

By the Commission.
Margaret H. McFarland,
Deputy Secretary.
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44286; File No. SR-Amex-2001-22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Amendments to Fee Schedules

May 9, 2001.

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 April 9, 2001, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change, and amended such proposed rule change on May 3, 2001,³ as described in Items I, II, and III below, which Items have been prepared by the Amex. The Amex has designated this proposal as one constituting the establishment or change of a due, fee or other charge imposed by the Amex under Section 19(b)(3)(A)(ii) of the Act⁴ and Rule 19b-4(f)(2),⁵ which renders the rule effective upon filing with the Commission. 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 Amex proposes to amend the Amex Member Fees Schedule; Floor Fees Schedule; Booth Rental and Order Pads Schedule; and CFD and IDC Fees Schedule. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and the Commission.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex proposes to amend certain Exchange fees imposed on Amex members and member organizations as set forth below.

(1) Member Fees:

The Exchange incurs certain expenses in connection with the administering applications for Exchange membership. In order to better align Amex’s fees with the actual costs of delivering these services, the Exchange is increasing from \$500 to \$2,000 the fee for processing membership applications. In addition, the Exchange is imposing a \$500 fee for each qualifying exam taken by an applicant for membership beyond the first attempt. These fees will be imposed beginning May 1, 2001.

(2) Floor Fees:

The Exchange is eliminating the current \$500 annual Specialist Post Privilege Fee, which is imposed on each individual specialist, and will impose a new annual post fee per podium of \$750 beginning July 1, 2001. This fee will be increased to \$1,000 for each podium beginning January 1, 2002. These new fees better reflect the maintenance costs borne by the Exchange.

To improve reliability, the Amex recently replaced its wireless telephone system with a SpectraLink system.⁶ The new annual charge for all wireless

handsets will be phased in as follows: \$1,700 per handset from July 2, 2001 to June 30, 2002 and \$2,100 per handset beginning July 1, 2002.

The Amex has recently upgraded its booth telephones from an 18-button turret system, for which it charged \$600 per year to a new 40-button system. The new annual charge for all turret telephones will be phased in as follows: \$900 per telephone from July 1, 2001 to June 30, 2002 and \$1,290 per telephone beginning July 1, 2002.

The Amex has incurred significant development and installation expenses in implementing its Booth Automated Routing System (“BARS”) for routing orders to and within the Exchange and will also incur significant annual operation costs. The Exchange is imposing its BARS annual equipment fees of \$3,600 per configuration of up to ten hand-held devices, one keyboard, one Central Processing Unit (“CPU”), one monitor, and one printer, with users retaining liability for the cost of any damage, loss, or repairs. These fees will be implemented beginning May 1, 2001.

In order to address security risks that may be associated with loss of photo identification cards used on the Floor, the Exchange is increasing the fee to replace lost photo identification cards from \$15 to \$100, beginning May 1, 2001. This fee also better reflects Exchange costs associated with card replacements.

For construction and craft services provided by the Exchange at any member’s request, the Exchange will charge \$50.00 per worker per hour for work performed 8 a.m.–6 p.m. New York time only on the days the Exchange is open for business and \$75.00 per hour for worked performed at all other times. These charges serve to eliminate an Exchange subsidy for such services.

(3) Booth Rentals:

The Exchange is restructuring and simplifying annual booth rental charges on a phased in basis as follows:

Booth type	New fees as of July 1, 2001	New fees as of July 1, 2002	Former fees
Type 1 (“telephone”)	\$3,000	\$3,500	\$1,600–\$2,200.
Type 2 (24 “standard”)	4,500	4,500	Not applicable.
Type 3 (36 “standard”)	6,000	6,000	Not applicable.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 substituted the words “Membership Registration” for “CRD” in the CRD and IDC Fee Schedule in Exhibit A of the original rule filing. See letter from Michael Cavalier,

Associate General Counsel, the Amex, to Katherine England, Assistant Director, Division of Market Regulation, the SEC (May 3, 2001).

⁴ 15 U.S.C. 78s(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

⁶ The SpectraLink system is a system of wireless phones used by members on the floor for communication on the trading floor. Telephone conversation between Cyndi Nguyen, Attorney, the SEC, and Michael Cavalier, Associate General Counsel, the Amex (April 26, 2001).

Booth type	New fees as of July 1, 2001	New fees as of July 1, 2002	Former fees
Type 4 ("machine")	6,000	7,000	\$5,000-\$5,400.

The revised fee schedule is designed to provide partial recovery by the Exchange of costs associated with constructing and maintaining booth rental space.

(4) Membership Registration and IDC Fee Schedule:

The Exchange is amending its fee schedule, effective May 1, 2001, applicable to membership registration to bring such charges in line with those of other exchanges. Renewal fees will be raised from \$30 to \$47, initial fees will be raised from \$55 to \$60, and termination fees will be raised from \$25 to \$30.

2. Statutory Basis

The Amex believes the proposed rule change is consistent with the provisions of section 6(b) of the Act⁷ in general, and furthers the objectives of section 6(b)(4) of the Act⁸ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among members, issuers, and other persons using Exchange facilities.

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

The Amex does not believe that the proposed rule change will result in 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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act⁹ and subparagraph (f)(2) of Rule 19b-4 thereunder¹⁰ because it establishes or changes a due, fee, or other charge imposed by the Exchange. 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-2001-22 and should be submitted by June 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44289; File No. SR-CHX-2001-09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc., To Allow Floor Brokers To Clear a Specialist's Post By Telephone

May 10, 2001.

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 April 23, 2001, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities Exchange Act 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.

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

The Exchange proposes to amend CHX Article XX, Rule 10 to permit floor brokers to clear a specialist's post telephonically. The text of the proposed rule change is below. Proposed additions are in italics. Proposed deletions are in brackets.

ARTICLE XX, RULE 10

Manner of Bidding and Offering

Rule 10. Bids and offers to be effective must be audibly made at the post and shall remain in full force until the person making the bid or offer shall audibly announce that he is out of the market or until he leaves the post.

* * * Interpretations and Policies: .01 Although there may be certain amount of negotiation by voice away from the post, every trade must be consummated at the post. .02 Clearing the Post.

Policy. All orders received by floor brokers or originated by market makers on the floor of the Exchange must effectively clear the post before the orders may be routed to another market[, either] via the ITS [System] or through the use of alternative means.

Floor brokers who receive an order on the floor have a fiduciary responsibility to seek a best price execution for such order. This responsibility includes clearing of the Exchange's post prior to routing an order to another market so that other buying and selling interest at the post can be checked for a potential execution *equal to* [that may be as good as] or better than the execution available in another market. *It is not inconsistent with a floor broker's fiduciary responsibility to effectively clear the post telephonically, provided that: (i) through the specialist, the floor broker probes the market for other buying and selling interest at the post, and (ii) after probing the market, if equal or better buying or selling interest is available at the post, the floor broker, while physically present at the post, consummates the trade at the post.*

¹ 15 U.S.C. 78s(b)(1).

² 17 U.S.C. 240.19b-4.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹¹ 17 CFR 200.30-3(a)(12).