

necessary to evaluate the Chase Petition. Two of the questions posed in the NOI, pertaining to adequacy of notice, and to the use of the Bank One record for setting standards for negotiated service agreements predicated on pure volume-based discounts, may be of interest to interested persons who have not intervened in the Bank One case. The Commission invites both participants and interested persons who have not intervened in the Bank One case to comment on these or any other questions posed in the NOI. Comments may be submitted on or before October 14, 2005. Reply comments may be submitted on or before October 24, 2005.

NOI questions 6 and 7 may be of interest to interested persons who have not intervened in the Bank One case, and are repeated below.

*NOI question 6:* The Commission has noted, in PRC Order No. 1443, that adequacy of notice is an extremely important issue especially where a request has been filed under expedited rules for functionally equivalent agreements. The functionally equivalent rules are meant to send a clear signal that no new major issues are present in the request. Reopening the record opens the possibility for consideration of novel issues related to pure volume-based discount negotiated service agreements. Interested persons who have not intervened in this docket potentially may allege that inadequate notice has been provided to alert them to the existence of novel and precedent setting issues. How should the Commission view this potential problem, and what possible steps can the Commission take to alleviate this situation?

*NOI question 7:* The Bank One negotiated service agreement is based on a declining block rate volume discount element and an address correction cost savings element. The Bank One negotiated service agreement request was filed as an agreement functionally equivalent to the Capital One negotiated service agreement, which also included volume discount and cost savings elements. The Bank One record was developed considering both elements. Reopening the Bank One record potentially will lead to the consideration of issues directly related to negotiated service agreements based solely on pure volume-based discounts. Given this potential, both participants and interested persons who have not intervened in this docket are invited to comment on the use of the Bank One docket to potentially decide issues related to negotiated service agreements based solely on pure volume-based discounts.

#### IV. Revised Deadline for Comments on Chase Petition

Presiding Officer's Ruling Granting the Postal Service Motion for a Stay and Establishing a Date for Replies to the J.P. Morgan Chase Petition was issued on September 15, 2005 (P.O. Ruling No. MC2004-3/9). This ruling established a September 29, 2005 date for participants to provide responses to the Chase Petition. It also stayed previously scheduled dates for comments and reply comments in regard to the Commission's reconsideration of the Bank One decision. In light of the Commission's need to obtain more information before issuing a ruling on the Chase Petition, the date for responses to the Chase Petition shall be extended until October 31, 2005.

The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

#### III. Ordering Paragraphs

*It is ordered:*

1. Comments in response to Notice of Inquiry No. 1 Regarding Status of Settlement Agreement, issued September 27, 2005, may be submitted on or before October 14, 2005. Reply comments may be submitted on or before October 24, 2005. Interested persons who have chosen not to intervene in the Bank One case also are invited to provide comments.

2. The date for participants to reply to the Petition of J.P. Morgan Chase & Co. to Reopen Record previously established by P.O. Ruling No. MC2004-3/9 shall be extended until October 31, 2005.

3. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

**Steven W. Williams,**

*Secretary.*

[FR Doc. 05-19707 Filed 9-30-05; 8:45 am]

**BILLING CODE 7710-FW-P**

#### SECURITIES AND EXCHANGE COMMISSION

**[Release Nos. 33-8619; 34-52522, File No. 265-23]**

#### Advisory Committee on Smaller Public Companies; Meeting

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of Meeting of SEC Advisory Committee on Smaller Public Companies.

The Securities and Exchange Commission Advisory Committee on

Smaller Public Companies is providing notice that it will hold a public meeting on Friday, October 14, 2005, at Columbia Law School, Jerome Green Hall, Room 103, 435 West 116th Street, New York, New York, at 1 p.m. The meeting will be audio webcast on the Commission's Web site at <http://www.sec.gov>.

The agenda for the meeting includes hearing oral testimony, primarily from investors in small cap companies, and considering written statements that have been filed with the Advisory Committee in connection with the meeting.

*Due Date:* Written statements should be received on or before October 7, 2005.

**ADDRESSES:** Written statements may be submitted by any of the following methods:

#### *Electronic Statements*

- Use the Commission's Internet submission form (<http://www.sec.gov/info/smallbus/acspc.shtml>); or
- Send an e-mail message to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 265-23 on the subject line; or

#### *Paper Statements*

- Send paper statements in triplicate to Jonathan G. Katz, Committee Management Officer, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File No. 265-23. This file number should be included on the subject line if e-mail is used. To help us process and review your statement more efficiently, please use only one method. The Commission staff will post all statements on the Advisory Committee's Web site (<http://www.sec.gov/info/smallbus/acspc.shtml>).

