

to the extent that the Registered Participating Fund's aggregate investment of Uninvested Cash in the Central Funds does not exceed the greater of 25% of the Registered Participating Fund's total assets or \$10 million.

4. Investment by a Registered Participating Fund in shares of the Central Funds will be in accordance with the Registered Participating Fund's investment restrictions and will be consistent with the Registered Participating Fund's investment policies as set forth in its prospectus and statement of additional information.

5. Each Fund that may rely on the order shall be advised by the Adviser.

6. No Central Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. The Non-Registered Central Funds will comply with the requirements of sections 17(a), (d), and (e) and 18 of the Act as if the Non-Registered Central Funds were registered open-end investment companies. With respect to all redemption requests made by a Participating Fund, the Non-Registered Central Funds will comply with section 22(e) of the Act. The Adviser will adopt procedures designed to ensure that each Non-Registered Central Fund complies with sections 17(a), (d), and (e), 18 and 22(e) of the Act. The Adviser will also periodically review and update, as appropriate, the procedures and will maintain books and records describing such procedures, and maintain the records required by rules 31a-1(b)(1), 31a-1(b)(2)(ii), and 31a-1(b)(9) under the Act. All books and records required to be made pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the Commission and its staff.

8. Each Non-Registered Central Fund will comply with rule 2a-7 under the Act. With respect to each such Non-Registered Central Fund, the Adviser will adopt and monitor the procedures described in rule 2a-7(c)(7) under the Act and will take such other actions as are required to be taken under those procedures. A Registered Participating Fund may only purchase shares of a Non-Registered Central Fund if the Adviser determines on an ongoing basis that the Non-Registered Central Fund is in compliance with rule 2a-7. The Adviser will preserve for a period not less than six years from the date of

determination, the first two years in an easily accessible place, a record of such determination and the basis upon which the determination was made. This record will be subject to examination by the Commission and its staff.

9. Each Participating Fund will purchase and redeem shares of any Non-Registered Central Fund as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Non-Registered Central Fund. A separate account will be established in the shareholder records for each Non-Registered Central Fund for the account of each Participating Fund that invests in such Non-Registered Central Fund.

10. To engage in Interfund Transactions, the Funds and the Non-Registered Funds will comply with rule 17a-7 under the Act in all respects other than the requirement that the parties to the transaction be affiliated persons (or affiliated persons of affiliated persons) of each other solely by reason of having a common investment adviser or investment advisers which are affiliated persons of each other, common officers, and/or common directors, solely because a Participating Fund and a Central Fund might become affiliated persons within the meaning of section 2(a)(3)(A) and (B) of the Act.

11. Before a Registered Participating Fund may participate in the Securities Lending Program, a majority of the Board (including a majority of the Independent Trustees) will approve the Registered Participating Fund's participation in the Securities Lending Program. No less frequently than annually, the Board also will evaluate, with respect to each Registered Participating Fund, any securities lending arrangement and its results and determine that any investment of Cash Collateral in the Central Funds is in the best interest of the Registered Participating Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51367; File No. SR-Amex-2005-027]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Use of Certain Consolidated Tape Association Financial Status Indicator Fields and Related Disclosure Obligations

March 14, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on February 25, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 Amex proposes to utilize certain financial status indicator fields in the Consolidated Tape Association's ("CTA") Consolidated Tape System ("CTS") and the Consolidated Quotation System ("CQS") Low Speed and High Speed Tapes to identify Amex listed companies that: (i) Are noncompliant with continued listing standards and/or (ii) are delinquent with respect to a required federal securities law periodic filing. The Amex also proposes to post a list of issuers subject to each indicator on its Web site. In addition, an indicator will be disseminated over the High Speed Tape with respect to an issuer that has filed or announced intent to file for reorganization relief under the bankruptcy laws (or an equivalent foreign law). Finally, the Amex proposes to amend sections 401 and 1009 of the Amex Company Guide to explicitly clarify that issuance of a press release is required when a listed company is notified that it is noncompliant with the applicable continued listing standards. The text of the proposed rule change is available on Amex's Web site (<http://www.amex.com>), the Amex's Office of the Secretary, and at the Commission's Public Reference Room.

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

## 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 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 the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

To provide greater transparency and disclosure to the investing community, the Amex is proposing to utilize certain of the financial status indicator fields in CTS and CQS<sup>2</sup> to identify listed companies that (i) are noncompliant with continued listing standards and/or (ii) are delinquent with respect to a required federal securities law periodic filing. Once applicable, the indicator(s) will be disseminated as part of CTS and CQS messages to the High Speed Tape and CTS messages to the Low Speed Tape whenever an impacted issuer's trading symbol is transmitted with a quotation or trade. In addition, an indicator will be disseminated over the High Speed Tape with respect to a listed company that has filed or announced intent to file for reorganization relief under the bankruptcy laws (or an equivalent foreign law).

It is anticipated that the Amex will begin utilizing the indicators during the second quarter of 2005. On the Low Speed Tape, the indicator ".BC" will be used to denote an issuer that is noncompliant and the indicator ".LF" will be used to denote an issuer that did not file a required periodic filing (e.g., Form 10-K, Form 10-Q or equivalent) on a timely basis (including any applicable extension period).<sup>3</sup> Numerical notations corresponding to

each indicator will be disseminated over the High Speed Tape. The applicable indicator(s) will be disseminated five days after a triggering event.<sup>4</sup> Impacted issuers will receive prior notification from Amex Listing Qualifications staff by telephone and in writing regarding dissemination of the indicator(s) with the issuer's trading symbol. The Amex will also post a list of issuers subject to each indicator on its website. It is anticipated that the Web site posting will begin by the end of the first quarter of 2005, prior to implementation of the CTA indicators. Dissemination of the particular indicators will cease under the following circumstances:

- ".BC" indicator—when and if the issuer regains compliance with the applicable continued listing standards;
- ".LF" indicator—when and if all requisite filings are made; and
- Bankruptcy indicator—when and if the issuer emerges from bankruptcy.

