

Web CRD the individuals currently registered with Amex that are not on Web CRD. This is a fee payable to the NASD to cover its processing costs for the migration to Web CRD. Furthermore, any individual transitioned to Web CRD who has a "yes" answer to a disclosure question on the U-4 would be assessed a \$95 Disclosure Fee which would be retained by NASD.

In connection with this filing, the Exchange also proposes to delete language in its fee schedule that pertains to a fee waiver that has expired. In addition, the Exchange proposed to update the "Electronic access fee" under "Membership Fees" in the fee schedule to reflect a change to electronic access fees approved by the Commission in SR-Amex-2001-15.<sup>6</sup> This item is amended to delete the "10% of average membership seat sale price, set annually" provision and to replace it with the access fee of \$61,363.00.<sup>7</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>9</sup> in particular, because 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.

### *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 the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

<sup>6</sup> See Securities Exchange Act Release No. 44337 (May 22, 2001), 66 FR 29369 (May 30, 2001).

<sup>7</sup> Amex corrects the figure in this proposed rule change from \$61,262.00, as it was stated in the filing, to \$61,363.00, which is the electronic access fee adopted from SR-Amex-2001-15. Amex notes that the fee schedule that was attached to the proposed rule change does correctly state \$61,363.00 as the fee. Telephone conversation between Bill Floyd-Jones, Associate General Counsel, Amex, and Cyndi Rodriguez, Special Counsel, Division of Market Regulation, Commission, on June 10, 2003.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>11</sup> because it establishes or changes a due, fee, or other charge imposed by the Exchange. 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 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 the 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-2003-49 and should be submitted by July 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-16335 Filed 6-26-03; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48072; File No. SR-Amex-2003-64]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange LLC Relating to the Automatic Execution of Option Linkage Orders**

June 20, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 19, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. 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 is proposing to amend Amex Rule 941(e) for the purpose of permitting the automatic execution of Linkage Orders even though the Exchange's Auto-Ex system ("Auto-Ex") has been (i) disengaged because of an influx of orders or (ii) by-passed whenever a locked market causes an inversion in the quote.

The text of the proposed rule change is available at the Office of the Secretary, Amex, 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, 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.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

1. Purpose

Currently, when an order on the Amex is not eligible for automatic execution through Auto-Ex,<sup>3</sup> the specialist is required to manually address and execute the order. The Exchange is proposing to amend Amex Rule 941(e)<sup>4</sup> in order to provide that Linkage Orders<sup>5</sup> may be automatically executed in certain cases even if Auto-Ex is not available for non-Linkage Orders.

The proposed amendment to Amex Rule 941(e) will allow the Exchange to automatically execute certain Linkage Orders even though the Exchange's Auto-Ex system has been disengaged or by-passed as a result of (i) an influx of orders or (ii) when a locked market has caused an inversion in the quote. Under these circumstances, an Exchange specialist would be able to provide an automatic execution for a Linkage Order even though a non-Linkage Order would continue to be ineligible for Auto-Ex.

The Amex is proposing this change because with respect to Linkage Orders, especially in those option classes experiencing high volume and activity, manual handling of such orders in situations when Auto-Ex is not available has created difficulty for specialists in meeting their regulatory obligations under Amex Rule 941(e).<sup>6</sup> The result

<sup>3</sup> Amex Rule 933(f)(i) sets forth the situations where Auto-Ex may be disengaged or operated in a manner other than the normal manner. The circumstances of Auto-Ex disengagement outlined in the Rule include market data delays, unusual markets, unusual market conditions, system malfunctions, influx of order executions and for certain market activity such as book bids or offers and locked or crossed markets.

<sup>4</sup> Amex Rule 941(e) entitled "Receipt of Linkage Orders," sets forth the manner in which Linkage Orders will be executed given the Exchange's disseminated quotation and the size of the particular order.

<sup>5</sup> "Linkage Order" means an order routed through the Linkage as permitted under the Linkage Plan. There are three types of Linkage Orders as follows: (i) "Principal Acting as Agent ("P/A") Order," which is an order for the principal account of a specialist (or equivalent entity on another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the specialist is acting as agent; (ii) "Principal Order," which is an order for the principal account of an Eligible Market Maker (or equivalent entity on another Participant Exchange) and is not a P/A Order; and (iii) "Satisfaction Order," which is an order sent through the Linkage to notify a Participant Exchange of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through.

<sup>6</sup> Amex Rule 941(e) provides that if a Linkage Order is not eligible for automatic execution, the specialist must address the order within 15 seconds

has been that a portion of all Linkage Orders received by the Amex have not been executed. The Exchange believes that this proposal permitting an automatic execution for certain orders that would otherwise be ineligible for an automatic execution will help to increase the Exchange's executions of Linkage Orders.

The Amex, along with the other options exchanges, launched Phases I and II of the Linkage on January 31, 2003 and April 25, 2003, respectively. Phase I is limited to automatic executions while Phase II was expanded to include manual handling of Linkage Orders and satisfaction liability. Pursuant to an exemption granted by the Commission on May 30, 2003, the deadline for final implementation of Phase II of the Linkage Plan has been extended until June 27, 2003.<sup>7</sup> The Exchange believes that the proposal will help specialists execute a larger percentage of their Linkage Orders consistent with the Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>8</sup> in general and furthers the objectives of Section 6(b)(5)<sup>9</sup> 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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

The proposed rule change will impose no burden on competition.

to provide an execution for at least the Firm Customer Quote Size or Firm Principal Quote Size, respectively. See also The Plan for the Purpose of Creating and Operating an Intermarket Options Market Linkage (the "Linkage Plan" or "Plan"), Securities Exchange Act Release No. 47297 (January 31, 2003), 68 FR 6526 (February 7, 2003).

