

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54885; File No. SR-Amex-2006-105)

December 6, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change Relating to Fees for the Routing of Orders to Other Market Centers Through a Private Linkage

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 November 30, 2006, 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 substantially prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal 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 revise the equities and Exchange Traded Fund Shares (“ETFs”) Fee Schedules to provide for various fees related to the routing of orders to other market centers through a private linkage.

The text of the proposed rule change is available on the Exchange’s Web site (<http://www.amex.com>), at the Exchange’s Office of the Secretary, and at the Commission’s

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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)(ii).

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

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 Exchange proposes to establish fees for the routing of orders between market centers using its "private linkage." Private linkages are broker-dealer members of other market centers trading Amex-listed equities and ETFs through which Amex will route orders to access protected quotes (*i.e.*, quotes being disseminated by an "automated trading center"<sup>5</sup>) when those quotes are better than those available at Amex. Use of a private linkage will begin with the implementation of the Exchange's new hybrid market trading platform (known as "AEMI"). The AEMI trading platform will become operative prior to the final date set by the Commission for full operation of all automated trading centers that intend to qualify their quotations for trade-through protection under Rule 611 of Regulation NMS (the date known as the "Trading Phase Date"). The Exchange has adopted rules for the use of AEMI prior to the Regulation NMS Trading Phase

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<sup>5</sup> The terms "automated trading center" and "protected quotation" are defined in Rule 600(b) of Regulation NMS, 17 CFR 242.600(b).

Date<sup>6</sup> and has obtained exemptive relief<sup>7</sup> from its obligation to use the ITS electronic communications network to route orders to other markets and use the private linkage instead. Amex will incur charges for routing orders to other market centers through the private linkage and proposes to pass some of those charges on to its members. The charges to be passed on include clearing and market access charges.

Amex has entered into a contract with a broker-dealer and a clearing firm to route orders to other market centers and to clear the resulting executions. The contract provides that clearing charges will be assessed monthly based on the average size of the order routed to the other market centers. The average size of the order ticket routed to the other market centers is based on the total volume of shares routed on behalf of Amex each trading day divided by the number of order tickets routed that resulted in an execution. For example, if 100 order tickets representing 100,000 shares are routed on behalf of Amex on a given day resulting in 80 executions, the clearing fee charged per share, as set forth on the following chart, would be \$0.0005 ( $100,000 \div 80 = 1,250$ , the average order ticket size) resulting in a total clearing fee of \$50 incurred by Amex for that trading day:

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<sup>6</sup> See Securities Exchange Act Release No. 54709 (November 3, 2006), 71 FR 65847 (November 9, 2006) (order approving SR-Amex 2006-72).

<sup>7</sup> See Letter to Claire P. McGrath, Senior Vice President and General Counsel, Amex, from David S. Shillman, Associate Director, Division of Market Regulation, Commission, dated November 3, 2006.

<b>Average Size of Outbound Order Tickets</b>	<b>Clearing Price Per Share</b>
>= 0 - 150	\$0.001
>= 150 and < 300	\$0.0008
>= 300 and < 500	\$0.0007
>= 500 and < 750	\$0.0006
>= 750 and < 1500	\$0.0005
>= 1500 and < 2500	\$0.0004
>= 2500 and < 6000	\$0.0003
>= 6000	\$0.000275

The clearing charge of \$50 would be divided among the orders executed that trading day based upon the number of shares executed. Thus, for example, on that trading day a member submitted two orders—one order for 100 shares and one order for 1,000 shares. Both orders were executed in full through the private linkage. The clearing charges assessed to the member for the 100 share order would be \$0.05 (100 X \$0.0005) and the clearing charge assessed to the member for the 1,000 share order would be \$0.50 (1,000 X \$0.0005). Amex would accumulate the daily clearing charges and bill members monthly the daily accumulated charges.

## 2. Statutory Basis

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) of the Act<sup>9</sup> 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 proposing to pass through clearing charges it has incurred for orders routed to other market centers through the Exchange's private linkage.

### 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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and paragraph (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 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

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

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

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

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

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 Number SR-Amex-2006-105 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-Amex-2006-105. 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-2006-105 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon  
Deputy Secretary

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