

complexes owned by the Local Limited Partnerships.

4. Applicants believe that the two-tier structure is consistent with the purposes and criteria set forth in the Commission's release concerning two-tier real estate partnerships (the "Release").¹ The Release states that investment companies that are two-tier real estate partnerships that invest in limited partnerships engaged in the development and operation of housing for low and moderate income persons may qualify for an exemption from the Act pursuant to section 6(c). Section 6(c) provides that the Commission may exempt any person from any provision of the Act and any rule thereunder, if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 6(e) permits the Commission to require companies exempted from the registration requirements of the Act to comply with certain specified provisions of the Act as though the company were a registered investment company.

5. The Release lists two conditions, designed for the protection of investors, which must be satisfied by two-tier partnerships to qualify for the exemption under section 6(c). First, interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be unsuitable. Second, requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company.

6. Applicants assert, among other things, that the suitability standards set forth in the application, the requirements for fair dealing provided by the Partnership Agreement, and pertinent governmental regulations imposed on each Local Limited Partnership by various Federal, state, and local agencies provide protection to investors in Units. In addition, applicants assert that the requested exemption is both necessary and appropriate in the public interest.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

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¹ Investment Company Act Release No. 8465 (Aug. 9, 1974).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52216; File No. SR-Amex-2005-024]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto to Establish a Process for the Waiver, Deferral, or Rebate of Listing Fees for Certain Closed-End Funds

August 5, 2005.

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 February 17, 2005, 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. On July 27, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.³ 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 amend Section 140 of the Amex Company Guide to provide a process for the waiver, deferral, or rebate of listing fees for certain closed-end funds. The text of the proposed rule change is available on the Amex's Web site, <http://www.amex.com>, at the Amex's principal office, 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 Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposal. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend section 140 of the Amex Company Guide to provide that the Amex Board of Governors or its designee may, in its discretion, waive, defer, or rebate all or any part of the initial listing fee applicable to a closed-end fund that transfers to the Amex from another marketplace. The Exchange currently has the authority to waive, defer, or rebate initial listing fees applicable to stocks, bonds, and warrants.⁴ To enable the Amex to respond to specific competitive situations, the Exchange believes it is appropriate to provide the authority to waive, defer, or rebate all or any part of the listing fees applicable to closed-end funds that transfer to the Amex from another marketplace. Such authority could be exercised only by the Amex Board of Governors or its designee. At its November 17, 2004, meeting, the Amex Board of Governors delegated authority to a staff committee, as its designee, to determine whether to grant the listing fee waiver, deferral, or rebate. The committee is comprised of management representatives from the Office of the Chairman and the ETF Marketplace, Finance and Listing Qualifications Departments.⁵ In addition, an attorney from the Office of the General Counsel would provide legal counsel to the committee. It is contemplated that fee reductions would be granted only infrequently to attract an important listing that is likely to generate significant transaction fee revenue. The committee composition is intended to ensure that fee reduction requests receive an appropriate degree of scrutiny and are granted only under circumstances in which a reduction is warranted for competitive reasons. The waiver, deferral, or rebate of closed-end fund listing fees would not impact the Exchange's resource commitment to regulatory oversight of the listing or other regulatory programs.⁶

⁴ See Securities Exchange Act Release No. 50270 (August 26, 2004), 69 FR 53750 (September 2, 2004) (SR-Amex-2004-70).

⁵ An affirmative vote of a majority of the committee members attending a particular meeting (subject to a three person quorum requirement) would be necessary for waivers, deferrals, or rebates.

⁶ The Amex believes that if it determines to waive, defer, or rebate listing fees in a comprehensive and/or recurring manner that would constitute a stated policy, practice, or interpretation of an existing rule, the Amex would file an additional rule change pursuant to Rule 19b-4(f)(1) with respect such policy practice or interpretation.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange made non-substantive changes to the text of the proposed rule change.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with section 6(b) of the Act⁷ in general and furthers the objectives of section 6(b)(5)⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

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

The Amex believes that the proposed rule change would 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

The Exchange did not solicit or receive any written comments with respect to the proposal.

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 Exchange 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. 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. Please include File Number SR-Amex-2005-024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission,

100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-Amex-2005-024. 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. 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 Number SR-Amex-2005-024 and should be submitted on or before September 1, 2005.

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

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52210; File No. SR-NASD-2004-089]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval To Proposed Rule Change and Amendment No. 1 Thereto To Require Limit Order Protection and To Expand the Application of Manning Obligations to Exchange-Listed Securities

August 4, 2005.

On June 9, 2004, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"),

pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to require members to provide price improvement to customer limit orders under certain circumstances, and to expand the application of NASD IM-2110-2 ("Manning" obligations) to exchange-listed securities. The proposed rule change prohibits a member from trading for its own account in a Nasdaq or exchange-listed security at a price that is better than an unexecuted customer limit order in that security, unless the member immediately thereafter executes the customer limit order at the price at which it traded for its own account or at a better price.

On November 2, 2004, NASD filed Amendment No. 1 to the proposed rule change.³ The proposed rule change, as modified by Amendment No. 1, was published for notice and comment in the **Federal Register** on February 25, 2005.⁴ The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of section 15A of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 15A(b)(6),⁶ which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that requiring price improvement for customer limit orders as detailed in the proposed rule change, and the expansion of the application of Manning obligations under NASD IM-2110-2 to include exchange-listed securities, will provide the opportunity for investors to receive better limit order executions, and thus enhance the overall integrity of the market.⁷

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced NASD's original proposed rule change in its entirety.

⁴ Securities Exchange Act Release No. 51231 (February 18, 2005), 70 FR 9402.

⁵ 15 U.S.C. 78o-3.

⁶ 15 U.S.C. 78o-3(b)(6).

⁷ In approving this proposed rule change, the Commission has considered the proposal's impact

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 17 CFR 200.30-3(a)(12).