



SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. **Text of the Proposed Rule Change**

- (a) The American Stock Exchange LLC (“Amex” or “Exchange”) proposes to revise the Amex options specialist minimum financial requirements. The text of the proposed rule change appears in Exhibit 5.
- (b) Not applicable.
- (c) Not applicable.

2. **Procedures of the Self-Regulatory Organization**

- (a) The proposed rule change was approved by the Exchange’s Board of Governors on March 22, 2007. No further action by the Board or by the membership of the Exchange is required to be taken.

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

(a) *Purpose*

The purpose of the proposed rule change is to revise Amex options specialist’s minimum financial requirements to require Amex options specialists to maintain adequate capital in accordance with the requirements of Rule 15c3-1 under the Securities Exchange Act of 1934 (the “SEA” or “1934 Act”). Generally, an options specialist has two options under Securities Exchange Act of 1934 (“SEA”) Rule 15c3-1 (“Net Capital Rule”):

- Under the Basic Net Capital Rule, applying the Aggregate Indebtedness Standard, Rule 15c3-1(i), the specialist must maintain a minimum of \$100,000 or 6 2/3% of its aggregate indebtedness, whichever is *greater*; or
- Alternatively, the specialist may elect (by notifying its Designated Examining Authority (“DEA”) in writing) to operate under Rule 15c3-3(a)(1)(ii) and maintain a minimum of \$250,000 or 2% of the Aggregate Debt Items (customer debits), whichever is *greater*.

SEA Rule 15c3-1(b)(1) provides an exemption for options specialists from the net capital<sup>1</sup> requirements set forth in paragraph (a) of SEA Rule 15c3-1. Specifically, the requirements of SEA Rule 15c3-1(a) do not apply to any specialist (i) whose securities business, except for an occasional non-specialist related securities transaction for its own account, is limited to that of acting as an options market maker on a national securities exchange; (ii) that is a member in good standing and subject to the capital requirements of a national securities exchange; (iii) that does not transact a business in securities with other than a broker or dealer registered with the Commission under Section 15 or Section 15C of the 1934 Act or a member of a national securities exchange; and (iv) that is not a clearing member of The Options Clearing Corporation and whose securities transactions are effected through and carried in an account cleared by another broker or dealer registered with the Commission under Section 15 of the 1934 Act. Accordingly, the minimum financial requirements for options specialists are typically set forth by each options exchange.

Amex Rule 950—ANTE(h) currently applies the provisions of Amex Rule 171 and related Commentaries<sup>2</sup> to the trading of option contracts. Pursuant to the current Rule, an option specialist's financial requirements is a minimum of \$1,000,000 plus \$25,000 for each option issue (i.e. option class) in excess of the initial twenty-five issues in which such specialist is registered.<sup>3</sup> The Amex submits that the current

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<sup>1</sup> "Net capital" is generally a broker-dealer's net worth, certain liabilities subordinated to the claims of creditors less assets not readily convertible into cash and certain "haircuts" of the market value of proprietary positions. See SEA Rule 15c3-1(c)(2).

<sup>2</sup> Rule 171 and related Commentaries directly applies to equity specialists. Specifically, the Rule provides that every registered specialist shall maintain tentative net capital in the amount of \$1,000,000 or in an amount sufficient to assume a position of sixty (60) trading units of each security in which such specialist is registered, whichever amount is greater. The term "tentative net capital" means net capital, computed in accordance with Securities Exchange Act Rule 15c3-1 before application of haircuts and undue concentration charges.

<sup>3</sup> The Exchange in 2003 amended specialist capital requirements by increasing the minimum capital requirement for options specialists to \$1,000,000 from \$600,000. See Securities Exchange Act Release No. 47469 (March 7, 2003), 68

minimum financial requirement for options specialists at the Exchange is greater than other specialists or those performing similar functions at other options exchanges.<sup>4</sup>

This disparity in the amount of capital that is required to be committed by Amex options specialists provides a competitive disadvantage for those options specialists at the Exchange competing against their counterparts at other exchanges for liquidity. The Exchange asserts that higher capital requirements for options specialists at the Amex effectively reduces the number of options issues that may be allocated to an options specialist and provides greater incentive for Amex members to move their operations to other exchanges or markets. We believe that the proposal will help to ensure that Amex options specialists continue to maintain adequate capital reserve while remaining competitive with their counterparts at other options exchanges.

