

effective under section 19(b)(3)(A) of the Act.<sup>6</sup>

According to the Exchange, application of the Floor, member, and options fees as of August 1, 2001, will allow it to recoup a portion of costs it incurred during 2001 in providing enhancements to the Floor, which include major improvements in technology, facilities and services. These enhancements included a major expansion of the Amex trading floor in 2001. The Exchange believes that these fee increases better align its fees with the actual cost of delivering services and reduce Exchange subsidization of such services. The Exchange notes that such subsidies have been longstanding and preceded August 1, 2001. Therefore, the Exchange believes that imposing the fee schedule as of August 1, 2001, which followed approval by the Amex Board of Governors on July 25, 2001, is reasonable and appropriate to fund enhancements that benefit all Floor constituencies, including specialists, Options Principal Members, Limited Trading Permit Holders, Associate Members, and employees of member firms on the Floor.

Furthermore, the Exchange proposes to apply the license fees for NDX, MNX and OEF options as of October 1, 2001 because trading in these options on the Exchange began in October 2001. The Exchange notes that, because these fees are transaction based, they would apply only after trading actually began in October. (NDX and MNX began trading on October 12 and OEF began trading on October 11.) The Exchange proposes to eliminate the options fee cap as October 1, 2001 to further reduce Exchange subsidy of facilities and services on the Floor, as discussed above, and because Exchange billing procedures cannot readily accommodate elimination of the fee cap prior to October 1, 2001.

In conclusion, the Exchange states that the increase in options transactions charges is necessitated by the large and increasing costs incurred by the Exchange in implementing options trading technology. Exchange billing of such fees as of August 1, 2001 (for Floor Fees, Member Fees and Options Fees) and October 1, 2001 (for the License Fee and elimination of options fee cap) will assist in compensating the Exchange for costs incurred by the Exchange in delivering specified services to members and for providing options trading technology.

## (2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>7</sup> in general and furthers the objectives of section 6(b)(4)<sup>8</sup> in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

### *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.

### *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

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 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. 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 No. SR-Amex-2001-102 and should be submitted by January 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-31741 Filed 12-26-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45163; File No. SR-Amex-2001-101]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to an Increase in Floor, Membership and Options Trading Fees

December 18, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on November 30, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "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 increase floor, membership and options trading fees as described herein.<sup>3</sup>

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

#### Fee Schedule

##### *I. Floor fees*

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

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

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

<sup>3</sup> Under Amex-2001-102, the Exchange seeks to impose the floor, membership, options trading, and comparison and floor brokerage fees, as described in this current proposal, as of August 1, 2001. In addition, the Exchange proposes to impose the License Fees and the elimination of the fee cap for options, as described in this proposal, as of October 1, 2001. See Securities Exchange Act Release No. 45165 (December 18, 2001).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

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

Type	Annual fee
Floor Fees: (payable monthly)	
Floor Clerk .....	[\$300.00] 900.00 (\$75/month).
Floor Facility—Regular & Options .....	[1,400.00] 2400.00 (\$200/month).
Principal	
Floor Facility—Limited Trading Permit .....	[700.00] 2400.00 (\$200/month).
Floor Wire Privilege .....	[400.00] 800.00 (\$66.67/month).
Post Fee per Podium .....	750.00
Specialist Registration Fee .....	[400.00] 800.00 (\$66.67/month).
Technology .....	[1,200.00] 3000.00 (\$250/month).
No further change. ....	

## II. Member Fees

Membership Dues	Annual fee
÷ Associate .....	[\$750.00] 1500.00 (\$125/month).
÷ Options Principal (OPM) .....	[750.00] 1500.00 (\$125/month).
÷ Regular .....	[750.00] 1500.00 (\$125/month).
÷ Limited Trading Permit (LTP) .....	[750.00] 1500.00 (\$125/month).
No further changes. ....	

## III. Options Fees

Type	Firm <sup>2</sup>	Specialist, market maker (ROTs)	Broker/dealer	Customer <sup>3</sup>
<b>I. Options Transaction Fee<sup>1</sup> (per contract side)</b>				
Equity Options .....	\$0.19 .....	[\$0.17] 0.26	\$0.19 .....	No Charge.
Index Options .....	0.11 .....	[0.12] 0.21]	0.11 .....	\$0.10.
<b>II. Options Comparison Fee<sup>1</sup> (per contract side)</b>				
Equity Options .....	\$0.04 .....	[\$0.04] 0.05	\$0.04 .....	No Charge.
Index Options .....	0.04 .....	[0.04] 0.05	0.04 .....	\$0.04.
<b>III. Options Floor Brokerage Fee<sup>1</sup> (per contract side)</b>				
Equity Options .....	\$0.03 .....	[\$0.03] 0.05	\$0.03 .....	No Charge.
Index Options .....	0.03 .....	[0.03] 0.05	0.03 .....	0.03.
<b>IV. Options Marketing Fee<sup>4</sup> (per contract side)</b>				
Equity Options .....	No Charge .....	\$0.40	No Charge .....	No Charge.
<b>V Options Licensing Fee (per contract side)</b>				
MNX, NDX and QQQ .....	No Charge .....	\$0.10	No Charge .....	No Charge.
OEF .....	No Charge .....	0.05	No Charge .....	No Charge.

