

## Trader Information - Amex Notice

### Rule Interpretations and Training

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**Contact:** User Questions

Miranda Mizen - 212-306-1404

Rob Malvino - 212-306-1606

Jason Rodner - 212-306-1957

Regulatory Questions

Rick Farber - 212-306-5310

Jeff Jacobus - 212-306-1449

Regulatory Liaison Group - 212-306-1208

### REG 2006-63: AEMI - Selected Regulatory Matters - UPDATED

On November 3, 2006 the Amex issued [Notice 2006-57 AEMI Rollout - Selected Regulatory Matters](#), which provided an overview of certain specific rule requirements related to the implementation of AEMI. The purpose of this Notice is to reiterate those requirements and, in some cases, to clarify or modify the guidance that was given in that Notice. In addition, this Notice will provide information about certain other rules and requirements.

#### I. Matters Described in Notice 2006-57

- Pre-Opening Indications - There is no change to this section.
- Avoiding Short Sale Violations - There is no change to this section.
- Percentage Orders - As described in [Notice 2006-60 Disablement of Percentage Orders in AEMI](#), percentage orders have been blocked from entry for securities that have been migrated onto AEMI. This disablement is still in effect.
- Crosses - AEMI will now validate if the cross value is at least \$100,000. Other guidance in this section remains unchanged.
- Specialist Stabilization - There is no change to this section.
- Gapping the Quote - The requirements that must be satisfied before a specialist may publish a gap quote are (i) the imbalance is at least 10,000 shares or (ii) the imbalance has a value of at least \$200,000. There are no other changes to this section.
- Post Trade Allocation - There is no change to this section.
- Buy Minus, Sell Plus Orders - There is no change to this section.

#### II. Additional Matters

##### Limited Trade-Through Exemption

The Amex has requested and received from the Securities and Exchange Commission ("SEC") an exemption from the trade-through rule with respect to single-priced closing transactions in AEMI. This exemption also applies to the "cash close" at 4:00 p.m. for ETFs that close at 4:15 p.m.

This exemption will not be needed once Regulation NMS ("Reg NMS") becomes effective on Monday, February 5, 2007 and the Reg NMS compliant version of AEMI is in use. While AEMI-One, the system in use prior to that date, provides for the auto-routing of orders, or parts thereof, to other market centers displaying better prices than those on the Amex, AEMI-One programming does not include auto-routing to other market centers to avoid a trade-through in connection with Amex closing transactions.

Please note that this exemption is limited in scope and all other order handling rules and requirements are

still in effect. In addition, this trade-through exemption only applies for securities that are traded on AEMI; it does not provide a trade-through exemption at the close for NETS products.

#### Locked or Crossed Markets

Instances of locked or crossed markets have been observed with some of the less liquid stocks trading on AEMI. This is most likely to occur under the circumstances illustrated by the following example:

Market	Size	Bid	Offer	Size	Market
P	100 (reserve)	14.75	14.84	200	A
A	200	14.75	14.85	200	P
T	100	14.72	14.85	100	A
A	200	14.70	14.86	100	A

Amex receives a customer order to sell 1000 at 14.75.

AEMI will perform the following actions simultaneously:

1. Send an intermarket sweep order (ISO) to NYSE-Arca to sell 100 shares at 14.75.
2. Trade 200 shares at the Amex at 14.75.
3. Post the balance offered in the quote, publishing a new Amex Published Quote of 14.70 - 14.75, 200 x 700.

These actions are taken in accordance with the AEMI-One rules approved by the SEC.

NYSE-Arca executes the incoming ISO and refreshes its quote more quickly than the new APQ can be processed. This results in NYSE-Arca unintentionally locking the Amex quote.

This scenario was anticipated and is mentioned in the SEC's release approving Reg NMS, however SEC Rule 611 (the Order Protection Rule) does not specify any procedures for reconciling unintentional locks/crosses when both quotations are automated. It is widely anticipated that such locks or crosses will be brief in the more actively traded securities. This issue is being raised and discussed by the Amex at a market-wide level with other exchanges in order to find a satisfactory solution.

Until these discussions result in clear guidance on this matter, brokers are still bound by best execution rules and should exercise judgment in this situation. The following are alternative actions that Floor brokers may consider when an order for which they are agent locks or crosses an away market:

- Amend the limit price on the order as entered by the Floor broker in AEMI so that the market is unlocked or uncrossed, if consistent with the terms of the order;
- Amend the order as entered by the Floor broker in AEMI so as to re-aggress the market, if consistent with the terms of the order;
- Floor brokers may request that the specialist trade the customer order; or
- Take another action, consistent with the terms of the order, Amex rules, and best execution obligations to obtain the most favorable treatment of the order.

#### Rejected Odd-Lots - Rule Change and SEC Exemption Request

The Amex has received approval from the SEC to amend Rule 205-AEMI-One(b), which governs the

manner of executing odd-lot market orders. This rule change describes how AEMI will automatically handle the situation when a round-lot or partial round-lot order is partially executed, leaving an unexecuted odd-lot. This can occur when AEMI routes a round-lot order to a better-priced away market and receives a partial fill that includes an unexecuted odd-lot. In such an instance, the unexecuted odd-lot will immediately trade against the specialist at the same price as the partial fill received at the away market. Any unexecuted round-lot balance will immediately re-aggress the AEMI Book.

The following examples illustrate how this new rule would operate:

*Example 1:* Assume an incoming customer order to buy 100 shares of XYZ Corp. AEMI routes the entire order to Nasdaq to access a better-priced offer. If the Exchange receives back a trade for only 80 shares at the limit price and a rejection for 20 shares, that 20-share odd-lot balance would trade against the specialist at the same price as the 80-share execution on Nasdaq.

*Example 2:* Assume an incoming customer order to buy 130 shares of XYZ Corp. AEMI routes 100 shares to Nasdaq to access a better-priced offer. If the Exchange receives back a trade for only 80 shares at the limit price and a rejection for 20 shares, the unexecuted odd-lot balance on the order of 50 shares (including the unexecuted odd-lot balance of 20 shares from the away market obligation) would trade against the specialist at the same price as the 80-share execution on Nasdaq. This is the same outcome for the order that would have resulted if the execution at the away market had been for the entire 100 shares that was routed to that market.

*er* Assume an incoming customer order to buy 280 shares of XYZ Corp. AEMI routes 200 shares to Nasdaq to access a better-priced offer. If the Exchange receives back a trade for 170 shares at the limit price and a rejection for 30 shares, the remaining unexecuted 110-share balance of the order (80 + 30) would include an odd-lot balance of 10 shares that would trade against the Specialist at the same price as the 100-share execution on Nasdaq and a round-lot balance of 100 shares that would re-aggress the AEMI Book.

It is possible that an execution against the specialist at the price of the last trade of the routed order on the other market could violate the Exchange's short sale tick test, based on the Amex tick, if the original aggressing order in AEMI is a short sale. To address this concern, the Amex has requested from the SEC an exemption from compliance with the short sale tick test for the unexecuted odd-lots that are traded against the specialist as described above. The SEC has not yet responded to this request.

**Please direct questions as follows:**

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