Minimum financial or capital requirements are generally imposed to insure that during periods of severe market volatility the specialist's role as a liquidity provider and their ability to maintain fair and orderly market is not impaired. The multiple listing of options across several national securities exchanges, as well as the quoting obligations of registered options traders (ROT's), remote registered options traders (RROT's) and supplemental registered options traders (SROT's), now provides multiple sources of liquidity in each options class, which diminishes the role and need to highly capitalize any one liquidity provider such as the options specialist. As supplemental liquidity providers are now available, the benefits of requiring Amex options specialists to maintain minimum financial requirements that far exceed the financial requirements of other liquidity providers is unnecessary.

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FR 12393 (March 14, 2003).

<sup>4</sup> See Phlx Rule 703; NYSEArca Rule 6.82(c)(12) and Chapter VI, Section 9 of the BOX Rules.

The Amex proposes to conform its minimum financial requirements for specialists to that of the Philadelphia Stock Exchange, Inc. (the “Phlx”). The general minimum financial requirements of the Phlx provides that each member organization comply with SEA Rule 15c3-1 and the notification provisions of SEA Rule 17a-11.<sup>5</sup>

Phlx Rule 703(a)(ii) permits member organizations of the Phlx exempt from SEA Rule 15c3-1 to maintain a minimum of \$25,000 in net liquid assets.<sup>6</sup> In addition, Phlx Rule 703(a)(iii) further provides that each member organization exempt from SEA Rule 15c3-1 and whose principal business is as a registered options trader is subject to a minimum of \$25,000 in net liquid assets. Phlx registered options traders exempt from SEA Rule 15c3-1 are required at all times to maintain positive net liquid assets and positive equity in clearing accounts, provided that such member organization filed with the Phlx a letter of guarantee issued on its behalf by a Phlx clearing member organization which is also a clearing member of the Options Clearing Corporation. In connection with FLEX Options, the Phlx Rule 1079(c)(2) imposes additional financial requirements on specialists and registered options traders. Specifically, an assigned specialist in FLEX index options is required to maintain a minimum of \$1,000,000 in net capital and an assigned registered options trader in FLEX index options is required to maintain a minimum of \$100,000 in net liquid assets.<sup>7</sup>

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<sup>5</sup> Broker-dealers that operate solely as market makers or registered options traders may be exempt from SEA Rule 15c3-1 pursuant to subsection (b)(1). Broker dealers eligible for the exemption set forth in SEA Rule 15c3-1(b)(1) are subject to the financial requirements of Phlx Rule 703 or similar rules of their DEA. However, a member organization relying on the exemption in SEA Rule 15c3-1(b)(1) may lose the exemption if such firm engages in 11 or more non-specialist, non-marker maker, or non-floor broker securities transactions (investment or proprietary transactions other than legitimate erred trades), during a calendar year. In such a case, the member organization would be subject to SEA Rule 15c3-1(a)(2)(iii) and a \$100,000 minimum net capital requirement. *See Net Capital Requirements for Brokers and Dealers*, File No. S7-27-88, Securities Exchange Act Release No. 32737 (August 11, 1993), 58 FR 43555 (August 17, 1993).

<sup>6</sup> Net liquid assets in Phlx Rule 703 is defined as total assets less total liabilities less Non-Allowable Assets plus approved Subordinated Liabilities. Assets, Non-Allowable Assets and Subordinated Liabilities have the same meaning as set forth in SEA Rule 15c3-1

<sup>7</sup> The Amex has the same requirements for FLEX index options. *See* Amex Rule 909G.

Under the proposal, Amex options specialists not exempt from SEA Rule 15c3-1 would be required to maintain minimum capital in accordance with the requirements of SEA Rule 15c3-1. For those options specialists exempt from SEA Rule 15c3-1, the Exchange would require each options specialist to have a minimum of \$25,000 in net liquid assets. Finally, the Exchange proposes that options specialists shall promptly notify the Exchange if it ceases to be in compliance with the net capital requirements of Rule 15c3-1 or the provisions of Rule 950-ANTE (h)(1). For an option specialist that is also an equity security specialist subject to the requirements of Rule 171, the minimum \$1,000,000 referred to in Rule 171 shall apply to the entirety of the specialist's business, in both equities and options. Similar to Phlx Rule 703, the proposed revision to Amex Rule 950—ANTE(h) defines net liquid assets.

