

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55348; File No. SR-Amex-2007-18)

February 26, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 Thereto to Provide for an Optional Exchange-Provided Fingerprinting Service and to Amend Its Member Fees to Include a Processing Fee for the Fingerprinting Service

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)

and Rule 19b-4 thereunder,² notice is hereby given that on February 7, 2007, 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. On February 16, 2007, Amex submitted Amendment No. 1 to the proposed rule change.

This order provides notice of the proposed rule change as modified by Amendment No. 1 and approves the proposed rule change as amended on an accelerated basis.

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

The Exchange proposes to provide for an in-house optional fingerprinting service and to modify its Member Fees to include a fee for such fingerprinting service.³

The text of the proposed rule change is available at Amex, the Commission’s Public Reference Room, and <http://www.amex.com>.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and Cyndi N. Rodriguez, Special Counsel, Division of Market Regulation, Commission, on February 23, 2007.

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 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

The Exchange proposes to provide for an optional fingerprinting service and to amend its Member Fees to include a fee for this service for members or member applicants.⁴ The Exchange intends to establish this in-house fingerprinting service to facilitate the member registration process.

A member or member applicant must currently use an external fingerprinting service to have fingerprints taken and will incur whatever costs are associated therewith. Currently, the member or member applicant must forward fingerprints to the National Association of Securities Dealers, Inc. (“NASD”) for processing and is charged a \$35.00 fee⁵ from NASD’s Internet-based Central Registration Depository (WEB CRD). This fee includes a \$13 fingerprint submission fee that is also charged for results processed through Amex.⁶ NASD forwards the results to the FBI to conduct the standard criminal

⁴ Id.

⁵ See Footnote 4 to the Exchange’s Registration and IDC Fees Section of the Amex Fee Schedule.

⁶ See Section 4 of Schedule A to the NASD By-Laws.

background check. Approximately \$22.00 of the \$35.00 amount is paid to the FBI for this background check. The member or member applicant also incurs any costs associated with mailing the fingerprints. The Exchange believes that this process has proven lengthy and burdensome for members and member applicants.

Furthermore, the \$25.50 “Fingerprint Processing Fee” on the current Amex Fee Schedule is assessed when a current member simply needs his or her fingerprints submitted to the FBI for a background check. In this case, the member would need an expedited background check conducted because of a seat change or transfer. In this situation, the fingerprinting takes place in-house, and the prints are sent to the FBI by the Exchange. The results are then returned to the Exchange on an expedited basis. The member would also pay the \$35.00 fee to NASD for registration with WEB CRD.⁷

To expedite the fingerprinting process, the Exchange now proposes to offer an optional in-house fingerprinting service for all members and member applicants for a \$45.00 fee. Members or member applicants choosing to avail themselves of the Exchange’s proposed service would have their fingerprints taken in-house. The Exchange would forward the fingerprints to the FBI in order for the FBI to conduct the background check.⁸ Upon receiving the results, the Exchange would forward the results of the criminal background check to NASD. In this case, the \$13.00 fingerprint submission fee would be charged for results processed through Amex.⁹ The Exchange

⁷ As the Exchange clarified in Amendment No. 1, when a member pays the \$25.50 fingerprint fee, he or she has his or her fingerprints taken in-house and must also pay a \$35.00 fee to NASD for registration with WEB CRD. See Amendment No. 1.

⁸ \$22.00 out of the \$45.00 amount would be paid to the FBI.

⁹ NASD would collect this \$13.00 fee. The Exchange clarified in Amendment No. 1 that members or member applicants opting to have their fingerprints taken in-

believes that collapsing the steps into one package will speed up this process and be less burdensome for members and member applicants. The Exchange notes that the current option, as well as the \$25.50 option, shall continue to remain in place.

Furthermore, the Exchange proposes to include an additional footnote in the Member Fees section of the Amex Fee Schedule to note that the \$45.00 fee would only be assessed on members and member applicants who partake in the Exchange's optional in-house fingerprinting service. The Exchange further proposes to correct a typographical error by deleting footnote 3 from the Examination Fees section and replacing it with the correct footnote 2.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act¹¹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

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.

house under the proposed new program would pay a \$45.00 fee as well as the \$13.00 fee to WEB CRD. See Amendment No. 1.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2007-18 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-2007-18. 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 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-2007-18 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 the Proposed Rule Change

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.¹² In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹³ which requires, among other things, that the Exchange's rules be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that offering an optional in-house fingerprinting service may provide Exchange members and member applicants with an expedited and less

¹² In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78f(b)(5).

burdensome alternative for obtaining and processing their fingerprints at the Exchange as part of the Exchange's registration process. The Commission further believes that the additional changes to the Exchange's Member Fees schedule serve to clarify the fees associated with the Exchange's new fingerprinting service.

Accelerated Approval

The Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹⁴ for approving this proposed rule change, as amended, before the thirtieth day after the publication of notice thereof in the Federal Register because it would enable the Exchange to implement the optional in-house fingerprinting service immediately, providing members and member applicants another way to be fingerprinted.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁵ that

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 15 U.S.C. 78s(b)(2).

the proposed rule change (SR-Amex-2007-18), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30–3(a)(12).