

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57401; File No. SR-Amex-2008-12)

February 29, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 2 thereto, Relating to the Exchange's Options Fee Cap Pilot Program for Dividend Strategies, Merger Spreads, and Short Stock Interest Spreads

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 February 20, 2008, 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 prepared by the Exchange. On February 21, 2008, the Exchange filed Amendment No. 1 to the proposal. The Exchange withdrew Amendment No. 1 on February 22, 2008, and submitted Amendment No. 2 on February 27, 2008.³ Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A),⁴ and Rule 19b-4(f)(2) thereunder,⁵ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 2 deleted the references in the original filing to the retroactive application of the Fee Cap Pilot Program from February 1, 2008 through February 19, 2008.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to extend the Fee Cap Pilot Program for dividend strategies, merger spreads, and short stock interest spreads (the "Fee Cap Program") until February 1, 2009. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.amex.com>.

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

In its filing with the Commission, Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. Amex 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 the proposed rule change is to extend the current Fee Cap Program from February 19, 2008 through February 1, 2009. The current Fee Cap Program expired on February 1, 2008.

The Fee Cap Program provides that specialists, registered options traders, non-member market makers, firms, and member and non-member broker-dealers option transaction, comparison and floor brokerage fees are limited to an aggregate fee of \$100 for all dividend strategies, merger spreads, and short stock interest spreads executed on the same trading day in the same option class.⁶ Additionally, such fees are also limited to \$12,500 per month per initiating firm.

To date, the Exchange believes that the current Fee Cap Program has been beneficial, and submits that an extension through February 1, 2009 is warranted. The Exchange asserts that the Fee Cap Program may increase the trading opportunities for members and provide additional business opportunities for the Exchange.

Accordingly, the proposal seeks to extend the pilot through February 1, 2009.

2. Statutory Basis

The Exchange submits that the proposed fee change is consistent with Section 6(b)(4) of the Act⁷ regarding the equitable allocation of reasonable dues, fees, and other charges among exchange members and other persons using exchange facilities. The Exchange believes that the proposed extension of the current Fee Cap Program is beneficial to market participants by providing additional trading opportunities at an efficient cost.

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

Amex does not believe that the proposed rule change will 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.

⁶ These fees are charged only to Exchange members.

⁷ 15 U.S.C. 78f(b)(4).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and subparagraph (f)(2) of Rule 19b-4 thereunder,⁹ since 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 of appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.¹⁰

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 Number SR-Amex-2008-12 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.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

¹⁰ For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 27, 2008, the date on which Amex filed Amendment No. 2. See 15 U.S.C. 78s(b)(3)(C).

All submissions should refer to File Number SR-Amex-2008-12. 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 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office 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 No. SR-Amex-2008-12 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).