

LOC orders are the only order types that must be executed at the Exchange closing price or not at all. Amex believes that restricting the use of the "M" modifier to executions of MOC and LOC orders would ensure that the closing price in the Exchange auction market accurately reflects buy and sell interest at the close.

In connection with dissemination of the "M" modifier, between 4:15 p.m. and 4:25 p.m. each trading day, an Exchange Floor Supervisor would review each Nasdaq transaction appearing on the tape at or after 4:00 p.m. to determine if that trade involved the execution of MOC/LOC orders. As the Exchange's systems are programmed to capture as "M" all Nasdaq transactions which appeared on the tape at or after 4:00 p.m. the Exchange Floor Supervisor would correct the list by removing all such trades not involving the execution of MOC/LOC orders to ensure that an "M" is disseminated only when the Amex closing price is the result of execution of MOC or LOC orders. By 4:25 p.m., Amex would finalize and complete dissemination of AOCF prices with the "M" modifier to the Nasdaq UTP Processor. At 4:30 p.m., the Processor would disseminate a closing trade recap message with the final AOCF prices. The 4:30 p.m. dissemination would be implemented as part of an enhancement to the Processor implemented on September 15, 2003.

In order to ensure that transactions reported by specialists at or after 4:00 p.m. that are not the result of executions of MOC or LOC orders are not reported as the AOCF with the "M" modifier, the Exchange would require Nasdaq UTP specialists to notify an Amex Floor Supervisor between 4:00 p.m. and 4:15 p.m. whenever the specialist (1) reports a trade at or after 4:00 p.m. that does not involve the execution of MOC/LOC orders, or (2), after reporting an MOC/LOC transaction(s) at or after 4:00 p.m., reports a trade after 4:00 p.m. (e.g., report of a "sold" sale) that is, of course, not a transaction involving the execution of MOC or LOC orders. This notification would be on an Exchange-approved form, with a duplicate copy for the specialist's records.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act,²¹ in general, and Section 6(b)(5),²² 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

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

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

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, as amended.

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 self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, as amended, or
- B. institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 such filing will also be

available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2003-21 and should be submitted by December 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48814; File No. SR-Amex-2003-96]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Revise Its Registration Fees

November 20, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 13, 2003, the American Stock Exchange LLC ("Amex" 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 the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ 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 American Stock Exchange LLC proposes to revise its registration fees. The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Floor Fees and Booth Rental Fees. No change.

Member Fees. No change.
Registration and IDC Fees

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).

I. RegistrationInitial Processing Fee ⁽¹⁾—\$145Disclosure Processing Fee ⁽²⁾—95Annual Renewal Processing Fee ⁽³⁾—
80 [77]Fingerprint Card Processing Fee ⁽⁴⁾—
35Fingerprint Results Processed thru
other ⁽⁵⁾—13Transfer Processing Fee ⁽⁶⁾—125Web CRD System Transition Fee ⁽⁷⁾—
85 (one time)Terminations Fee ⁽⁸⁾—35 [30] (one
time)**II. Options IDC No change****Notes**

⁽¹⁾ The Initial Processing Fee will be assessed for all initial and dual registration Form U-4 filings. \$85.00 of this fee will be retained by NASD as its CRD Processing Fee and \$60.00 will be disbursed by NASD to Amex as its Initial Registration Fee.

⁽²⁾ The Disclosure Processing Fee will be assessed in connection with Forms U-4 and U-5 for all filings that contain new or amended disclosure information. The \$95.00 fee will be retained by NASD as its Disclosure Processing Fee.

⁽³⁾ The Annual System Processing Fee will be assessed during the yearly renewal cycle. \$30.00 of this fee will be retained by NASD as its Annual System Processing Fee assessed during renewals and \$50.00 [\$47.00] will be disbursed by NASD to Amex as its Annual Maintenance Fee.

⁽⁴⁾ The Fingerprint Processing Fee will be assessed for receiving hard copy fingerprint cards as part of the registration function and submitting and processing the results of each card received. The \$35.00 fee will be retained by NASD as its Fingerprint Card Processing Fee.

