

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55983; File No. SR-Amex-2007-68)

June 29, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Fees Charged to Member Organizations for Transactions in Exchange-Traded Funds and to Implement a Revenue Sharing Program for Specialists in Exchange-Traded Funds

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 28, 2007, the American Stock Exchange LLC (“Exchange” or “Amex”) 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 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: (1) amend the Exchange Traded Funds (“ETFs”) and Trust Issued Receipts Fee Schedule (“Fee Schedule”) to revise various transaction fees; and (2) adopt a revenue sharing program for specialists and registered traders in ETFs. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.amex.com>), at the Exchange’s principal office, 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 the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Charges Assessed for Transactions in Customer Accounts

The Exchange proposes to revise the fees it charges to members for transactions in customer accounts.³ Currently, Amex transaction charges for ETFs are assessed for customer accounts monthly on a per-share basis with the application of various caps and discounts. The Exchange now proposes to: (1) decrease the transaction charge for customers from \$0.0030 to \$0.0023 (given the lower rate, the \$100 per transaction cap will result in transaction charges being assessed only on the first 43,478 shares); (2) eliminate the waiver of fees for electronically entered orders of 2,400 shares or less; (3) establish a flat rate of \$0.0007 per share (or seven cents per 100 shares) for clearing charges for orders routed to and executed at another market center; (4) establish a flat rate of \$0.0030 per share for orders routed to and executed at another market center;⁴ and (5) establish a fee of 0.3% of the total dollar value of the transaction for ETFs trading with a share price of less than \$1.00.⁵

³ Customer accounts are defined for purposes of the fee schedule to include accounts for all market participants except specialists and registered traders. Therefore, customer accounts (and the fees charged to them) include members' off-floor proprietary accounts, competing market makers on other exchanges, and other member and non-member broker-dealers.

⁴ Orders routed to and executed at another exchange are charged this fee in lieu of the Amex transaction charge.

⁵ Item (5) was corrected to clarify that the proposed fee change set forth therein applies to ETFs and not to equities, as the text originally read in the Exchange's filing. Telephone Conversation between Claire McGrath, Senior Vice President and General Counsel,

b. Transaction Charges for Specialists

Currently, ETF specialists and registered traders are assessed a transaction charge of \$0.0003 per share (or 3 cents per 100 shares) for all shares executed per month. In addition, transaction charges for ETF specialists are capped at \$400,000 per month. There are no caps or discounts applied to transaction charges for ETF registered traders. In conjunction with the revenue sharing program described below and a prohibition on specialist commissions, which is proposed by means of a separate filing⁶ submitted in conjunction with this proposal, the Exchange proposes to eliminate transaction charges for ETF specialists and ETF registered traders and the \$400,000 per-month cap for ETF specialists.

c. Revenue Sharing Program

The Exchange proposes to introduce a revenue sharing program for ETF specialists. Revenue sharing payments will be made from the Exchange's general revenues and will not be limited to a particular revenue source. The Exchange's reasons for introducing this revenue sharing program for specialists reflect a recognition of both the uncertainties faced by specialists in light of the implementation of Regulation NMS and their proposed loss of commission income. To provide ETF specialists with a source of payments in lieu of commissions and to provide incentives to specialists to quote aggressively in Amex-traded shares, the Exchange proposes to distribute revenue to the ETF specialists and ETF registered traders as outlined below. The program will be in effect through the end of December 2007.

There will be two ways in which ETF specialists will participate in revenue sharing. An ETF specialist will receive a payment (calculated monthly) of \$0.0024 per share (or 24 cents per

Exchange, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, on June 29, 2007.

⁶ See File No. SR-Amex 2007-67, filed on June 28, 2007.

100 shares) whenever the specialist either buys or sells its specialty ETF on the Exchange and is a provider of liquidity in that transaction (e.g., the specialist's quote is traded against or the specialist offsets an order imbalance as part of an opening or closing transaction). Additionally, an ETF specialist will receive a payment (calculated monthly) of \$0.0004 per share (or 4 cents per 100 shares) for all shares executed on the Exchange in its specialty ETF in which the specialist does not participate. A registered trader in ETFs will receive a revenue sharing payment of \$0.0010 per share (or 10 cents per 100 shares) whenever the registered trader either buys or sells an ETF on the Exchange and is a provider of liquidity in that transaction. Neither the specialist nor the registered trader will receive a payment when it is a contra-party to the same transaction.

Revenue sharing will also be paid on transactions in securities trading at less than \$1.00, equal to the amount collected by the Exchange. However, the revenue sharing payment for such transactions will be paid only on the portion of the transaction for which the Exchange collects revenue. As discussed above, customer transaction charges are capped at \$100 per transaction, which means that transaction charges are assessed on only the first 43,478 shares. Thus, for transactions of more than 43,478 shares, specialists and registered traders will receive payments based only on the first 43,478 shares.

The revisions to the Fee Schedule and the adoption of a revenue sharing program for ETF specialists and ETF registered traders will be implemented beginning July 1, 2007. As discussed above, the Exchange is also proposing to eliminate ETF specialist commissions in a separate filing in which the Exchange requests waiver of the 30-day operative delay under Rule

19b-4(f)(6)(iii)⁷ so that the prohibition on ETF specialists' commissions will also take effect on July 1, 2007.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act⁹ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. Specifically, the Exchange is proposing to reduce and/or eliminate various fees for its market participants while instituting a revenue sharing program to provide incentives for an increase in order flow.

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

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

Because the foregoing proposed rule change has been designated by the Exchange as one that establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(2) thereunder.¹¹ At any time within 60 days of the filing of the proposed rule change, the

⁷ 17 CFR 19b-4(f)(6)(iii).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 19b-4(f)(2).

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
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-Amex-2007-68 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-2007-68. 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 a.m. and 3:00 p.m. 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-2007-68 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).