

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57581; File No. SR-Amex-2008-31)

March 31, 2008

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

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 March 25, 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 amend Amex Rule 903, Commentary .09 (Quarterly Options Series Pilot Program) to permit the Exchange to list strike prices for Quarterly Options Series (“QOS”) in exchange traded fund (“ETF”) options that fall within a percentage range (30%) above and below the price of the underlying ETF. Additionally, upon demonstrated customer interest, the Exchange also will be permitted to open additional strike prices of QOS in ETF

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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).

options that are more than 30% above or below the current price of the ETF. Specialists and registered options traders (“ROTs”) trading for their own account will not be considered when determining customer interest under this provision. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each QOS in ETF options. Further, the proposal includes a delisting program to be undertaken by the Exchange in connection with QOS in ETF options.

The text of the proposed rule change is available on the Exchange’s Web site (<http://www.amex.com>), at the Exchange’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 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 purpose of this proposal is to amend Amex Rule 903, Commentary .09 (Quarterly Options Series Pilot Program) to allow the Exchange to open additional strike prices of QOS in ETF options that are within thirty percent (30%) above or below the closing price of the underlying ETF on the preceding business day. Additionally, upon demonstrated customer interest, the Exchange also will be permitted to open additional strike prices of QOS in ETF

options that are more than 30% above or below the current price of the underlying ETF.

Specialists and ROTs trading for their own account will not be considered when determining customer interest under this provision. In addition, the Exchange will be permitted to list up to sixty (60) additional series per expiration month for each QOS in ETF options.

On July 11, 2006, the Exchange filed with the Commission a pilot program proposal to permit the listing and trading of QOS in options on indexes or options on ETFs that satisfy the applicable listing criteria under Amex rules.<sup>5</sup> QOS trade based on calendar quarters that end in March, June, September and December. The Exchange lists QOS that expire at the end of the next consecutive four calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange were trading QOS in the iShares Russell 2000 Index Fund (“IWM”) in the month of April 2008, it would list series at the end of the second quarter 2008 (June), third quarter 2008 (September), fourth quarter 2008 (December) and first quarter 2009 (March) and fourth quarter 2009 (December).

Currently, the Exchange lists QOS in five ETF options: (1) Nasdaq-100 Index Tracking Stock (“QQQQ”); (2) IWM; (3) DIAMONDS Trust, Series 1 (“DIA”); (4) Standard & Poor’s Depository Receipts (“SPY”); and (5) Energy Select SPDR (“XLE”). The average trading volume and total volume for QOS in IWM options, QQQQ options, and SPY options exceed the volumes for QOS in the other ETF options (DIA and XLE) that are listed and traded on the Exchange. The chart below provides trading volume figures for the fourth quarter in 2007,

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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) (“Pilot Program Release”). Under the Pilot Program, the Exchange is permitted to list QOS in up to five currently listed option classes that are either options on ETFs or indexes. The Exchange is also permitted to list QOS in any options class that is selected by other securities exchanges that employ a similar Pilot Program under their respective rules.

demonstrating that, depending on the particular month, QOS in IWM, QQQQ, or SPY options are the most popular and heavily traded QOS on the Exchange.

QOS	October 2007		November 2007		December 2007	
	ADV	Total Vol	ADV	Total Vol	ADV	Total Vol
<b>IWM</b>	715	16,443	9,435	198,143	6,306	126,119
<b>QQQQ</b>	1,004	23,103	4,655	97,763	11,303	226,068
<b>SPY</b>	2,793	64,234	4,509	94,688	4,046	80,911
<b>DIA</b>	3	63	38	792	72	1,435
<b>XLE</b>	60	1,390	1,721	36,143	843	16,866

Over time, the Exchange has continually received requests from market participants to add additional strike prices for QOS in IWM, QQQQ, and SPY options that would be outside of the price range for setting strikes as provided under Commentary .09 to Rule 903 (hereinafter the “+/- \$5 range”).<sup>6</sup> Investors and other market participants have advised the Exchange that they are buying and selling QOS in IWM, QQQQ, and SPY options to trade volatility. In order to adequately replicate the desired volatility exposure, these market participants need to trade several options series in IWM, QQQQ, and SPY, many having strike prices that fall outside of the +/- \$5 range currently allowed under the QOS rules.

In addition, other participants have advised the Exchange that their investment strategies involve trading options tied to a particular option “delta,”<sup>7</sup> rather than a particular level of the underlying security or index. At issue is the fact that delta depends on both the relative difference between the level of the underlying security or index and the option strike price and time to expiration. For example, with IWM trading at \$85 per share, the strike price

<sup>6</sup> Commentary .09(c) to Rule 903 provides that the Exchange shall list strike prices for a QOS that are within \$5 from the closing price of the underlying on the preceding day.

<sup>7</sup> “Delta” is a measure of how an option price will change in response to a \$1 price change in the underlying security or index. For example, XYZ option with a delta of “50” can be expected to change by \$0.50 in response to a \$1 change in the price of XYZ.

corresponding to a “25-delta” IWM call (i.e., a call option with a delta of 25) with one month to expiration would be 89. However, the strike price corresponding to a “25-delta” IWM call with 3 months to expiration would be 93, and the strike price of a “25-delta” IWM call with 1 year to expiration would be 106. In short, the Exchange has been advised that the +/- \$5 range for QOS in IWM, QQQQ, and SPY options is insufficient to satisfy customer demand.