In connection with joint back office (“JBO”) arrangements, the Amex requires an options specialist which maintains a JBO arrangement with a clearing firm subject to the requirements of Regulation T of Section 220.7 of the Federal Reserve System to comply with Amex Rule 462(c)(8)(B).<sup>8</sup> In addition, as set forth in Amex Rules 470 and 950—ANTE(h), an options specialist subject to SEA Rule 15c3-1 is required to comply with all requirements of that Rule as well as applicable Amex rules. As a result, the reporting and recordkeeping requirements of SEA Rule 15c3-1 are applicable to all options specialists.

The Exchange notes that various safeguards are in place to properly monitor specialist capital and the risk of a particular specialist’s market making activities. For example, the Exchange performs a daily review of specialist capital reserves and also

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<sup>8</sup> See Securities Exchange Act Release No. 42453 (February 24, 2000), 65 FR 11620 (March 3, 2000). The Phlx has in place comparable JBO Rules.

has in place an early warning level. If a specialist approaches 125% of the minimum financial requirement, the Exchange requires the specialist to agree on a plan to raise the capital to an appropriate level.<sup>9</sup> Accordingly, the Exchange believes that the instant proposal is consistent with Section 6(b)(5) of the 1934 Act by promoting the facilitation of listed options transactions as well as a free, open and competitive options market.

(b) *Basis*

The Exchange believes that the proposed rule change is consistent with Section 6 of the 1934 Act<sup>10</sup> in general and furthers the objectives of Section 6(b)(5)<sup>11</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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

**4. 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 1934 Act.

**5. 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 with respect to the proposed rule change.

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<sup>9</sup> See Commentaries .06 and .07 to Rule 171 made applicable to options specialists through Rule 950—ANTE(h).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

6. **Extension of Time Period for Commission Action**

The Exchange does not consent to an extension of the time period for Commission consideration of the proposed rule change specified in Section 19(b)(2) of the 1934 Act.<sup>12</sup>

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

(a) The filing is being made pursuant to paragraph (A) of Section 19(b)(3).

(b) The Exchange believes that accelerated effectiveness of this proposed rule change is consistent with the protection of investors and the public interest. The Exchange believes that this rule change qualifies for expedited approval as a “non-controversial” rule change under Commission Rule 19b-4(f)(6) because the proposal raises no new regulatory issues, and is concerned solely with a matter that is not likely to engender adverse comments or require the degree of review attendant with more controversial filings. Furthermore, the proposed rule change is based on PHLX Rule 703. A draft of the proposal was submitted to the Commission on November 20, 2007 in fulfillment of the 5-day pre-filing notice requirement of Rule 19b-4(f)(6). The Exchange requests a waiver of the thirty (30) day waiting period prior to effectiveness.

(c) Not applicable.

(d) Not applicable.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is based on Phlx Rule 703.

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<sup>12</sup> 15 U.S.C. 78f(b)(2).

9. **Exhibits**

List of Exhibits Filed:

1. Notice of Proposed Rule Change for publication in the **Federal Register**
2. Not applicable
3. Not applicable
4. Not applicable
5. Text of Proposed Rule Change

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

**(Release No. 34- ; File No. SR-Amex-2007-128)**

**Self-Regulatory Organizations; Notice of a Proposed Rule Change by American Stock Exchange LLC Relating to Options Specialists Minimum Capital Requirements**

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on \_\_\_\_\_, 2007, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 revise the Amex options specialist minimum financial requirements.

The text of the proposed rule change is available on the Amex's website at <http://amex.com>, the Amex Office of the Secretary, the Amex 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 self-regulatory organization 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 self-regulatory organization 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

The purpose of the proposed rule change is to revise Amex options specialist's minimum financial requirements to require Amex options specialists to maintain adequate capital in accordance with the requirements of Rule 15c3-1 under the Securities Exchange Act of 1934 (the "SEA" or "1934 Act"). Generally, an options specialist has two options under Securities Exchange Act of 1934 ("SEA") Rule 15c3-1 ("Net Capital Rule"):

- Under the Basic Net Capital Rule, applying the Aggregate Indebtedness Standard, Rule 15c3-1(i), the specialist must maintain a minimum of \$100,000 or 6 2/3% of its aggregate indebtedness, whichever is *greater*; or
- Alternatively, the specialist may elect (by notifying its Designated Examining Authority ("DEA") in writing) to operate under Rule 15c3-3(a)(1)(ii) and maintain a minimum of \$250,000 or 2% of the Aggregate Debt Items (customer debits), whichever is *greater*.