## Notes:

<sup>1</sup> The increase of \$0.09 in transaction fees, of \$0.01 in comparison fees, and of \$0.02 floor brokerage fees will only be imposed on the first 3,000 contracts executed for the accounts of specialists, registered options traders, and non-member broker dealers as either an accommodation trade (also known as "Cabinet Trades") or part of the following strategies: (a) reversal and conversions; (b) dividend spreads; and (c) box spreads. A Fee Reimbursement Form must be submitted to the Exchange in order to receive a reimbursement of the fee increases charged on contracts in excess of 3,000.

[There is a cap on the number of options contracts per trade subject to Exchange options charges. Options charges will be imposed on member firm proprietary, specialist, market maker and non-member broker/dealer trades for the first 3,000 contracts. The caps will apply to all three options charge—transaction, comparison, and floor brokerage—and will apply to one day's trades of 100 or more contracts per execution on one side of any series executed by one specialist/trader/broker (for one member firm) and cleared by one clearing firm. The cap will also apply to trades of less than 100 contracts that are multiple per copy contract parties to trades of 100 or more contracts. The same fee schedule and cap provision will apply to LEAPS and FLEX options.]

<sup>2</sup> Customer facilitated orders will continue to be charged a transaction fee of \$0.07 per contract side.

<sup>3</sup> Index Options machine delivered ≤ 30 contracts are not assessed a transaction fee.

<sup>4</sup> Excludes options trades between and among Registered Options Traders and Specialists.

## 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. 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

The Exchange proposes to increase the following Exchange Floor fees:

(1) The Technology fee would be increased from \$1200 to \$3000 annually (\$250 per month); (2) the Floor Facility fee would be increased from \$1400 to \$2400 annually (\$200 per month) for Regular and Options Principal Members. This fee would also be increased from \$700 to \$2400 annually for holders of Limited Trading Permits; (3) the Floor Clerk fee would be increased from \$300 to \$900 annually (\$75 per month); (4) the Specialist Registration fee would be increased from \$400 to \$800 annually (\$66.67 per month); and (5) the Floor Wire Privilege fee would be increased from \$400 to \$800 annually (\$66.67 per month).

#### A. Member Fees

Membership Dues would be increased from \$750 to \$1500 annually (\$125 monthly) for all Regular Members, Options Principal Members, Associate Members and holders of Limited Trading Permits.

#### B. License Fees

In recent years, the Exchange has entered into license agreements with providers of indexes to use such indexes for the trading of options. In an effort to recoup some of the costs of these licenses, the Exchange proposes to establish a licensing fee for specialists and registered options traders. The fee, the amount of which may vary from product to product, would be collected on every transaction in the product in which the specialist or registered options trader is a party. Initially, the fees and products would be as follows: Options on the Nasdaq 100 Index Tracking Stock (symbol: QQQ), Nasdaq 100 Index (symbol: NDX) and Mini NDX

(symbol: MNX)—\$0.10 per contract side, and options on the S&P 100 iShares (symbol: OEF)—\$0.05 per contract side.

#### C. Options Fees

Transaction, Comparison and Floor Brokerage Fees—For all specialists and registered options trader transactions in both equity and index options, the options fees would be increased as follows: (1) The Options Transaction fee per contract side is increased from \$0.17 to \$0.26 for equity options and from \$0.12 to \$0.21 for index options; (2) the options comparison fee is increased from \$0.04 to \$0.05 per contract side; and (3) the floor brokerage fee per contract side is increased from \$0.03 to \$0.05.

Elimination of Fee Cap—The Exchange states that currently all three types of options fees—transaction, comparison, and floor brokerage—are subject to a cap on the number of options contracts subject to the charges on a given day. The current cap is set at 3,000 contracts.

