

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56850; File No. SR-Amex-2007-123)

November 27, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as modified by Amendment No.1 Thereto, to Send P/A Orders through Linkage Prior to the Opening of Trading

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 November 16, 2007, the American Stock Exchange LLC (“Exchange” or “Amex”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which items have been substantially prepared by the Amex. On November 26, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposed rule change on an accelerated basis.

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

The Exchange proposes to adopt Commentary .06 to Amex Rule 918 to permit the sending of Principal Acting as Agent Orders (“P/A Orders”)³ through the Intermarket Options Linkage (“Linkage”) prior to the opening of trading. This proposal would conform Amex Rule 918 to Joint Amendment No. 23⁴ (“Amendment No. 23”) to the Plan for the Purpose of Creating

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240. 19b-4.

³ See Section 2(16)(a) of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (“Linkage Plan”).

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

and Operating an Intermarket Options Linkage (the “Linkage Plan”).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.

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, its 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 III 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 Amex proposes to adopt Commentary .06 to Amex Rule 918 to amend its rule to conform to Amendment No. 23 to the Linkage Plan. The proposal will permit the use of the Linkage prior to the opening of trading. Prior to the adoption of Amendment No. 23, the Linkage Plan did not contemplate the use of the Linkage before a Linkage Plan participant (a “Participant”) opened for trading and disseminated a quotation in an options series. In addition, there was no trade-through protection for opening trades. As a result, if there was a better market away at the time a Plan Participant opens its market, the Amex specialist, responsible

⁵ On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage proposed by the Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Phlx, Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.), and BSE joined 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).

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 (“NBBO”). This proposal, along with Amendment No. 23 to the Linkage Plan, 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 implementing this proposed rule change, the Exchange represented that it will ensure that customers receive the best price for their orders. Under the Linkage Plan, a Participant receiving market has five (5) seconds to respond to a P/A Order, and the Participant receiving market can then reject a response it receives more than five (5) seconds after sending the order. In the unlikely event that the Amex opens its market during this five (5) 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 represented that it 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 Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to national securities exchanges and, in particular, the requirements of Section 6(b) of the Act.⁶ Specifically, the Exchanges believe the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act⁷ that the rules of an exchange be designed to prevent fraudulent and manipulative acts, 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.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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

The Exchange believes that the proposed rule change would 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

The Exchange has neither solicited nor received comments on this proposal.

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. Please include File Number SR-Amex-2007-123 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-2007-123. 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 submissions, 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 the filings also will be available for inspection and copying at the principal offices 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 No. SR-Amex-2007-123 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Changes

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to national securities exchanges.⁸ In particular, the Commission finds that the proposal is consistent with the provisions of Section 6(b)(5) of the Act⁹ 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. The Commission believes that allowing the Exchange to send P/A Orders to the Linkage prior to the opening should facilitate investors' intermarket access to superior prices.

The Commission finds good cause for approving the proposed rule change before the 30th day after the date of publication of notice of filing thereof in the Federal Register. Granting

⁸ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. See U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b)(5).

accelerated approval would facilitate the implementation of the proposed rule change in conjunction with Amendment No. 23 to the Linkage Plan.¹⁰ In addition, the Commission notes that the Exchange has committed to ensuring that, for Linkage P/A Orders sent prior to the opening, Amex specialists will provide customers with the most advantageous price in the event that the Amex opens its market while the Exchange is awaiting a response to such a P/A Order. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹¹ to approve the proposed rule change on an accelerated basis.

¹⁰ See supra note 4.

¹¹ 15 U.S.C. 78s(b)(2).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act¹², that the proposed rule change (SR-Amex-2007-123) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Nancy M. Morris
Secretary

¹² 17 CFR 200.30-3(a)(12).

¹³ 15 U.S.C. 78s(b)(2).