

All submissions should refer to File Number SR-Amex-2005-039. This filenumber 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 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 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 available publicly. All submissions should refer to the File Number SR-Amex-2005-039 and should be submitted on or before June 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51690; File No. SR-Amex-2005-045]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay Implementation Date of Revisions to the Series 4 Examination Program

May 12, 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 April 27, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in items I, II, and III below, which items have been

prepared by Amex. Amex has designated the proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization pursuant to section 19(b)(3)(A)(i) of the Act<sup>3</sup> and Rule 19b-4(f)(1) 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

Amex proposes to delay until no later than November 30, 2005 the implementation date of the recent revisions to the Limited Principal—Registered Options (Series 4) examination program, including the study outline and selection specifications ("Series 4 Examination").

#### 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 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. 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

On April 8, 2005, Amex filed with the SEC for immediate effectiveness revisions to the Series 4 Examination.<sup>5</sup> The Series 4 Examination is an industry-wide examination that qualifies an individual to function as a Registered Options Principal. The Series 4 Examination is shared by Amex and the following SROs: The National Association of Securities Dealers, Inc. ("NASD"), the Chicago Board Options Exchange, Incorporated, the New York Stock Exchange, Inc., the Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. NASD and PCX filed with the SEC

similar revisions to the Series 4 Examination.<sup>6</sup> NASD originally had proposed to implement the Series 4 Examination revisions by no later than April 29, 2005. However, due to administrative issues, NASD is proposing to delay until no later than November 30, 2005, the implementation date of the revisions. As such, Amex will announce the revisions to the Series 4 Examination and the implementation date in a *Notice to Members* to be published no later than October 31, 2005.

Amex understands that NASD and PCX have filed with the SEC similar proposed rule changes to delay until no later than November 30, 2005, the implementation date of the revisions to the Series 4 Examination.<sup>7</sup>

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act<sup>8</sup> in general and furthers the objectives of section 6(c)(3)<sup>9</sup> which authorize Amex to prescribe standards of training, experience and competence for persons associated with Amex members.

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

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

##### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received by the Exchange on this proposal.

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act<sup>10</sup> and Rule 19b-4(f)(1) thereunder,<sup>11</sup> in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Amex. NASD

<sup>6</sup> See Securities Exchange Act Release No. 51216 (February 16, 2005), 70 FR 8866 (February 23, 2005) (SR-NASD-2005-025); see also SR-PCX-2005-51.

<sup>7</sup> See Securities Exchange Act Release No. 51688 (May 12, 2005) (SR-NASD-2005-053) and SR-PCX-2005-057.

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

<sup>9</sup> 15 U.S.C. 78f(c)(3).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>11</sup> 17 CFR 240.19b-4(f)(1).

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

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>5</sup> See Securities Exchange Act Release No. 51689 (May 12, 2005) (SR-Amex-2005-039).

proposes to implement the Series 4 Examination revisions by no later than November 30, 2005. Amex will announce the revisions to the Series 4 Examination and the implementation date in a *Notice to Members* to be published no later than October 31, 2005.

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.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2005-045 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2005-045. 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 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 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 available publicly. All submissions should refer to the File Number SR-Amex-2005-045 and should be submitted on or before June 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51687; File No. SR-CBOE-2005-36]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Waiver of May 2005 Member Dues for CBOE Market-Makers

May 12, 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 May 2, 2005, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") 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 CBOE. On May 4, 2005, the CBOE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> On May 5, 2005, the CBOE submitted Amendment No. 2 to the proposed rule change.<sup>4</sup> The CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CBOE under Section 19(b)(3)(A)(ii) of the Act,<sup>5</sup> and Rule 19b-4(f)(2) thereunder,<sup>6</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule

<sup>12</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.

<sup>3</sup> In Amendment No. 1, the CBOE amended the rule text of the proposed rule change to clarify that the dues waiver applies to the Reduced Value Russell 2000 index options, which are a hybrid options class.

<sup>4</sup> In Amendment No. 2, the CBOE made technical corrections to the rule text of the proposed rule change.

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

change, as amended, from interested persons.

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

The CBOE proposes to amend its Fees Schedule to waive May 2005 member dues for CBOE market-makers who automatically execute 2000 contracts or more during May 2005 in hybrid options classes. Below is the text of the proposed rule change, as amended. Proposed new language is *italicized*; proposed deletions are in [brackets].

CHICAGO BOARD OPTIONS EXCHANGE, INC.

FEES SCHEDULE

[APRIL 25] MAY 2, 2005

1.-4. Unchanged.

Notes: (1)-(15) Unchanged.

5.-8. Unchanged.

9. MEMBER DUES\* \$450 per month

\* *The Exchange will waive May 2005 member dues for CBOE market-makers who automatically execute 2000 contracts or more (through the use of "M" orders) during May 2005 in hybrid options classes, i.e., all equity options classes and the MNX, QQQQ, Reduced Value Russell 2000 and SPDR options classes.*

10.-23. Unchanged.

\* \* \* \* \*

### 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 CBOE included statements concerning the purpose of and basis for its proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE 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

On January 10, 2005, the Commission approved a CBOE rule proposal (SR-CBOE-2005-01)<sup>7</sup> to allow CBOE market participants<sup>8</sup> the ability to submit

<sup>7</sup> See Securities Exchange Act Release No. 51003 (January 10, 2005), 70 FR 2682 (January 14, 2005).

<sup>8</sup> CBOE Rule 6.45A defines a market participant as a market-maker, an in-crowd DPM, an e-DPM, a