. The purpose of this proposed rule change is to (i) amend the definition of ''Theoretical Price'' [6] and ''Fair Market Value'' [7] in connection with determining whether an equity or index option obvious price error has occurred as established in Amex Rules 936(a)(1) and 936(a)(1)—ANTE (equity), and Amex Rules 936C(a)(1) and 936C(a)(1)—ANTE (index), respectively; (ii) amend Amex Rules 936C(a)(1)(i) and 936C(a)(1)(i)—ANTE to clarify how Fair Market Value is determined in connection with single-listed index options and opening transactions; (iii) amend the Obvious Error Rules relating to erroneous quote(s) in the underlying security to permit the cancellation/adjustment of an option transaction when an exchange declares its quotes non-firm or otherwise communicates to the Amex that its quotes are unreliable; (iv) add an additional type of qualifying transaction entitled ''Transactions Executed Outside of Trading Hours''; (v) amend how obvious price errors based on ''verifiable disruptions or malfunctions of Exchange systems'' are adjusted or cancelled; and (vi) revise the Obvious Error Rules to amend the terms of cancellations for ''no bid series.''

**Obvious Price Error**

Under the Obvious Error Rules, an obvious price error is one of several enumerated types of transactions that qualify as an obvious error and are accordingly subject to adjustment or cancellation.

*Equity Options*

Amex Rules 936(a)(1) and 936(a)(1)—ANTE provide that an obvious pricing error will be deemed to have occurred when the execution price of an electronic transaction (not open outcry) varies from the Theoretical Price by a requisite amount.[8] For multiply-traded options, the Theoretical Price is the last bid (offer) price with respect to an erroneous sell (buy) transaction just prior to the trade that is disseminated by the competing options exchange with the most liquidity in that class over the preceding two (2) calendar months. If there are no quotes for comparison purposes, then trading officials will determine the Theoretical Price. For transactions occurring as part of an opening, the Theoretical Price is the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). When an obvious price error occurs, the Amex either will adjust or cancel the transaction pursuant to Amex Rules 936(a)(1)(i) and 936(a)(1)(i)—ANTE.

*Index Options*

Amex Rules 936C(a)(1) and 936C(a)(1)—ANTE provide that an obvious pricing error will be deemed to have occurred when the execution price of an electronic transaction (not open outcry) varies from the Fair Market Value by a prescribed amount.[9] For multiply-traded options, the Fair Market Value is the midpoint of the national best bid for erroneous sell transactions or national best offer for erroneous buy transactions. If there are no quotes for comparison purposes, then trading officials will determine the Fair Market Value. For both single-listed options and transactions occurring as part of an opening, Fair Market Value is the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). The Exchange proposes to revise the rule text accordingly to clarify that the Fair Market Value is the midpoint of the first non-erroneous quote. When an obvious price error occurs, the Amex either will adjust or cancel the transaction pursuant to Amex Rules 936C(c) and 936C(c)—ANTE.

Since the implementation of the Obvious Error Rules, there have occasionally been options transactions effected on the Exchange that were executed at prices that appeared to be ''obvious price errors'' but could not be cancelled or adjusted under existing rules. For example, in connection with an equity option, following dissemination of an erroneous quotation by the Amex, the competing options exchange with the most liquidity in the option class in question during the previous two (2) calendar months widened its quote to incorporate the Amex quote. As a result, although the price of the Amex transaction was ''erroneous'' (i.e. based on an erroneous quote), it was not ''erroneous'' pursuant to Amex Rules 936 and 936—ANTE in that the Theoretical Price was based on the ''widened quotes'' disseminated by the competing options exchanges. As a result, the Exchange believes that an amendment to the definition of Theoretical Price (and Fair Market Value for index options) is appropriate so that the bids and offers of an options exchange experiencing obvious price errors or erroneous quotes are not indirectly used as the basis for the Theoretical Price (and Fair Market Value). The Exchange believes that the use of quotes that are deemed to be ''erroneous'' as a basis for the Theoretical Price (equity) and Fair Market Value (indexes) is not proper and is inconsistent with the role and purpose of the Obvious Error Rules.

*Widened Quotes*

The proposal is intended to correct circumstances in the Obvious Error Rules where the Amex posts an erroneous quote and subsequently a competing options exchange, in direct response to the erroneous quote, widens its quote to incorporate the prior erroneous quote of the Amex. For example, the current market for an option is established by the Chicago Board Options Exchange, Inc. (''CBOE'') to be 1.65 bid/1.90 offer. The Amex then quotes 0 bid/.25 offer for the option. The CBOE immediately posts a market to incorporate the Amex quote such as .20

[6] ''Theoretical Price'' of an option series is, for series traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. If there are no quotes for comparison, designated Trading Officials will determine the Theoretical Price. For transactions occurring as part of an opening, the Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

[7] ''Fair Market Value'' of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). In multiply listed issues, if there are no quotes for comparison purposes, Fair Market Value shall be determined by Trading Officials. For singly-listed issues, Fair Market Value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of an opening, the Fair Market Value shall also be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

[8] The requisite amount is: $0.25 for options below $2; $0.40 for options priced from $2 to $5; $0.50 for options priced above $5 to $10; $0.80 for options priced above $10 to $20; and $1.00 for options priced above $20.