SEA Rule 15c3-1(b)(1) provides an exemption for options specialists from the net capital<sup>1</sup> requirements set forth in paragraph (a) of SEA Rule 15c3-1. Specifically, the requirements of SEA Rule 15c3-1(a) do not apply to any specialist (i) whose securities business, except for an occasional non-specialist related securities transaction for its own account, is limited to that of acting as an options market maker on a national securities exchange; (ii) that is a member in good standing and

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<sup>1</sup> "Net capital" is generally a broker-dealer's net worth, certain liabilities subordinated to the claims of creditors less assets not readily convertible into cash and certain "haircuts" of the market value of proprietary positions. See SEA Rule 15c3-1(c)(2).

subject to the capital requirements of a national securities exchange; (iii) that does not transact a business in securities with other than a broker or dealer registered with the Commission under Section 15 or Section 15C of the 1934 Act or a member of a national securities exchange; and (iv) that is not a clearing member of The Options Clearing Corporation and whose securities transactions are effected through and carried in an account cleared by another broker or dealer registered with the Commission under Section 15 of the 1934 Act. Accordingly, the minimum financial requirements for options specialists are typically set forth by each options exchange.

Amex Rule 950—ANTE(h) currently applies the provisions of Amex Rule 171 and related Commentaries<sup>2</sup> to the trading of option contracts. Pursuant to the current Rule, an option specialist's financial requirements is a minimum of \$1,000,000 plus \$25,000 for each option issue (i.e. option class) in excess of the initial twenty-five issues in which such specialist is registered.<sup>3</sup> The Amex submits that the current minimum financial requirement for options specialists at the Exchange is greater than other specialists or those performing similar functions at other options exchanges.<sup>4</sup> This disparity in the amount of capital that is required to be committed by Amex options specialists provides a competitive disadvantage for those options specialists at the Exchange competing against their counterparts at other exchanges for liquidity. The Exchange asserts that higher capital requirements for options specialists at the Amex

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<sup>2</sup> Rule 171 and related Commentaries directly applies to equity specialists. Specifically, the Rule provides that every registered specialist shall maintain tentative net capital in the amount of \$1,000,000 or in an amount sufficient to assume a position of sixty (60) trading units of each security in which such specialist is registered, whichever amount is greater. The term "tentative net capital" means net capital, computed in accordance with Securities Exchange Act Rule 15c3-1 before application of haircuts and undue concentration charges.

<sup>3</sup> The Exchange in 2003 amended specialist capital requirements by increasing the minimum capital requirement for options specialists to \$1,000,000 from \$600,000. See Securities Exchange Act Release No. 47469 (March 7, 2003), 68 FR 12393 (March 14, 2003).

<sup>4</sup> See Phlx Rule 703; NYSEArca Rule 6.82(c)(12) and Chapter VI, Section 9 of the BOX Rules.

effectively reduces the number of options issues that may be allocated to an options specialist and provides greater incentive for Amex members to move their operations to other exchanges or markets. We believe that the proposal will help to ensure that Amex options specialists continue to maintain adequate capital reserve while remaining competitive with their counterparts at other options exchanges.

Minimum financial or capital requirements are generally imposed to insure that during periods of severe market volatility the specialist's role as a liquidity provider and their ability to maintain fair and orderly market is not impaired. The multiple listing of options across several national securities exchanges, as well as the quoting obligations of registered options traders (ROT), remote registered options traders (RROT) and supplemental registered options traders (SROT), now provides multiple sources of liquidity in each options class, which diminishes the role and need to highly capitalize any one liquidity provider such as the options specialist. As supplemental liquidity providers are now available, the benefits of requiring Amex options specialists to maintain minimum financial requirements that far exceed the financial requirements of other liquidity providers is unnecessary.