Statements also will be available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

Persons wishing to provide oral testimony at the meeting should contact the SEC staff person listed below by October 7, 2005 and submit a written statement by the deadline for written statements. Sufficient time may not be available to accommodate all those wishing to provide oral testimony. The Co-Chairs of the Advisory Committee have reserved the right to select and limit the time of witnesses permitted to testify at the Advisory Committee meeting.

**FOR FURTHER INFORMATION CONTACT:**

Kevin M. O'Neill, Special Counsel, at (202) 551-3260, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-3628.

**SUPPLEMENTARY INFORMATION:**

In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.-App. 1, section 10(a), and the regulations thereunder, Gerald J. Laporte, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: September 28, 2005.

**Jonathan G. Katz,**

*Committee Management Officer.*

[FR Doc. 05-19802 Filed 9-29-05; 12:26 pm]

**BILLING CODE 8010-01-P**

---

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-52504; File No. SR-Amex-2005-086]

**Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Revising the Implementation Date for the ANTE System**

September 23, 2005.

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 September 1, 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 and II below, which items have been prepared by Amex. On September 20, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> Amex filed the proposal, as amended, as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder.<sup>5</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

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

<sup>3</sup> Amendment No. 1 clarified that the proposed rule change was being submitted under Section 19(b)(3)(A)(iii) of the Act and Rule 19b-4(f)(6) thereunder.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

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

Amex proposes to amend (1) Amex Rule 900-ANTE to provide a revised date for the completion of the implementation of the ANTE System (as defined herein) to all option classes; and (2) Amex Rule 935-ANTE, Commentary .01 to establish a revised date for increased floor broker functionality in the ANTE System. The text of the proposed rule change is available on Amex's Web site (<http://www.amex.com>), at Amex's Office of the Secretary, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Amex included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received on the proposal. 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

**Revised Implementation Date—Amex Rule 900-ANTE**

On May 20, 2004, the Commission approved Amex's proposal to implement a new options trading platform known as the Amex New Trading Environment ("ANTE") System.<sup>6</sup> On May 25, 2004, Amex began rolling out the ANTE System on its trading floor on a specialist's post-by-specialist's post basis. At that time, it was anticipated the roll-out would be completed by the end of the second quarter of 2005. The implementation date for the full roll-out of the ANTE System was subsequently extended to August 31, 2005.<sup>7</sup> Amex has now rolled out the ANTE System to all its option classes except two—the Nasdaq 100 Index ("NDX") and the Mini Nasdaq Index ("MNX"). Amex represents that there are specific reasons why these

<sup>6</sup> See Securities Exchange Act Release No. 49747 (May 20, 2004) 69 FR 30344 (May 27, 2004) ("Initial Approval of ANTE System").

<sup>7</sup> See Securities Exchange Act Release No. 51965 (July 1, 2005) 70 FR 40082 (July 12, 2005).

products have not been rolled out on the ANTE System. The specialist in these products is concerned that the theoretical price calculator provided by the ANTE System may not accurately price the options on these indexes. The specialist is currently waiting for his own theoretical index price calculator, which has been installed, to successfully calculate prices for these indexes and the options. Amex expects that the MNX/NDX specialist will have its proprietary calculator in place by October 31, 2005.

Amex is now proposing to further revise its implementation schedule to provide that the remaining two option classes will be on the ANTE System by October 31, 2005. Maintaining two systems for the trading of options—the legacy system (XTOPS, AODB and Auto-Ex) and ANTE—is costly. As a result, the Exchange is working diligently to have all option classes on the ANTE System by October 31, 2005, so that it can retire its legacy systems.

**Increased Floor Broker Functionality—Rule 935-ANTE**

Amex Rule 935-ANTE(b) provides for the post trade allocation of contracts executed as the result of the submission of orders to trade with orders in the ANTE Central Book. Under this rule, if more than one ANTE Participant<sup>8</sup> and/or floor broker representing a customer order submits an order to trade with an order in the ANTE Central book within a period not to exceed five seconds after the initial ANTE Participant has submitted its order, all those ANTE Participants and/or floor brokers' customers will be entitled to participate in the allocation of any executed contracts. Amex represents that the ANTE System is currently unable to provide the functionality necessary for floor brokers representing customer orders in the trading crowd the ability to directly participate in the post trade allocation of orders taken off the Central Book. Commentary .01 to Amex Rule 935-ANTE provides a temporary methodology for the specialist to disengage the post trade allocation system in a specific series, which allows the floor broker to alert the specialist within the five second timeframe whenever his customer wants to participate in post trade allocation, and allows the specialist to provide for the customer's participation in post trade allocation when appropriate. The Commission approved the procedures

<sup>8</sup> Amex Rule 900-ANTE(b)(45) defines "ANTE Participant" as either the specialist and/or registered options trader(s) assigned to trade a specific options class on the ANTE System.