The Amex is also proposing to amend Sections 401 and 1009 of the Amex Company Guide to make explicit that issuance of a press release is required when a company receives staff notification that it is noncompliant. In this regard, listed companies are now required to file a Form 8-K pursuant to Item 3.01 when notified of noncompliance by the Amex and section 402 of the Company Guide provides that issuance of a press release is required with respect to any event requiring the filing of a Form 8-K. However, to ensure that there is no confusion on the part of listed companies, the Amex believes that it is appropriate to amend sections 401 and 1009 to explicitly clarify that listed companies are required to issue a press release, as well as file a Form 8-K, upon notice of noncompliance.

Neither the indicators nor the Company Guide revisions will replace or otherwise alter existing Amex or SEC requirements regarding required Form 8-K filings or disclosure obligations. An Amex issuer that is not in compliance with the applicable continued listing standards but receives an extension to continue its listing in conformance with an Exchange approved business plan is required to issue a press release in this regard, pursuant to section 1009(e) of the Company Guide. In addition, an issuer that receives a staff delisting notice is required to issue a press release pursuant to sections 401(g) and 1202(b) of the Company Guide. Moreover, the Amex will also continue

to halt trading as appropriate in any issuer's securities if it appears that the issuer is unable to make or has not made adequate disclosure as mandated by Amex rules and the federal securities laws.<sup>5</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act<sup>6</sup> in general and furthers the objectives of section 6(b)(5)<sup>7</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 foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

The proposed rule change will 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

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

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

<sup>2</sup> CTS and CQS, which are operated by the CTA, collect last-sale prices and current bid/ask quotations, respectively, with associated volumes for all exchange-listed equities. All trades and quotations in Amex-listed equities, regardless of the market center on which such equities are traded or quoted, are reported to CTS and CQS and disseminated on Tape B (also known as Network B).

<sup>3</sup> Filing of Form 12b-25 in accordance with Rule 12b-25 under the Act provides a 15-day extension for the filing of a Form 10-K and a five-day extension for the filing of a Form 10-Q. 17 CFR 240.12b-25.

<sup>4</sup> In the case of the ".BC" indicator, the triggering event would be receipt of written notice from the staff of the Amex Listing Qualifications Department advising that the issuer is below the applicable continued listing standards.

<sup>5</sup> See section 1002 and 1003 of the Company Guide and Article II, section 3 of the Amex Constitution.

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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 [rulecomments@sec.gov](mailto:rulecomments@sec.gov). Please include File Number SR-Amex-2005-027 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-2005-027. 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 in the Commission's Public Reference Room. Copies of the 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 available publicly. All submissions should refer to File Number SR-Amex-2005-027 and should be submitted on or before April 11, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-51371; File No. SR-CBOE-2005-23]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Amend CBOE Rule 8.4 To Remove the Physical Trading Crowd Appointment Alternative for Remote Market-Makers and To Create an "A+" Tier Consisting of the Two Most Actively-Traded Products on the Exchange**

March 15, 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 March 15, 2005, the Chicago Board Options Exchange, Incorporated ("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 CBOE. 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**

CBOE proposes to amend CBOE Rule 8.4(d) to remove the Physical Trading Crowd ("PTC") appointment alternative for Remote Market-Makers ("RMMs") and to create an "A+" tier consisting of the two most actively-traded products on the Exchange. The text of the proposed rule change is available on the CBOE's Web site (<http://www.cboe.com>), at the CBOE'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, 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 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**

On March 14, 2005, the Commission approved rules governing the Exchange's RMM Program.<sup>3</sup> The RMM Program would allow members and member firms to elect status as an RMM, which would enable them to stream quotes from a location outside of the physical trading station for the subject class. The Exchange's original plans called for the 600 most actively-traded equity option classes to be part of the RMM Program, excluding options on exchange-traded funds. Recently, however, the Exchange has determined to include two of its most actively-traded products in the RMM Program (and, correspondingly, include them on the Hybrid 2.0 Platform), options on Standard & Poor's Depository Receipts ("Spiders") and options on the Nasdaq-100 Index Tracking Stock. The CBOE represents that the purpose of this proposal is to amend the RMM rules relating to appointments in order to accommodate the inclusion of these two products in the RMM Program.

*Elimination of Physical Trading Crowd Appointment.* CBOE Rule 8.4(d) governs the RMM appointment process and provides that an RMM may choose either a PTC or Virtual Trading Crowd ("VTC") appointment. A PTC Appointment corresponds to the location of a physical trading station on the floor of the CBOE.<sup>4</sup> The Exchange proposes to eliminate the PTC appointment option and, as a result, RMMs would be required to have a VTC appointment. CBOE represents that, in its discussions with its members, member organizations, and other potential RMM candidates, it has become evident that there is little if any interest in the ability to have a PTC appointment. The CBOE further represents that a vast majority of potential RMMs have indicated that the ability to choose their own appointments is the attribute of the RMM Program they find most desirable. For this reason, CBOE has determined to eliminate from CBOE Rule 8.4(d) the PTC appointment option.

*Creation of an "A+" Tier.* The RMM rules incorporate the concept of "tiers" in two instances. First, the VTC

<sup>3</sup> See Securities Exchange Act Release No. 51366.

<sup>4</sup> An RMM that chooses a PTC appointment would have the right to quote electronically (and not in open outcry) in either 20 or 30 Hybrid 2.0 products traded in that specific trading station for each Exchange membership it leases or owns, respectively.

<sup>8</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.