[9] For index options series trading with normal bid-ask differentials as established in Rule 958(c), the prescribed amount shall be: (a) The greater of $0.10 or 10% for index options trading under $2.50; (b) 10% for index options trading at or above $2.50 and under $5; or (c) $0.50 for index options trading at $5 or higher. For index options series trading with bid-ask differentials that are greater than the widths established in Rule 958(c), the prescribed error amount shall be: (a) The greater of $0.20 or 20% for index options trading under $2.50; (b) 20% for index options trading at or above $2.50 and under $5; or (c) $1.00 for index options trading at $5 or higher.

bid/1.90 offer. An order to buy is then executed on the Amex at the offer price of $0.25. The Amex then corrects the quote to 1.65 bid/1.90 offer with the CBOE following suit at 1.65 bid/1.90 offer. The Exchange believes for purposes of determining Theoretical Price in connection with the equity options (Amex Rules 936(a)(1) and 936(a)(1)—ANTE) and Fair Market Value in connection with index options (Amex Rules 936C(a)(1) and 936C(a)(1)—ANTE) that erroneous quotes of a competing options exchange that incorporated an erroneous Amex quote (in this example, .20 bid/1.90 offer) should not be used.

The Exchange proposes a revision to its equity option obvious price error rules, Amex Rules 936(a)(1) and 936(a)(1)—ANTE, providing that in determining the Theoretical Price of an option the last bid (erroneous sell transaction) or last offer (erroneous buy transaction) of the competing options exchange with the most liquidity in that option class over the previous two calendar quarters will be excluded if such competing options exchange widens its quote to incorporate the prior erroneous quote of the Amex. As a result, the Exchange proposes that the Theoretical Price, under these circumstances, would be the last bid price (erroneous sell transaction) and the last offer price (erroneous buy transaction) just prior to the trade, disseminated by the competing options exchange with the next best liquidity. If there are no competing options exchanges left without an erroneous quote, the Theoretical Price would be the first quote of the competing options exchange that has the most liquidity in such option class over the previous two (2) calendar quarters after the transaction(s) in question that does not reflect the erroneous quote.

In connection with the index option obvious price error rules, the Exchange proposes that Fair Market Value will not include the national best bid price (erroneous sell transaction) or national best offer price (erroneous buy transaction) of a competing options exchange if such exchange widens its quotes to incorporate the prior erroneous quote of the Exchange. Accordingly, the Fair Market Value will be the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous quote.

**Erroneous Quote in Underlying Security**

As set forth in the Obvious Error Rules, a trade resulting from an erroneous quote in the underlying security may be adjusted or cancelled. However, pursuant to these Rules, a quote from an exchange in an underlying security that is declared ''erroneous'' by that exchange may not qualify for cancellation or adjustment.[10] Therefore, the Exchange proposes to amend Amex Rules 936(a)(5), 936(a)(5)—ANTE, 936C(a)(5) and 936C(a)(5)—ANTE so that when an exchange for an underlying security or Nasdaq if the underlying security trades on Nasdaq declares its quote(s) ''non-firm'' or when an exchange or Nasdaq communicates to the Amex that it is experiencing systems or other problems affecting the reliability of its disseminated quotes, a trade resulting from such ''erroneous'' underlying quote could be cancelled or adjusted. In order for a trade to be cancelled or adjusted, the Exchange would have to have proper documentation of that market's non-firm declaration or notification of unreliable quotes, as applicable.

**Transactions Executed Outside of Trading Hours**

The Exchange further proposes that any equity options or index options transaction that occurs outside normal trading hours (currently, 9:30 a.m. until 4:02 p.m. Eastern time (''ET'') for equity options and 9:30 a.m. until 4:15 p.m. ET for broad-based index options and options on select Exchange-Traded Fund Shares) would be cancelled if the Trading Officials determine that the transaction took place outside of Amex trading hours, except as set forth in Commentary .02 to Amex Rule 1.