In order to meet customer demand, the Exchange proposes to amend Commentary .09 to Rule 903, which governs the Quarterly Options Series Pilot Program. Specifically, the Exchange proposes to revise Commentary .09 to Rule 903 to allow the Exchange to open additional strike prices of QOS in ETF options that are within thirty percent (30%) above or below the closing price of the underlying ETF Shares (as defined in Rule 900(b)(42)) on the preceding business day. The Exchange also will be permitted to open additional strike prices of QOS in ETF options that are more than 30% above or below the current price of the underlying ETF, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Specialists and ROTs trading for their own account will not be considered when determining customer interest under this proposed provision. The Exchange will be permitted to list up to sixty (60) additional series per expiration month for each QOS in ETF options.

The Exchange also is proposing to add new paragraph (e) to Commentary .09 to Rule 903, which will set forth a delisting policy. Specifically, with respect to QOS in ETF options, the Exchange will, on a monthly basis, review series that are outside a range of five strikes above and five strikes below the current price of the underlying ETF, and de-list series with no open interest in both the put and the call series having: (1) a strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; or (2) a strike lower

than the lowest strike price with open interest in the put and/or call series for a given expiration month. To illustrate how the proposed delisting program will work, assume that IWM closed at \$70 on the day the Exchange conducts the monthly review of QOS in ETF options. Series having strike prices above \$75 and below \$65 would be reviewed by the Exchange for possible delisting. Assume that the Exchange lists the following QOS in IWM options that expire in June 2008:

<b>Calls – June 08 Exp</b>		<b>Puts – June 08 Exp</b>	
Strike	Open Interest?	Strike	Open Interest?
62	No	62	No
63	No	63	Yes
64	Yes	64	Yes
*	*	*	*
76	Yes	76	Yes
77	Yes	77	Yes
78	Yes	78	Yes
79	Yes	79	Yes
80	Yes	80	Yes
81	Yes	81	Yes
82	Yes	82	Yes
83	No	83	No
84	No	84	No
85	No	85	Yes
86	Yes	86	No
87	Yes	87	Yes
88	Yes	88	Yes
89	Yes	89	No
90	Yes	90	No
91	No	91	No
92	No	92	No
93	No	93	No

The Exchange would de-list the first series listed above, as well as the last three: \$62, \$91, \$92, and \$93. The Exchange would not, however, de-list the \$83 and \$84 series because there are series having open interest with strike prices higher than these two series. In addition, the Exchange would not de-list the \$63 series because there is open interest in the put series.

Notwithstanding the proposed delisting policy, customer requests to add strikes and/or maintain strikes in QOS in ETF options in series eligible for delisting shall be granted. Further, in connection with the proposed delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be de-listed, so as to ensure uniform series delisting of multiply-listed QOS in ETF options. The Exchange expects that all options exchanges that have a QOS Pilot Program will adopt the proposed delisting policy.

The Exchange represents that it has the necessary systems capacity to support new options series that will result from this proposal. Further, as proposed, the Exchange notes that this rule change will become part of the pilot program and, going forward, will be considered by the Commission when the Exchange seeks to renew or make permanent the pilot program in the future.<sup>8</sup>

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>9</sup> of the Act in general and furthers the objectives of Section 6(b)(5)<sup>10</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national

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<sup>8</sup> To the extent the Commission views the proposed rule change as an expansion of the pilot program, thus triggering the requirement under the terms of the Pilot Program Approval Order that the Exchange submit a pilot program report, the Exchange notes that it submitted a report on June 28, 2007, in connection with its filing to extend the pilot program through July 10, 2008. See Securities Exchange Act Release No. 56032 (July 9, 2007), 72 FR 38634 (July 13, 2007).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

market system, and, in general, protect investors and the public interest. The Exchange believes that adoption of this proposal will promote competition among the options exchanges related to the quarterly options series pilot programs.

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

The Exchange believes that the proposed rule 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 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 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>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>12</sup> The Exchange has asked the Commission to waive the 30-day operative delay to permit the Exchange to immediately compete with the other options exchanges that have similarly amended their quarterly options series pilot programs.

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</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.



The Commission notes that this proposal is substantially similar to a proposed rule change submitted by the Chicago Board Options Exchange, which was approved by the Commission following publication for notice and comment, and does not raise any new regulatory issues.<sup>13</sup> Waiving the 30-day operative delay will promote, without undue delay, further competition in the options market.<sup>14</sup> For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposal operative upon filing.

The Commission notes that this rule change will become part of the pilot program and, going forward, its effects will be considered by the Commission in the event that the Exchange seeks to renew or make permanent the pilot program.<sup>15</sup> Thus, in the Exchange's future reports on the Pilot Program, the Exchange should include analysis of (1) the impact of the additional series on the Exchange's market and quote capacity, and (2) the implementation and effects of

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<sup>13</sup> See Securities Exchange Act Release No. 57410 (March 3, 2008), 73 FR 12483 (March 7, 2008) (SR-CBOE-2007-96). See also Securities Exchange Act Release No. 57425 (March 4, 2008), 73 FR 12783 (March 10, 2008) (SR-ISE-2008-19).

<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).

<sup>15</sup> As set forth in the Pilot Program Release, if the Exchange were to propose an extension, expansion, or permanent approval of the Pilot Program, the Exchange must submit, along with any filing proposing such amendments to the program, a report that provides an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. See Pilot Program Release, *supra* note 5. The Pilot Program Release requires the Exchange to include in its report, at a minimum: (1) data and written analysis on the open interest and trading volume in the classes for which QOS 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 of the Exchange, OPRA, and 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 Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program.

the delisting policy, including the number of series eligible for delisting during the period covered by the report, the number of series actually delisted during that period (pursuant to the delisting policy or otherwise), and documentation of any customer requests to maintain QOS strikes that were otherwise eligible for delisting.

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.

#### 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-2008-31 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-2008-31. 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 Number SR-Amex-2008-31 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>16</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).