

Dated: March 1, 2006.

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53386; File No. SR-Amex-2005-110]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving a Proposed Rule Change Relating to Specialist Clerks

February 28, 2006.

On October 31, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposal to amend Amex Rule 184 to require specialists and specialist units to employ an adequate number of clerks to enable the specialist unit to efficiently handle actual and reasonably anticipated trading volume in the specialist unit's registered securities. The proposed rule change was published for comment in the *Federal Register* on January 23, 2006.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

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 a national securities exchange.<sup>4</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires, among other things, that the rules of a national securities exchange be 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 the proposed rule change, by requiring specialists and specialist units to

employ an adequate number of clerks, is designed to help enable Exchange specialists and specialist units to handle efficiently the trading volume in the specialist unit's registered securities and to meet their regulatory responsibilities with respect to their specialist activities.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-Amex-2005-110) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53377; File No. SR-CBOE-2005-112]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Seeking Permanent Approval of a Pilot Program Relating to Market-Maker Access to the Exchange's Hybrid Automatic Execution System

February 27, 2006.

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 December 30, 2005, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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. 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 proposes to make permanent its pilot program in CBOE Rule 6.13 relating to market-maker ("MM") access to the Exchange's automatic execution system. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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

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

#### 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 those 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 parts of such statements.

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

###### 1. Purpose

In July 2004, the Exchange implemented on a pilot basis CBOE Rule 6.13(b)(i)(C)(iii), which relates to the frequency with which certain market participants may submit orders for automatic execution through the Exchange's Hybrid Trading System ("Hybrid").<sup>3</sup> The Exchange has subsequently extended the pilot program, which expires on October 12, 2006, on two occasions.<sup>4</sup> CBOE Rule 6.13(b)(i)(C)(iii) currently provides in relevant part:

(iii) 15-Second Limitation: With respect to orders eligible for submission pursuant to paragraph (b)(i)(C)(ii), members shall neither enter nor permit the entry of multiple orders on the same side of the market in an option class within any 15-second period for an account or accounts of the same beneficial owner. The appropriate FPC may shorten the duration of this 15-second period by providing notice to the membership via a Regulatory Circular that is issued at least one day prior to implementation. The effectiveness of this rule shall terminate on October 12, 2006.

Upon approval of the pilot program, the Exchange began allowing orders from options exchange MMs to be eligible for automatic execution, subject to the 15-second limitation described above.<sup>5</sup> The Exchange believes that the

<sup>3</sup> See Securities Exchange Act Release No. 50005 (July 12, 2004), 69 FR 43032 (July 19, 2004) (SR-CBOE-2004-33) (approving the pilot program).

<sup>4</sup> See Securities Exchange Act Release Nos. 51030 (January 12, 2005), 70 FR 3404 (January 24, 2005) (SR-CBOE-2004-91) (extending the pilot program until October 12, 2005); and 52494 (September 22, 2005), 70 FR 56943 (September 29, 2005) (SR-CBOE-2005-70) (extending the pilot program until October 12, 2006).

<sup>5</sup> CBOE Rule 6.13(b)(i)(C)(ii) governs the submission of orders from MMs (paragraph

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

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

<sup>3</sup> See Securities Exchange Act Release No. 53123 (January 13, 2006), 71 FR 3567.

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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