

The proposed rule change, in its amended version, is 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, as amended, from interested persons.

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

The Amex proposes to codify in Rule 933(d), Rule 950(d), Commentary .06, and Rule 950(n), Commentary .03 current practices regarding the participation in option trades executed on the Exchange by registered options traders and specialists and the allocation of those trades to the appropriate party. The text of the proposed rule change is set forth below. Deleted language is in brackets. Proposed new language is *italicized*.

\* \* \* \* \*

#### Rule 933 Automatic Execution of Options Orders

(a)–(c) No change.

(d) *Options orders executed through Auto-Ex shall be automatically allocated on a rotating basis to the specialist and to each trader that has signed on to Auto-Ex. Auto-Ex trades of ten contracts or less are allocated to each Auto-Ex participant as set forth below. If an Auto-Ex trade is greater than ten contracts, the Auto-Ex system divides the execution into lots of ten or fewer contracts and allocates a lot to each Auto-Ex participant. Each lot is considered a separate trade for purposes of allocating trades within Auto-Ex. The rotation is designed to provide that the allocation of Auto-Ex trades between the specialist and*

*traders signed on to Auto-Ex in a given option class is as follows:*

<i>Number of traders signed on to Auto-Ex</i>	<i>Approximate number of trades allocated to the specialist (percent)</i>	<i>Approximate number of trades allocated to the traders signed on to Auto-Ex (as a group) (percent)</i>
1 .....	60	40
2–4 .....	40	60
5–7 .....	30	70
8–15 .....	25	75
16 or more	20	80

\* \* \* Commentary

.01–.02 No change.

\* \* \* \* \*

#### Rules of General Applicability

##### Rule 950

(a)–(c) No change.

(d) The provisions of Rule 126, with the exception of subparagraphs (a) and (b) thereof, shall apply to Exchange option transactions and the following additional commentary shall also apply.

\* \* \* Commentary

.01–.05 No change.

.06 (i) *When two or more bids (offers) are made simultaneously by the specialist dealing for his own account and by registered options traders, all such bids (offers) shall be on parity and any contracts sold (bought) in execution of such bids (offers) shall be divided among the specialist and registered options trader(s) so that the specialist shall receive the following percentage of contracts executed and the registered options traders shall divide the remainder in accordance with Rule 950(n), Commentary .03(a)(iii):*

<i>Number of traders on parity</i>	<i>Approximate number of contracts allocated to the specialist (percent)</i>	<i>Approximate number of contracts allocated to the traders (as a group) (percent)</i>
1 .....	60	40
2–4 .....	40	60
5–7 .....	30	70
8–15 .....	25	75
16 or more	20	80

*Notwithstanding the foregoing, neither the specialist nor a registered options trader will be allocated more executed contracts than the number of contracts representing the specialist's or registered options trader's portion of the aggregate quotation size, as that term is used in Rule 958A, except, when the number of executed contracts to be allocated exceeds the aggregate*

*quotation size disseminated for that options series.*

(ii) *The above provision applies only when the specialist and registered options trader(s) are on parity and does not include situations where a customer order is also on parity with the specialist and registered options traders. When a customer is on parity with the specialist and registered options traders, the specialist will allocate executed contracts (1) to the customer and to those registered options traders or specialist on parity with the customer on an equal basis subject to Rule 950(n), Commentary .03(a)(v); and then (2) to the specialist and the registered options traders in accordance with Rule 950(n), Commentary .03(a)(iii). The following rules set forth provisions regarding priority and parity of registered options traders and specialists when customer orders are involved: Rule 111, Commentary .07, which is made applicable to options trading by Rule 950(c), provides that registered options traders in establishing or increasing a position may not retain priority over or have parity with a customer order, and Rule 155, which is made applicable to options trading by Rule 950(a), requires a specialist to yield precedence to orders entrusted to him as agent before executing a purchase or sale at the same price for an account in which he has an interest.*

(e)–(m) No change.

(n) The provisions of Rule 170 and Commentaries .03 and .04 thereto, shall apply to [e]Exchange option transactions. In addition, the following Commentary shall also apply:

\* \* \* Commentary

[.10] .01 A specialist in the course of maintaining a fair and orderly market shall adhere to the maximum permissible bid/ask differentials set forth in Rule 958(c).

.02 No change.

.03 (a) *It is the responsibility of the specialist to allocate executed contracts among all participants to a trade.*

(i) *In order for specialists to fulfill this function, registered options traders must announce either at the start of the trading day, upon entry into the trading crowd or prior to the dissemination of a quotation, the number of contracts for each option series in which they are willing to participate. The specialist may not assume a size for any registered options trader and only those registered options traders that have announced their sizes as discussed above will be allocated any executed contracts.*

(ii) *The registered options traders announced sizes shall be promptly*

No. 4), September 13, 2002 (Amendment No. 5), and December 19, 2002 (Amendment No. 6).

Amendment No. 1 added proposed rule text concerning the allocation of an incoming order when a customer is on parity with the specialist and registered options traders. Amendment No. 2 provided further explanation of the interaction of existing and proposed rules in this situation. Amendment Nos. 03, 4, and 5 further clarified how options trades on the Exchange are allocated, and were submitted by Amex in compliance with Section IV.B.j. of the Commission's Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) ("Order"). Section IV.B.j. of the Order requires that respondent options exchanges adopt new, or amend existing, rules to set forth any practice or procedure "whereby market makers trading any particular option class determine by agreement the spreads or option prices at which they will trade any option class, or the allocation of orders in that option class." Amendment No. 6 made minor modifications and non-substantive changes to the proposal.