The Amex proposes to conform its minimum financial requirements for specialists to that of the Philadelphia Stock Exchange, Inc. (the "Phlx"). The general minimum financial requirements of the Phlx provides that each member organization comply with SEA Rule 15c3-1 and the notification provisions of SEA Rule 17a-11.<sup>5</sup>

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<sup>5</sup> Broker-dealers that operate solely as market makers or registered options traders may be exempt from SEA Rule 15c3-1 pursuant to subsection (b)(1). Broker dealers eligible for the exemption set forth in SEA Rule 15c3-1(b)(1) are subject to the financial requirements of Phlx Rule 703 or similar rules of their DEA. However, a member organization relying on the exemption in SEA Rule 15c3-1(b)(1) may lose the exemption if such firm engages in 11 or more non-specialist, non-marker maker, or non-floor broker securities transactions (investment or proprietary transactions other

Phlx Rule 703(a)(ii) permits member organizations of the Phlx exempt from SEA Rule 15c3-1 to maintain a minimum of \$25,000 in net liquid assets.<sup>6</sup> In addition, Phlx Rule 703(a)(iii) further provides that each member organization exempt from SEA Rule 15c3-1 and whose principal business is as a registered options trader is subject to a minimum of \$25,000 in net liquid assets. Phlx registered options traders exempt from SEA Rule 15c3-1 are required at all times to maintain positive net liquid assets and positive equity in clearing accounts, provided that such member organization filed with the Phlx a letter of guarantee issued on its behalf by a Phlx clearing member organization which is also a clearing member of the Options Clearing Corporation. In connection with FLEX Options, the Phlx Rule 1079(c)(2) imposes additional financial requirements on specialists and registered options traders. Specifically, an assigned specialist in FLEX index options is required to maintain a minimum of \$1,000,000 in net capital and an assigned registered options trader in FLEX index options is required to maintain a minimum of \$100,000 in net liquid assets.<sup>7</sup>

Under the proposal, Amex options specialists not exempt from SEA Rule 15c3-1 would be required to maintain minimum capital in accordance with the requirements of SEA Rule 15c3-1. For those options specialists exempt from SEA Rule 15c3-1, the Exchange would require each options specialist to have a minimum of \$25,000 in net liquid assets. Finally, the Exchange proposes that options specialists shall promptly notify the Exchange if it ceases to be in compliance with the net capital

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than legitimate erred trades), during a calendar year. In such a case, the member organization would be subject to SEA Rule 15c3-1(a)(2)(iii) and a \$100,000 minimum net capital requirement. *See Net Capital Requirements for Brokers and Dealers*, File No. S7-27-88, Securities Exchange Act Release No. 32737 (August 11, 1993), 58 FR 43555 (August 17, 1993).

<sup>6</sup> Net liquid assets in Phlx Rule 703 is defined as total assets less total liabilities less Non-Allowable Assets plus approved Subordinated Liabilities. Assets, Non-Allowable Assets and Subordinated Liabilities have the same meaning as set forth in SEA Rule 15c3-1

<sup>7</sup> The Amex has the same requirements for FLEX index options. *See* Amex Rule 909G.

requirements of Rule 15c3-1 or the provisions of Rule 950-ANTE (h)(1). For an option specialist that is also an equity security specialist subject to the requirements of Rule 171, the minimum \$1,000,000 referred to in Rule 171 shall apply to the entirety of the specialist's business, in both equities and options. Similar to Phlx Rule 703, the proposed revision to Amex Rule 950—ANTE(h) defines net liquid assets.

In connection with joint back office (“JBO”) arrangements, the Amex requires an options specialist which maintains a JBO arrangement with a clearing firm subject to the requirements of Regulation T of Section 220.7 of the Federal Reserve System to comply with Amex Rule 462(c)(8)(B).<sup>8</sup> In addition, as set forth in Amex Rules 470 and 950—ANTE(h), an options specialist subject to SEA Rule 15c3-1 is required to comply with all requirements of that Rule as well as applicable Amex rules. As a result, the reporting and recordkeeping requirements of SEA Rule 15c3-1 are applicable to all options specialists.

The Exchange notes that various safeguards are in place to properly monitor specialist capital and the risk of a particular specialist’s market making activities. For example, the Exchange performs a daily review of specialist capital reserves and also has in place an early warning level. If a specialist approaches 125% of the minimum financial requirement, the Exchange requires the specialist to agree on a plan to raise the capital to an appropriate level.<sup>9</sup> Accordingly, the Exchange believes that the instant proposal is consistent with Section 6(b)(5) of the 1934 Act by promoting the facilitation of listed options transactions as well as a free, open and competitive options market.

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<sup>8</sup> See Securities Exchange Act Release No. 42453 (February 24, 2000), 65 FR 11620 (March 3, 2000). The Phlx has in place comparable JBO Rules.

