

this proposal seeks to change the transaction fees for only Exchange specialists and ROTs in connection with trading in the O-Strip.

The Exchange submits that the proposal will be effective October 1, 2004. The Exchange expects the proposed transaction fees in connection with the O-Strip will recoup the costs and provide additional revenue associated with the trading of the O-Strip. In addition, Amex believes that this fee will help to allocate to those specialists and ROTs transacting in the O-Strip, a fair share of the related costs of such ETFs. Accordingly, the Exchange believes that the proposed fee is reasonable.

## 2. Statutory Basis

Amex believes that the proposed fee change is consistent with Section 6(b)(4) of the Act<sup>4</sup> regarding the equitable allocation of reasonable dues, fees, and other charges among exchange members and other persons using exchange facilities.

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

The Exchange believes the proposed rule change will impose no 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.

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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective immediately pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>5</sup> and Rule 19b-4(f)(2) thereunder.<sup>6</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary of appropriate in the public interest, for the protection of investors, or otherwise in the 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. 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 Number SR-Amex-2004-80 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2004-80. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal offices of Amex. 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-2004-80 and should be submitted on or before November 5, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50499; File No. SR-Amex-2004-75]

### Self-Regulatory Organizations; Notice of Withdrawal of a Proposed Rule Change by the American Stock Exchange LLC Relating to Revisions to Amex Rule 154

October 6, 2004.

On August 30, 2004, the American Stock Exchange LLC ("Amex"), filed with the Securities and Exchange Commission ("Commission") a proposed rule change 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> to amend Amex Rule 154 to prohibit specialists from charging commissions and fees in certain instances. The proposed rule change was published for comment in the **Federal Register** on September 9, 2004.<sup>3</sup> The Commission received six comments on the proposal.<sup>4</sup>

On October 1, 2004, the Amex withdrew the proposed rule change.<sup>5</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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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> See Securities Exchange Act Release No. 50307 (September 2, 2004), 69 FR 54709.

<sup>4</sup> See letter to Elizabeth King, Associate Director, Division of Market Regulation ("Division"), Commission, from James D. Van De Graaff, Partner, Katten Muchin Zavis Rosenman, dated September 7, 2004; letters to Jonathan G. Katz, Secretary, Commission, from Charles B. Cox III, dated September 27, 2004, from Todd Silverberg, General Counsel, Susquehanna Investment Group, dated September 29, 2004, from Simon Lubershane, dated September 29, 2004, from Matthew Hinerfeld, Managing Director and Deputy General Counsel, Citadel Derivatives Group LLC, dated September 30, 2004, and from Ryan Primmer, Managing Director, UBS Securities LLC, dated September 30, 2004.

<sup>5</sup> See letter from Bill Floyd-Jones, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated September 30, 2004.

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>4</sup> 15 U.S.C. 78f(b)(4).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).