

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-50726; File No. SR-Amex-2004-92)

November 23, 2004

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the American Stock Exchange LLC to Correct a Cross-Reference in Section 220 of the Amex Company Guide

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 November 19, 2004, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission the proposed rule change as described in Items I and III below, which Items have been prepared by the Amex. 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

Amex proposes to amend a cross-reference in Section 220 of the Amex Company Guide. New text is in italics. Proposed deletions are in brackets.

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**Sec. 220.**

ORIGINAL LISTING APPLICATIONS OF FOREIGN ISSUERS --GENERAL

(a) No change.

(b) Listing Fee --For companies listed on foreign stock exchanges, the original listing fee, including the one-time charge, is 50% of the rate for domestic companies, with a maximum fee of [\$25,000] \$32,500 (see §140). Additional and annual fees are the same as charged for domestic companies (see §§141 and 142).

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

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

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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 Amex 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 6, 2001, the Exchange submitted a proposal amending multiple sections of the Amex Company Guide relating to the initial and annual listing fees, fees for listing additional shares, and the one-time charge for listing shares issued in connection with the acquisition of a listed company by an unlisted company. Specifically, an amendment was made to Section 140 of the Amex Company Guide to increase the maximum original listing fees charged to non-U.S. companies that are listed on a foreign stock exchange from \$25,000 to \$32,500.<sup>3</sup> Unfortunately, at the time of the proposed rule change, a cross-reference to this exact fee in Section 220(b) of the Amex Company Guide was overlooked and, therefore, not updated. Section 220(b) currently, and inaccurately, reads that the maximum fee charged in the abovementioned circumstance is \$25,000. The Amex is proposing to correct the cross-reference in Section 220(b) to read \$32,500 in order to keep its published rules accurate.

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<sup>3</sup> See Securities Exchange Act Release No. 45403 (February 6, 2002), 67 FR 6553 (February 12, 2002) (approving File No. SR-Amex-2001-100).

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it is 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; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The Amex 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 does not:

- (i) significantly affect the protection of investors or the public interest;

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

<sup>5</sup> 15 U.S.C. 78(b)(5).

- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

At any time within 60 days of the filing of the 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.

The Amex has requested that the Commission waive the 30-day operative delay period. The Commission believes that allowing the Exchange to correct this cross-reference in its rules is consistent with the protection of investors and the public interest, and therefore waives the 30-day operative delay.<sup>8</sup>

#### 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:

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Amex complied with this requirement.

<sup>8</sup> For purposes of waiving the operative period date of this proposal only, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rulecomments@sec.gov](mailto:rulecomments@sec.gov) . Please include File Number SR-Amex-2004-92 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-2004-92. 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-2004-92 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>9</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).