

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52216; File No. SR-Amex-2005-024)

August 5, 2005

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto to Establish a Process for the Waiver, Deferral, or Rebate of Listing Fees for Certain Closed-End 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 February 17, 2005, 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. On July 27, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Amex proposes to amend Section 140 of the Amex Company Guide to provide a process for the waiver, deferral, or rebate of listing fees for certain closed-end funds. The text of the proposed rule change is available on the Amex’s Web site, <http://www.amex.com>, at the Amex’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 Amex 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.

³ In Amendment No. 1, the Exchange made non-substantive changes to the text of the proposed rule change.

proposal. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Section 140 of the Amex Company Guide to provide that the Amex Board of Governors or its designee may, in its discretion, waive, defer, or rebate all or any part of the initial listing fee applicable to a closed-end fund that transfers to the Amex from another marketplace. The Exchange currently has the authority to waive, defer, or rebate initial listing fees applicable to stocks, bonds, and warrants.⁴ To enable the Amex to respond to specific competitive situations, the Exchange believes it is appropriate to provide the authority to waive, defer, or rebate all or any part of the listing fees applicable to closed-end funds that transfer to the Amex from another marketplace. Such authority could be exercised only by the Amex Board of Governors or its designee. At its November 17, 2004 meeting, the Amex Board of Governors delegated authority to a staff committee, as its designee, to determine whether to grant the listing fee waiver, deferral, or rebate. The committee is comprised of management representatives from the Office of the Chairman and the ETF Marketplace, Finance and Listing Qualifications Departments.⁵ In addition, an attorney from the Office of the General Counsel would provide legal counsel to the committee. It is contemplated that fee reductions would be granted only infrequently to attract an important listing that is likely to generate

⁴ See Securities Exchange Act Release No. 50270 (August 26, 2004), 69 FR 53750 (September 2, 2004) (SR-Amex-2004-70).

⁵ An affirmative vote of a majority of the committee members attending a particular meeting (subject to a three person quorum requirement) would be necessary for waivers, deferrals, or rebates.

significant transaction fee revenue. The committee composition is intended to ensure that fee reduction requests receive an appropriate degree of scrutiny and are granted only under circumstances in which a reduction is warranted for competitive reasons. The waiver, deferral, or rebate of closed-end fund listing fees would not impact the Exchange's resource commitment to regulatory oversight of the listing or other regulatory programs.⁶

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act⁷ in general and furthers the objectives of Section 6(b)(5)⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

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

The Amex believes that the proposed rule change would impose no 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 did not solicit or receive any written comments with respect to the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds

⁶ The Amex believes that if it determines to waive, defer, or rebate listing fees in a comprehensive and/or recurring manner that would constitute a stated policy, practice, or interpretation of an existing rule, the Amex would file an additional rule change pursuant to Rule 19b-4(f)(1) with respect such policy practice or interpretation.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

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 Number SR-Amex-2005-024 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-Amex-2005-024. 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 Exchange. 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-2005-024 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.⁹

J. Lynn Taylor
Assistant Secretary

⁹ 17 CFR 200.30-3(a)(12).