

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54042; File No. SR-Amex-2006-59)

June 26, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to its Options Marketing Fee Program

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 June 15, 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 prepared by the Exchange. The Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Amex under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ 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 Amex proposes to amend its fee schedule and marketing fee program to assess a marketing fee of \$0.75 per contract on options on the Nasdaq-100 Index (“NDX”) and on the Russell 2000 Index (“RUT”). The text of the proposed rule change is available on the Amex's Web site at <http://www.amex.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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 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 Amex proposes to amend its fee schedule and marketing fee program to assess a marketing fee of \$0.75 per contract on options on the NDX and on the RUT. This fee would apply to specialists and Registered Options Traders ("ROTs").⁵

The Exchange represents that its current marketing fee of \$0.75 is assessed upon specialists and ROTs for all equity options classes; exchange-traded fund share options, including options on the Nasdaq 100 Tracking Stock ("QQQQ"), and excluding options on the Standard & Poor's Depository Receipts ("SPY"); and Trust Issued Receipt ("HOLDR") options.⁶ Prior to the filing of the proposed rule change, the marketing fee did not apply to index options,

⁵ The Exchange states that it has proposed these changes to its marketing fees in order to remain competitive with other options exchanges and to attract order flow. Telephone conference between Hong-Anh Tran, Special Counsel, Division of Market Regulation ("Division"), Commission, and Nyieri Nazarian, Assistant General Counsel, Exchange, on June 20, 2006.

⁶ See Securities Exchange Act Release No. 53341 (February 21, 2006), 71 FR 10085 (February 28, 2006) (SR-Amex-2006-15).

including options on the Mini-Nasdaq 100 Index (“MNX”), NDX, or RUT options.⁷ In addition, a marketing fee of \$1.00 is assessed upon specialists and ROTs⁸ for all SPY options. The marketing fee does not apply to firms, non-member market makers, broker/dealers and customers.

The Exchange asserts that the proposal is equitable as required by Section 6(b)(4) of the Act.⁹

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(4) of the Act,¹¹ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Amex members and other persons using Amex facilities.

⁷ Telephone conference between Hong-Anh Tran, Special Counsel, Division, Commission, and Nyieri Nazarian, Assistant General Counsel, Exchange, on June 20, 2006. As noted above, under the proposed rule change, a marketing fee of \$0.75 per contract now will be assessed on NDX and RUT options.

⁸ The marketing fee applies to specialists and ROTs. Telephone conference between Hong-Anh Tran, Special Counsel, Division, Commission, and Nyieri Nazarian, Assistant General Counsel, Exchange, on June 20, 2006.

⁹ Section 6(b)(4) of the Act states that the rules of a national securities exchange should provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. See 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

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 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

The Exchange neither solicited nor received comments 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 designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act¹² and Rule 19b-4(f)(2)¹³ thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. 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. 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

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

¹³ 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2006-59 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-2006-59. 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 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-2006-59 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.¹⁴

Nancy M. Morris
Secretary

¹⁴ 17 CFR 200.30-3(a)(12).