

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-58083; File No. SR-Amex-2008-57)

July 2, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Quarterly Options Series Pilot Program

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 June 27, 2008, the American Stock Exchange LLC (“Exchange” or “Amex”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change 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

The Exchange proposes to extend for one year, through July 10, 2009, its pilot program allowing the listing and trading of options series that expire at the close of business on the last business day of a calendar quarter (the “Pilot Program”). The text of the proposed rule change is available on the Exchange’s Web site (<http://www.amex.com>), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

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

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

The Exchange is proposing to extend the Pilot Program from July 10, 2008, through and including July 10, 2009.

The Pilot Program was originally approved by the Commission in July 2006,<sup>5</sup> and subsequently extended in July 2007.<sup>6</sup> The Pilot Program permits the Amex to accommodate the listing and trading of options series that expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series"). The Exchange as well as the other options exchanges recently amended the Pilot Program to permit the listing of additional Quarterly Options Series relating to exchange-traded fund ("ETF") shares.<sup>7</sup>

The Exchange submits that Quarterly Options Series are beneficial to the marketplace and provide investors an additional risk management tool. Amex Rules 900(b)(45) and

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<sup>5</sup> See Securities Exchange Act Release No. 54137 (July 12, 2006), 71 FR 41283 (July 20, 2006) (SR-Amex-2006-67).

<sup>6</sup> See Securities Exchange Act Release No. 56032 (July 9, 2007), 72 FR 38634 (July 13, 2007) (SR-Amex-2007-66).

<sup>7</sup> See Securities Exchange Act Release No. 57581 (March 31, 2008), 73 FR 18593 (April 4, 2008) (SR-Amex-2008-31) ("Pilot Expansion"). The Pilot Expansion permits the listing of additional series and establishes a delisting policy for outlying series with no open interest.

900C(c)(26) define “Quarterly Options Series” as a series of an options class or an index options class, respectively, that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and that expires at the close of business on the last business day of a calendar quarter. Quarterly Options Series are limited to options classes that are either stock index options or options on ETF shares and can be opened on a business day (“Quarterly Options Opening Date”). Commentary .09 to Amex Rule 903 and Amex Rule 903C (a)(iv) set forth the requirements for listing such options on the Exchange. Specifically, the Exchange lists series that expire at the end of the next four consecutive calendar quarters, as well as the fourth quarter of the next calendar year.

The Exchange has submitted a report (“Report”) providing data regarding the Pilot Program as required in the original approval of the Pilot Program<sup>8</sup> as amended by the Pilot Expansion.<sup>9</sup> Under the terms of the Pilot Program, the Exchange selected (5) option classes on which Quarterly Options Series may be opened on any Quarterly Options Opening Date. Also under the terms of the Pilot Program, the Exchange may list those Quarterly Options Series on

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<sup>8</sup> The Report submitted to the Commission is required to include, at a minimum: (1) data and written analysis on the open interest and trading volume in the classes for which Quarterly Options Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity on the Amex, OPRA and on market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Amex addressed such problems; (5) any complaints that the Amex received during the operation of the Pilot Program and how the Amex addressed them; and (6) any additional information that would assist the Commission in assessing the operation of the Pilot Program.

<sup>9</sup> In connection with the Pilot Expansion (see supra note 7), the Commission required that the Report also include an analysis of (1) the impact of the additional series on the Exchange’s market and quote capacity, and (2) the implementation and effects of the delisting policy, including the number of series eligible for delisting during the period covered by the report, the number of series actually de-listed during that period (pursuant to the delisting policy or otherwise), and documentation of any customer requests to maintain Quarterly Options Series strikes that were otherwise eligible for delisting.

any option class that is selected by another securities exchange with a similar Pilot Program under its rules.

As noted in the Report, the Exchange has not selected any additional ETF or stock index options for the Pilot at this time. As the data in the Report indicate, the Amex volume trends in Quarterly Options Series as compared to all options in the Pilot securities show higher utilization rates throughout the year. Specifically, an examination of monthly volume in Quarterly Options Series as compared to all options in the Pilot Program securities shows a monthly average of 7.5% or 335,383 contracts per month. Notable are the higher utilization rates seen in the calendar quarters of December 2007 and May 2008 that were 12.94% and 21.53%, respectively. The Exchange believes that the December 2007 figures demonstrate that Quarterly Options Series increasingly are used by participants looking to hedge exposures through the end of a given calendar quarter. With respect to the large increase in utilization of Quarterly Options Series during May 2008, the data indicate that the primary reason is due to trading in Select Energy SPDR options (XLE). The Exchange submits that based on greater volatility and price increases in recent months in the energy commodities sectors, XLE has concurrently shown increased interest and trading by investors.

In connection with open interest, the Report reveals that, on average, Quarterly Options Series account for 15% of total open interest in Pilot Program securities. The open interest in Quarterly Options Series has generally trended higher during the time period evaluated. The December 2007 and March 2008 open interest in Quarterly Options Series were markedly higher, at 18.2% and 18.1% of total options open interest, respectively.

Accordingly, the Exchange believes that an extension of the Pilot Program for one year, through July 10, 2009, is warranted in order to satisfy the institutional demand for such options

and provide additional flexibility as well as an additional risk management tool to investors.

The Exchange notes that it possesses the adequate systems capacity to support the trading of Quarterly Options Series.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of Act<sup>10</sup> in general and furthers the objectives of Section 6(b)(5) of the Act<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 and, in general, to protect investors and the public interest. The Exchange further believes that an extension of the Quarterly Options Series Pilot Program will benefit the marketplace and continue to provide investors additional risk management tools.

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

The Exchange believes that 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 Exchange has designated the proposed rule change as one that: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any

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

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

significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>13</sup>

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest and will promote competition because such waiver will allow the Exchange to continue the existing Quarterly Options Series Pilot Program without interruption.<sup>14</sup> Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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.

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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 No. SR-Amex-2008-57 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2008-57. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal

office of the Exchange. 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 No. SR-Amex-2008-57 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

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

Florence E. Harmon  
Acting Secretary

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