

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-50116; File No. SR-Amex-2004-54)

July 29, 2004

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by American Stock Exchange LLC Relating to the Extension of the Linkage Fee Pilot Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 15, 2004, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposed rule change on an accelerated basis.

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

The Exchange proposes to extend for one (1) year until July 31, 2005, the current pilot program regarding transaction fees for trades executed through the intermarket options linkage ("Linkage") on the Exchange.

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

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

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

the proposed rule change. The text of these statements may be examined at the places specified in Item III 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex is proposing to extend for one (1) year until July 31, 2005, the current pilot program establishing Exchange fees for Principal Orders (“P Orders”) and Principal Acting as Agent Orders (“P/A Orders”) executed through Linkage. The fees in connection with the pilot program are scheduled to expire on July 31, 2004.<sup>3</sup> The Exchange represents that these are the same fees charged to specialists and registered option traders (“ROTs”) for transactions executed on the Exchange.

As was the case in the original pilot program and subsequent extension, the Exchange believes that the existing fees currently charged to Exchange specialists and ROTs should also apply to executions resulting from Linkage Orders sent to the Exchange.

Based on the experience to date, the Exchange believes that an extension of the pilot program for one (1) year until July 31, 2005 is appropriate.

2. Statutory Basis

The Exchange believes that proposed rule change is consistent with Section 6(b)(4) of the Act<sup>4</sup> regarding the equitable allocation of reasonable dues, fees and other charges among exchange members and other persons using exchange facilities.

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<sup>3</sup> See Securities Exchange Act Release No. 49145 (January 29, 2004), 69 FR 5619 (February 5, 2004).

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

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

The Exchange believes that the proposed rule change will impose no burden on competition.

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. 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-2004-54 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2004-54. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal offices 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 Number SR-Amex-2004-54 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange,<sup>5</sup> and, in particular, with the requirements of Section 6(b) of the Act<sup>6</sup> and the rules and regulations thereunder. The Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>7</sup> which requires that the rules of the Exchange provide for the equitable allocation or reasonable dues, fees and other charges among its members and other persons using its facilities. The Commission believes that the extension of the Linkage fee pilot until July 31, 2005 will give the Exchange and the Commission further opportunity to evaluate whether such fees are appropriate.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> for

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<sup>5</sup> In approving this rule, the Commission notes that it has considered its impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the Federal Register. The Commission believes that granting accelerated approval will preserve the Exchange's existing pilot program for Linkage fees without interruption as Amex and the Commission further consider the appropriateness of Linkage fees.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act<sup>9</sup> that the proposed rule change (SR-Amex-2004-54) is hereby approved on an accelerated basis for a pilot period to expire on July 31, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

J. Lynn Taylor  
Assistant Secretary

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<sup>9</sup> Id.

<sup>10</sup> 17 CFR 200.30-3(a)(12).