⁽⁵⁾ The Fee for Posting Fingerprint Results Processed through Other SROs will be assessed for processing the results of fingerprints processed by the FBI through an SRO other than NASD. The \$13.00 fee will be retained by NASD.

⁽⁶⁾ The Transfer Processing Fee will be assessed for all transfer and re-license Form U-4 filings. \$85.00 of this fee will be retained by NASD as its CRD Processing Fee and \$40.00 will be disbursed by NASD to Amex as its Transfer Fee.

⁽⁷⁾ The Web CRD System Transition Fee is a one time fee that will be assessed on all individuals whose U-4s will be refiled electronically with Web CRD as part of the Exchange's migration to Web CRD. The \$85.00 fee will be retained by NASD as its CRD Processing Fee.

⁽⁸⁾ The Termination Fee will be assessed in connection with all Form U-5 filings. This \$35.00 [\$30.00] fee will be disbursed by NASD to Amex as its Terminations Fee.

Amex Equity Fee Schedule through
Other Fees. (No change)

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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 requires persons who perform specified functions for members and member organizations to be registered with the Exchange. The Exchange also requires members and member organizations to report terminations of registered persons. All registration filings currently are made through the NASD's Central Registration Depository system. As a result, Amex registration fees typically reflect a combination of Amex and NASD charges. The Amex and other self-regulatory organizations use the registration process (1) to ensure that qualified persons are employed in the securities industry, and (2) to identify possible regulatory issues associated with individuals who seek to become associated with a member or member organization or whose registration is terminated.

The Exchange is proposing to increase the Amex portion of the annual registration renewal fee and the Exchange's termination fee. These increases would amount to \$3.00 for the renewal fee and \$5.00 for the termination fee.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act ⁵ in general and furthers the objectives of Section 6(b)(4) ⁶ in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities.

⁵ 15 U.S.C. 78f.⁶ 15 U.S.C. 78f(b)(4).**B. Self-Regulatory Organization's Statement on Burden on Competition**

The Exchange believes that the proposed fee 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 with respect to the proposed rule change.

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

The proposed rule change has become immediately effective pursuant to Section 19(b)(3)(A)(ii) of the Act,⁷ and subparagraph (f)(2) of Rule 19b-4 thereunder,⁸ in that it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such 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.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2003-96 and should be submitted by December 19, 2003.

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).⁸ 17 CFR 240.19b-4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-29661 Filed 11-26-03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48815; File No. SR-CBOE-2003-33]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc., Relating to Non-Member Market Maker Transaction Fees

November 20, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 30, 2003, the Chicago Board Options Exchange, Inc. ("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. On November 13, 2003, CBOE filed Amendment No. 1 by facsimile.³ 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 change its Fee Schedule to increase transaction fees for orders originating from non-member market makers by \$.02 per contract. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

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

In its filing with the Commission, CBOE 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. CBOE 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, Proposed Rule Change

1. Purpose

Currently, the Exchange charges transaction fees for orders executed on behalf of non-member market makers (*i.e.*, those designated with an "N" origin code) that are equal to member market maker and member firm rates in the equities and QQQ options (\$.19 per contract) and equal to customer rates in index products (\$.15 to \$.40). CBOE represents that Exchange members have complained that such equivalence of fees is unfair to Exchange members, who pay a variety of additional fees through their membership in the Exchange to help offset the Exchange's expenses. In order to more fairly assess Exchange costs among the individuals and organizations who avail themselves of the Exchange's trading opportunities, the Exchange proposes to increase transaction fees for N orders by \$.02 per contract.

In connection with the \$.02 increase, the Exchange notes two points. First, the Exchange notes that since it does not permit non-members to enter orders on the Exchange, the Exchange will not be directly assessing any such fees upon non-members. Second, the Exchange notes that the \$.02 increase will not apply to linkage orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act⁵ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members and issuers and other persons using its facilities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of 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

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 self-regulatory organization 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, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-2003-33 and should be submitted by December 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Christopher R. Hill, Assistant General Counsel, CBOE to Leah Mesfin, Attorney, Division of Market Regulation, Commission, dated November 13, 2003 ("Amendment No. 1"). In Amendment No. 1, CBOE modified its argument in support of the proposal.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 17 CFR 200.30-3(a)(12).