

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57541; File No. SR-Amex-2008-25)

March 20, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Restore Amex's Revenue Sharing Program for ETF Quoting Participants

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 March 18, 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, II, and III below, which Items have been substantially prepared by the Exchange. 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 restore a previously-adopted revenue sharing program for ETF quoting participants on the Exchange.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

The Exchange proposes to restore a revenue sharing program ("RSP") for ETF quoting participants on the Exchange. The RSP was first implemented by the Exchange for ETF specialists and registered traders on July 1, 2007, and was to be in effect through December 31, 2007 unless otherwise extended.³ The RSP was inadvertently allowed to lapse without the Exchange filing to extend it, so the purpose of the proposed rule change is to restore the RSP on a prospective basis, effective immediately, on the same terms that previously governed the RSP (described below). The Exchange will be submitting a separate filing to request retroactive approval of the RSP for the period January 1, 2008 through March 17, 2008.

RSP payments will be made from the Exchange's general revenues and will not be limited to a particular revenue source. In order to continue to provide ETF quoting participants (ETF specialists, registered traders, and, most recently, Designated Amex Remote Traders (DARTs)⁴) with a source of payments to provide incentives to quote aggressively in Amex-traded shares, the Exchange proposes to distribute revenue to quoting participants as outlined below. The program will be in effect through the end of September 2008.

The RSP will work as follows:

- ETF specialists will receive an aggregate RSP payment (calculated monthly) of \$0.0024 per share (or 24 cents per 100 shares) whenever the specialist either buys or sells its specialty ETF on the Exchange and is a provider of liquidity in that

³ See Securities Exchange Act Release No. 55983 (June 29, 2007), 72 FR 37059 (July 6, 2007) (SR-Amex-2007-68).

⁴ See Securities Exchange Act Release No. 57540 (March 20, 2008) (SR-Amex-2008-23) (adding DARTs to the RSP as of March 17, 2008).

transaction (e.g., the specialist's quote is traded against or the specialist offsets an order imbalance as part of an opening or closing transaction). The RSP payment is comprised of \$0.0004 per share (or 4 cents per 100 shares) for all shares executed on the Exchange in their specialty ETF (irrespective of whether the specialist is the provider of liquidity), plus another \$0.0020 (or 20 cents per 100 shares) if the specialist is the provider of liquidity in the transaction. If the specialist is not the liquidity provider, then the RSP payment is limited to \$0.0004 per share executed on the Exchange in its specialty ETF.

- Registered traders in ETFs will receive an RSP payment of \$0.0010 per share (or 10 cents per 100 shares) whenever the registered trader either buys or sells an ETF on the Exchange and is a provider of liquidity in that transaction.
- DARTs, as described in the Exchange's recent proposed rule change adding DARTs to the RSP,⁵ will receive an RSP payment of \$0.0015 per share (or 15 cents per 100 shares) whenever the DART either buys or sells an ETF on the Exchange and is a provider of liquidity in that transaction.

No ETF quoting participant will receive an RSP payment when another ETF quoting participant is the contra-party to the transaction. Further, RSP payments will be made on transactions in securities trading at less than \$1.00 only in amounts proportionate to the amount on which the Exchange collects revenue. Finally, as customer transaction charges are capped at \$100 per transaction, meaning that the transaction charge of \$0.0023 per share is assessed only on the first 43,478 shares executed, an ETF quoting participant would receive an RSP payment based only on the first 43,478 shares executed.

⁵ See id.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁶ in general and furthers the objectives of Section 6(b)(4) of the Act⁷ in particular in that it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. Specifically, the Exchange is restoring a revenue sharing program to maintain incentives for an increase in order flow.

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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(2) thereunder.⁹ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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.

⁶ 15 U.S.C. 78f(b)

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 19b-4(f)(2).

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 No. SR-Amex-2008-25 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Amex-2008-25. 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 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-2008-25 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.¹⁰

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).