

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57154; File No. SR-Amex-2008-03)

January 15, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to “Amex Only” Orders and Quotes

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 January 9, 2008, 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 and II below, which Items have been prepared substantially by the Amex. The Amex has submitted the proposed rule change under Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal 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 Amex proposes to amend Rule 131—AEMI, “Types of Orders,” to provide for “Amex Only” orders and quotes that will trade only at the Amex or be cancelled.

The text of the proposed rule change is available at <http://www.amex.com>, the principal office of the Amex, and the Commission’s Public Reference Room.

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

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

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

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

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 Amex 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 Amex 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 Amex proposes to add new paragraph (z) to Rule 131—AEMI to adopt a new order and a new quote type: the “Amex Only” order (“AOO”) and the “Amex Only” quote (“AOQ”). AOOs and AOQs will enable quoting and other market participants to post liquidity on the AEMI Book that will trade only at the Amex, and therefore will not incur the costs of routing to away markets. If any portion of an AOO or AOQ would otherwise be required, under Regulation NMS,<sup>5</sup> to route to another market to avoid a trade-through or a locked or crossed market, AEMI would automatically cancel that portion of the AOO or AOQ. Additionally, if auto-ex is disabled during the regular trading session, all AOOs or AOQs on the AEMI Book would be cancelled (and all incoming AOOs and AOQs rejected), because neither AOOs nor AOQs would be permitted to participate in intra-day pair-offs.

AOOs and AOQs may be entered only during the pre-opening or regular trading session. AOOs may be limit or market orders. Quoting participants entering AOQs are limited to one per price point per side of the market in the particular security being quoted, and only those

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<sup>5</sup> 17 CFR 242.600 et seq.

streaming quotes to the Amex via proprietary systems will have AOQ functionality, when implemented.<sup>6</sup>

The Amex states that it is introducing AOOs and AOQs in response to market participants' strong demands for more flexible order and quote types that will provide more control over transaction charges – one of the primary present drivers of order flow decisions. By using AOOs and AOQs, market participants on Amex will be able to be certain of either trading immediately against the contra side of the market on Amex, posting all or part of their order/quote on the AEMI Book, or cancelling the order/quote. The Amex notes that another market already has a similar order type in place,<sup>7</sup> so competitive reasons also are driving the Amex's decision to offer comparable functionality to liquidity providers.

## 2. Statutory Basis

The proposed rule change is designed to be consistent with Regulation NMS, as well as Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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.

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<sup>6</sup> See Rule 131—AEMI, Commentary .04.

<sup>7</sup> See NYSE Rule 13 (“Do Not Ship” or “DNS” Orders). See also Securities Exchange Act Release No. 55768 (May 15, 2007), 72 FR 28532 (May 21, 2007) (File No. SR-NYSE-2007-24) (notice of filing and immediate effectiveness of proposal to establish the DNS order type).

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

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

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

The Amex believes that the proposed rule change does not impose any 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.

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

The Amex has designated the proposed rule change as one that: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. In addition, as required under Rule 19b-4(f)(6)(iii),<sup>10</sup> the Amex provided the Commission with written notice of its intention to file the proposed rule change, along with a brief description of the text of the proposed rule change, at least five business days prior to filing the proposal with the Commission. Therefore, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

The Amex has requested that the Commission waive the 30-day operative delay for competitive reasons. The Commission hereby grants the Amex's request.<sup>13</sup> AOOs and AOQs

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<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> For purposes of waiving the 30-day operative delay, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

are substantially similar to order types that have been established on other exchanges.<sup>14</sup> The Amex's proposal does not appear to raise any novel regulatory issues. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.

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.

### III. 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-2008-03 on the subject line.

#### Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2008-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

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<sup>14</sup> See note 7, *supra*. See also Philadelphia Stock Exchange Rule 185(b)(1)(D) (providing for Limit Orders and Reserve Orders with Do Not Route instructions).

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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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 publicly available. All submissions should refer to File Number SR-Amex-2008-03 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.<sup>15</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).