<sup>9</sup> See Commentaries .06 and .07 to Rule 171 made applicable to options specialists through Rule 950—ANTE(h).

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>10</sup> in general and furthers the objectives of Section 6(b)(5)<sup>11</sup> in particular in that it would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

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

The proposed rule change does not impose any 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 with respect to the proposed rule change.

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

The foregoing rule change has become immediately effective pursuant to Section 19(b)(3)(A)<sup>12</sup> of the Act and Rule 19b-4(f)(6)<sup>13</sup> under the Act because: (i) it does not significantly affect the protection of investors or the public interest; (ii) it does not impose any significant burden on competition; and (iii) by its terms, it does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

Furthermore, the Exchange provided the Commission with written notice of its intent to

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<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. Section 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

file the proposed rule change on November 20, 2007, along with a brief description and text of the proposed rule change, which was at least five business days prior to the date of filing of the proposed rule change.

A proposed rule change filed under Rule 19b-4(f)(6) may not become operative prior to thirty (30) days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested a waiver of the thirty (30) day period for this filing to become operative so that it may become effective and operative upon filing with the Commission pursuant to Section 19(b)(3)(A)<sup>14</sup> of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder.

The Exchange believes that expedited effectiveness of this proposed rule change is consistent with the protection of investors and the public interest for the purpose of “equalizing” Amex options minimum capital requirements with that of the Philadelphia Stock Exchange, Inc. (“Phlx”). In this manner, this proposed rule change will be effective immediately so that Amex options specialists are not placed at a competitive disadvantage. The Exchange believes that expedited effectiveness of the proposal is appropriate because it raises no new regulatory issues, and is concerned solely with a matter that is not likely to engender adverse comments or require the degree of review attendant with more controversial filings.

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

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 [rulecomments@sec.gov](mailto:rulecomments@sec.gov). Please include File Number SR-Amex-2007-128 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-2007-128. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such 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– 2007–128 and should be submitted on or before [insert date 21 days from date of publication].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Nancy M. Morris  
Secretary

Dated:

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<sup>15</sup> 17 CFR 200.30-3(a)(12).

AMERICAN STOCK EXCHANGE LLC  
Proposed Rule Change

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It is proposed that the following provisions of the American Stock Exchange Rules be amended as set forth below. Additions are underlined and deletions are [bracketed].

**Rule 950 ANTE Rules of General Applicability**

(a) – (g) – No change.

(h) (1) The provisions of Rule 171 and Commentary thereto shall apply to the trading of option contracts, however, [the] each options specialist [financial requirement shall be equal to a minimum of \$1,000,000 plus \$25,000 for each option issue in excess of the initial twenty-five issues in which such specialist is registered.] shall comply with the capital requirements set forth below:

(i) each options specialist subject to SEC Rule 15c3-1 and shall at all times comply with said rule and the notification provisions of SEC Rule 17a-11;

(ii) each options specialist exempt from SEC Rule 15c3-1 shall, at the time of its admission to the Exchange, have a minimum of \$25,000 in net liquid assets;

(iii) options specialists shall promptly notify the Exchange if it ceases to be in compliance with the net capital requirements of SEC Rule 15c3-1.

(2) Computation of Net Liquid Assets.—Each options specialist subject to this Rule shall compute net liquid assets in accordance with the following.

(i) Net Liquid Assets shall mean Total Assets less Total Liabilities less Non-Allowable Assets plus Exchange-approved Subordinated Liabilities. Unless provided otherwise in this rule, assets, liabilities and net worth shall be computed in accordance with generally accepted accounting principles.

(ii) Assets and Non-Allowable Assets shall have the same meaning as set forth in SEC Rule 15c3-1 except as stated in paragraph (h)(2)(i) above;

(iii) Exchange-approved Subordinated Liabilities shall have the same meaning as those liabilities subject to Appendix D to SEC Rule 15c3-1 and shall be executed and maintained in the same manner as defined in said Rule and SEC Rule 17a-11.

••• *Commentary:* -----

**.01** For an option specialist that is also an equity security specialist subject to the requirements of Rule 171, the minimum \$1,000,000 referred to in Rule 171 shall apply to the entirety of the specialist's business, in both equities and options. For example, a specialist maintaining a book in both equity securities and options that is allocated only

one equity security and one option (assuming the cost to carry 60 units of the equity stock does not exceed \$1,000,000) would be required to satisfy the minimum financial requirement of \$1,000,000.