

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-50500; File No. SR-Amex-2004-80)

October 7, 2004

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Transaction Fees in Connection with the SPDR O-Strip

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 1, 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, II, and III 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.

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

The Exchange proposes to revise transaction fees for specialists and registered options traders (“ROTs”) in connection with transactions in the SPDR O-Strip (“O-Strip”).<sup>3</sup> The text of the revised fee schedule is available at the Office of the Secretary, Amex, and at the Commission’s Public Reference Room.

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

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

<sup>3</sup> The O-Strip is an exchange-traded fund (“ETF”) share that seeks to provide investment results corresponding to the newly-launched Standard & Poor’s (“S&P”) 500 O-Strip Index. The S&P 500 O-Strip Index consists of all the individual S&P 500 component securities that are primarily traded in the over-the-counter market. The Index currently consists of approximately 75 securities, representing approximately 15% of the market capitalization of the S&P 500 Index.

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. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex recently launched the trading of the O-Strip on the Exchange. Transaction charges for specialists, ROTs, broker-dealers, and customers have accordingly been billed at current rates existing for ETFs pursuant to the existing fee schedule in effect. The Exchange now proposes, in connection with the O-Strip, to charge specialists and ROTs as set forth below in the transaction fee schedule:

**Transaction Charges For The O-Strip**

	Specialists	Registered Traders
Per Share Side	\$0.0050 (\$.50 per 100 shares)	\$0.0050 (\$.50 per 100 shares)
Subject to the following per trade maximums:	\$300 (60,000 shares)	\$300 (60,000 shares)

Transaction charges for specialists are capped at \$400,000 per month per specialist unit

Transaction fees for off-floor broker-dealers and customers will remain as set forth in the existing ETF fee schedule. These charges are \$0.006 per share (\$0.60 per 100 shares), capped at \$100 per trade (16,667 shares). Accordingly, this proposal seeks to change the transaction fees for only Exchange specialists and ROTs in connection with trading in the O-Strip.

The Exchange submits that the proposal will be effective October 1, 2004. The

Exchange expects the proposed transaction fees in connection with the O-Strip will recoup the costs and provide additional revenue associated with the trading of the O-Strip. In addition, Amex believes that this fee will help to allocate to those specialists and ROTs transacting in the O-Strip, a fair share of the related costs of such ETFs. Accordingly, the Exchange believes that the proposed fee is reasonable.

## 2. Statutory Basis

Amex believes that the proposed fee 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.

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

The Exchange believes 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective immediately pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>5</sup> and Rule 19b-4(f)(2) thereunder.<sup>6</sup> 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.

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2004-80 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-2004-80. 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-2004-80 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.<sup>7</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(12).