Amex Rule 1 sets forth the hours of business at the Exchange. Commentary .02 to Rule 1 provides that no option series may freely trade after 4:02 p.m. ET except that broad stock index group options and options on select Exchange-Traded Fund Shares shall freely trade until 4:15 p.m. ET each business day. Three (3) exceptions to the general rule are provided in Commentary .02 so that a trading rotation in any class of options may be effected even though the transaction will occur after 4:02 p.m. as follows: (i) Trading in the underlying security opens or re-opens after 3:30 p.m. ET; (ii) such rotation was initiated due to unusual market conditions pursuant to Rule 918 and notice of such rotation is publicly disseminated no later than the commencement of the rotation or 4:00 p.m. whichever is earlier or notice of such rotation is publicly disseminated after 4:00 p.m. and the rotation does not commence until five (5) minutes after news of such rotation is publicly disseminated; or (iii) for option classes trading on ANTE, an automated trading rotation is held at the close of trading as soon as practicable after 4:02 p.m. ET. Accordingly, equity options and index options transactions would be cancelled if the Trading Officials determine that the transaction occurred outside of the Amex trading hours.

**Verifiable Disruptions or Malfunctions of Exchange Systems**

In connection with transactions arising out of ''verifiable disruptions or malfunctions of Exchange systems,'' the Obvious Error Rules provide that those transactions that qualify for price adjustment will be adjusted to the Theoretical Price for equity options or Fair Market Value for index options. The Exchange submits that unintended results may occur due to the manner in which price adjustments are handled during these circumstances. Accordingly, the Exchange proposes that unless the parties agree to a price adjustment, the transaction would be cancelled. This new standard would replace the current price adjustment to the Theoretical Price for equity options or Fair Market Value for index options and clarify that the transaction will be cancelled if a price adjustment is not agreed to.

An example of such unintended consequences is set forth below. The current market for a particular equity call option is established by the Amex at 1.15 bid/1.30 offer. The underlying security subsequently increases in price. The other options exchanges (excluding the Amex) change their quote so that the market is now 1.20 bid/1.35 offer. The Amex due to a systems problem does not change its quote and remains at 1.15 bid/1.30 offer. The underlying security continues to increase in price. The other options exchanges now post a market of 1.25 bid/1.40 offer. The Amex remains at 1.15 bid/1.30 offer. An order to buy is executed on the Amex at 1.30. As defined by the current Rule, the Theoretical Price for this option is 1.25 so that in adjusting the price the specialist would be disadvantaged by the adjustment to 1.25 compared to the selling price of 1.30 (when the market was actually 1.40). Under the proposal,

[10] The Obvious Error Rules define an erroneous quote as a quote that occurs when the underlying security has a width of at least $1.00 and a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Amex Rule 900(b)(26) and Rule 900(b)(26)—ANTE) during the time period encompassing two minutes before and after the dissemination of such quote. The average quote width is determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

unless the parties agreed to an adjustment, the transaction would be cancelled.

**No Bid Series**

Under the current Obvious Error Rules ''no bid provisions,'' electronic transactions in option series quoted no bid at a nickel (i.e. $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution. A ''no bid'' option refers to an option where the bid price is $0.00.[11] Series of options quoted no bid are typically deep out-of-the-money series that are perceived as having little if any chance of expiring in-the-money. For this reason, relatively few transactions occur in these series and those that do are usually the result of a momentary pricing error. In some cases, the pricing error is substantial enough such that the other provisions in the equity and index options obvious error rules become applicable. However, in many cases, the no bid provisions are the only provisions that would apply to the pricing error.

The proposal seeks to revise the no bid provision in the Obvious Error Rules that provide that the option series must be quoted no bid at a nickel and instead only require that the option series be quoted no bid. The reason for this change is that options that are priced at no bid, regardless of the offer, are typically deep out-of-the-money series that are perceived as having little if any chance of expiring in-the-money. This is especially the case when the series below (for calls) or above (for puts) in the same option class similar is quoted no bid. In this regard, the offer price is irrelevant. Therefore, transactions in series that are quoted no bid at a dime, for example, are just as likely to be the result of an obvious error as are transactions in series that are quoted no bid at a nickel when the series below (for calls) or above (for puts) in the same option class similarly is quoted no bid.

2. Statutory Basis

The Amex represents that the filing provides objective guidelines for the nullification or adjustment of transactions executed at clearly erroneous prices. Moreover, the proposed rule provides uniformity regarding obvious pricing errors, which will serve to benefit customers. For these reasons, the Exchange believes the proposal is consistent with Section 6(b) of the Act[12], in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes the proposed rule change will impose no 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 by the Exchange on this proposal.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**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.* Please include File Number SR–Amex–2005–060 on the subject line.

*Paper Comments*

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–Amex–2005–060. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. 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–2005–060 and should be submitted on or before November 29, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

**Jonathan G. Katz,**

*Secretary.*

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**BILLING CODE 8010–01–P**

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## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of Reporting Requirements Submitted for OMB Review.

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**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before December 8, 2005. If you intend to comment but cannot prepare comments

[11] When the bid price is $0.00, the offer price is typically $0.05. In this instance, the option typically is referred to as ''no bid at a nickel.''

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 17 CFR 200.30–3(a)(12).