

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57354; File No. SR-Amex-2008-10)

February 19, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 918—ANTE

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 14, 2008, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Amex filed this proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ 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 from interested persons.

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

The Exchange seeks to conform Amex Rule 918—ANTE to non-ANTE Rule 918 in connection with a recent approval to permit the sending of Principal Acting as Agent Orders (“P/A Orders”) through the Options Intermarket Linkage (the “Linkage”) prior to the opening of trading.⁵

The text of the proposed rule change is available at the Amex, at the Commission’s Public Reference Room, and at www.amex.com.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release No. 56850 (November 27, 2007), 72 FR 68225 (December 4, 2007) (SR-Amex-2007-123) (“Original Approval”).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission recently approved the Exchange's proposal to adopt Commentary .06 to Amex Rule 918 to implement Amendment No. 23 to Section 7(a)(i) of the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (the "Linkage Plan" or "Plan").⁶ Amendment No. 23, coupled with the related Exchange rule filing recently approved by the Commission, will permit the use of the Linkage prior to the opening of trading.

The Exchange proposes to conform Amex Rule 918—ANTE to the recently approved Amex Rule 918 permitting the use of the Linkage prior to the opening of trading. The purpose of this proposal is to correct Amex Rule 918—ANTE which the Exchange inadvertently failed to revise in its prior filing to implement Amendment No. 23. In addition, because Amex Rule 918—ANTE (rather than Rule 918) applies to all options trading, the Exchange seeks to eliminate Commentary .06 to Amex Rule 918.

As set forth in the Original Approval, the Linkage Plan, prior to Amendment No. 23, did not contemplate the use of the Linkage before a Plan participant (a "Participant") opened for

⁶ Id. See also Securities Exchange Act Release No. 56780 (November 13, 2007), 72 FR 65113 (November 19, 2007) (File No. 4-429).

trading and disseminated a quotation in an options series. There, accordingly, was no trade-through protection for opening trades. As a result, if there was a better market away at the time a Participant opened its market, the Amex specialist, responsible both for the opening and for protecting customer orders, could not access that market for a customer. The customer, accordingly, could receive a price inferior to the national best bid and offer.

This proposal to conform Amex Rule 918—ANTE to the recently approved Amex Rule 918 will permit the sending of P/A Orders prior to the opening, allowing the Amex specialist to access better markets on behalf of customers prior to the Exchange's opening in connection with the ANTE system. In implementing this proposed rule change, the Exchange will ensure that customers receive the best price for their orders. Under the Plan, a Participant receiving market has three (3) seconds to respond to a P/A Order, and the Participant receiving market can then reject a response it receives more than three (3) seconds after sending the order. In the unlikely event that the Amex opens its market during this three (3) second period, it is possible that the opening price could differ from the price of an executed P/A Order. In that case, the Amex will ensure that the specialist provides the customer with the most advantageous price. Therefore, the proposal will only benefit customers by providing them with potential price improvement at the opening.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁷ in general and furthers the objectives of Section 6(b)(5) of the Act⁸ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

market system, and, in general, protect investors and the public interest.

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

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 with respect to the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) under the Act¹⁰ because: (i) it does not significantly affect the protection of investors or the public interest; (ii) it does not impose any significant burden on competition; and (iii) by its terms, it does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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.

The Amex has requested that the Commission waive the 30-day operative delay for the

⁹ 15 U.S.C. Section 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

proposal. The Commission grants Amex's request.¹¹ The proposed rule change would allow Amex to send P/A Orders through the Linkage prior to the opening of trading, which should facilitate access to superior prices that may be available at other options exchanges at the opening. Therefore, Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because it may result in better-priced executions for investors. For this reason, the Commission designates the proposal effective and operative upon filing with the Commission.

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-2008-10 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-2008-10. 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

¹¹ For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such 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-2008-10 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).