<sup>7</sup> See letter from Robert L.D. Colby, Deputy Director, Division of Market Regulation, Commission, to Michael Ryan, Executive Vice President and General Counsel, Amex, Joanne Moffic-Silver, General Counsel and Corporate Secretary, Chicago Board Options Exchange, Inc., Kathryn L. Beck, Senior Vice President, General Counsel and Corporate Secretary, Pacific Exchange, Inc. and Lanny Schwartz, Executive Vice President and General Counsel, Philadelphia Stock Exchange, Inc., dated May 30, 2003.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

*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 foregoing proposed rule change has been filed by the Exchange as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>11</sup> Consequently, because the proposed rule change: (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 thirty days from the date on which it was filed or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided 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 days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6) may not become operative prior to thirty (30) days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii) the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange seeks to have the thirty (30) day waiting period waived in order for this proposed rule change to be operative immediately. Consistent with the protection of investors and the public interest, the Commission has determined to make the proposed rule change operative as of the date of this order.<sup>13</sup> The Commission believes that the proposed rule change will assist specialists in automatically executing a greater number of their Linkage Orders, consistent with the final

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> The Commission has waived the requirement that the Exchange provide 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.

<sup>13</sup> For purposes of only accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

implementation of Phase II of the Linkage.

At any time within sixty (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.

#### 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 Amex. All submissions should refer to File No. SR-Amex-2003-64 and should be submitted by July 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-16336 Filed 6-26-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48074; File No. SR-Amex-2003-41]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating To Listing Fees for Closed-End Funds

June 23, 2003.

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 May 2, 2003, the American Stock Exchange LLC ("Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which the Amex has prepared. On June 10, 2003, the Amex filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On June 16, 2003, the Amex filed Amendment No. 2 to the proposed rule change.<sup>4</sup> 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 Sections 140 and 141 of the Amex *Company Guide* to set forth original listing and annual fees applicable to closed-end funds.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

#### **Amex Company Guide**

##### Section 140, Original Listing Fees

###### Stock Issues

(No change to schedule.)

###### Issues Listed Under § 106 (Currency and Index Warrants) and § 107 (Other Securities)

(No change to schedule.)

###### Warrants

(No change.)

###### Bonds

(No change.)

###### Index Fund Shares [and], Trust Issued Receipts and Closed-End Funds—The original listing fee for Index Fund

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, which replaced the original filing in its entirety, the Amex amended Section 146 of the Amex *Company Guide* to eliminate a reference to the multiple listing of closed-end funds by a single sponsor as an example of a situation where the Amex could reduce or waive listing fees when it deems that such action is appropriate to achieve an equitable result. See letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated June 9, 2003.

<sup>4</sup> In Amendment No. 2, the Amex amended Section 141 of the Amex *Company Guide* to clarify that the Amex will base its annual fee for closed-end funds on the number of shares outstanding at the end of the calendar year. See letter from Michael Cavalier, Associate General Counsel, Amex to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated June 13, 2003.

Shares listed under Rule 1000A, [and] Trust Issued Receipts listed under Rule 1200 and Closed-End Funds listed under Section 101 of the *Company Guide* is \$5,000 for each series or Fund, with no application processing fee.

\* \* \* \* \*

#### Section 141, Annual Fees

Stock Issues; [and] Issues Listed Under § 106 and 107 and Rule 1200 (Trust Issued Receipts); and Closed-End Funds.

(No change to schedule.)

#### Issues Listed Under Rule 1000A (Index Fund Shares)

(No change to schedule.)

The annual fee is payable in January of each year and is based on the total number of all classes of shares (excluding treasury shares) and warrants according to information available on Exchange records as of December 31 of the preceding year. (The above fee schedule also applies to companies whose securities are admitted to unlisted trading privileges.)

In the calendar year in which a company first lists, the annual fee will be prorated to reflect only that portion of the year during which the security has been admitted to dealings and will be payable within 30 days of the date the company receives the invoice, based on the total number of outstanding shares of all classes of stock at the time of original listing.

The annual fee for issues listed under Rule 1000A (Index Fund Shares) and Rule 1200 (Trust Issued Receipts) is based upon the number of shares of a series of Index Fund Shares or Trust Issued Receipts outstanding at the end of each calendar year. For multiple series of Index Fund Shares issued by an open-end management investment company, or for multiple series of Trust Issued Receipts, the annual listing fee is based on the aggregate number of shares in all series outstanding at the end of each calendar year.

*The annual fee for a Closed-End Fund listed under Section 101 of the Company Guide is based upon the number of shares outstanding of such Fund at the end of each calendar year. For multiple Closed-End Funds of the same sponsor, the annual listing fee is based on the aggregate number of shares outstanding of all such Funds at the end of each calendar year.*

\* \* \* \* \*

#### Section 146, Adjustment to Fees

The Exchange, in its discretion, may reduce or waive the listing fees imposed pursuant to the above provisions under certain circumstances where deemed

<sup>14</sup> 17 CFR 200.30-3(a)(12).