The Exchange proposes to eliminate the cap on orders executed for the accounts of specialists, registered options traders, and non-member broker dealers. Thus, transaction, comparison, and floor brokerage fees would apply to all option contracts executed for those accounts on a given day. Notwithstanding the foregoing, the Exchange has determined that accommodation trades (also known as "Cabinet Trades")<sup>4</sup> and trades occurring as part of certain types of strategies would be eligible for the cap on that portion of the transaction, option clearance, and floor brokerage fees that represent the increase in fees established in this filing. Thus, for contracts executed in excess of 3,000 on a given day, the transaction fee increase of \$0.09, the options comparison fee increase of \$0.01 and the floor brokerage fee increase of \$0.02 would be reimbursed as set forth below. Transaction, options comparison, and floor brokerage fees would continue to be charged for only the first 3,000 contracts executed as an accommodation trade or pursuant to one of the following strategies: (1) Reversals

and conversion;<sup>5</sup> (2) dividend spreads;<sup>6</sup> and (3) box spreads.<sup>7</sup> The Exchange states that its billing system is unable to distinguish among these types of transactions; therefore, a manual procedure has been developed. Specifically, within thirty calendar days of the particular transaction date, a Fee Reimbursement Form must be completed and submitted to the Exchange. Upon acceptance, the Exchange would deliver to that member's clearing firm a reimbursement check in the amount of the transaction, clearance, and brokerage fee increases (a total of \$0.12) charged on contracts in excess of 3,000 executed pursuant to an accommodation trade or one of the strategies described above.

The Exchange states that the Floor and Member Fees would be increased in order to better align the Exchange's fees with the actual cost of delivering the specified services and to reduce Exchange subsidization of such services. The increase in options transactions charges would be necessitated by the large and increasing costs incurred by the Exchange in implementing options trading technology.

#### (2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>8</sup> in general and furthers the objectives of Section 6(b)(4)<sup>9</sup> in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

### 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.

<sup>5</sup> The Exchange defines a "conversion" as a strategy in which a long put and a short call with the same strike price and expiration date are combined with long underlying stock to lock in a nearly riskless profit. A "reversal" is a strategy in which a short put and long call with the same strike price and expiration date are combined with short stock to lock in a nearly riskless profit.

<sup>6</sup> The Exchange defines a "dividend spread" as any trade done within a defined time frame in which a dividend arbitrage can be achieved between any two deep-in-money options.

<sup>7</sup> The Exchange defines a "box spread" as a spread strategy that involves a long call and short put at one strike price as well as a short call and long put at another strike price. This is a synthetic long stock position at one strike price and a synthetic short stock position at another strike price.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>4</sup> See Annex Rule 959 for a description of an accommodation trade.

*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 foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and rule 19b-4(f)(2)<sup>11</sup> thereunder because it establishes or changes a due, fee, or charge imposed by the Exchange. 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 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. 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 No. SR-Amex-2001-101 and should be submitted by January 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 01-31743 Filed 12-26-01; 8:45 am]

**BILLING CODE 8010-01-M**

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19-4(f)(2).

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

**DEPARTMENT OF STATE**

**Bureau of Political-Military Affairs**  
**[Public Notice 3859]**

**60-Day Notice of Proposed Information Collections**

In the matter of: Form DS-2032, Statement of Registration (OMB No. 1405-0002); Form DSP-5, Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data (OMB No. 1405-0003); Form DSP-61, Application/License for Temporary Import of Unclassified Defense Articles (OMB No. 1405-0013); Form DSP-73, Application/License for Temporary Export of Unclassified Defense Articles (OMB No. 1405-0023); Form DSP-85, Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data (OMB No. 1405-0022); Form DSP-83, Non-Transfer and Use Certificate (OMB No. 1405-0021); Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services (OMB No. 1405-0025); Form DSP-119, Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data (OMB No. 1405-0092); Form DSP-94, Authority To Export Defense Articles and Services Sold under the Foreign Military Sales (FMS) Program (OMB No. 1405-0051); Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements (OMB No. 1405-0093); Maintenance of Records by Registrants (OMB No. 1405-0111); Prior Approval for Brokering Activity (New Collection); and Brokering Activity Reports (New Collection)

**ACTION:** 60-day notice of proposed information collections.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposals submitted to OMB:

*Type of Request:* Extension of Currently Approved Collection Without Change.

*Originating Office:* Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

*Title of Information Collection:* Statement of Registration.

*Frequency:* Every one to four years.

*Form Number:* DS-2032.

*Respondents:* Business and non-profit organizations.

*Estimated Number of Respondents:* 5,000.

*Average Hours Per Response:* 2 hours.  
*Total Estimated Burden:* 10,000 hours.

(Total Estimated Burden based on number of forms received per year.)

*Type of Request:* Extension of Currently Approved Collection Without Change.

*Originating Office:* Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

*Title of Information Collection:* Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data.

*Frequency:* On occasion.

*Form Number:* DSP-5.

*Respondents:* Business and non-profit organizations.

*Estimated Number of Respondents:* 5,000.

*Average Hours Per Response:* 1 hour.  
*Total Estimated Burden:* 30,000 hours.

(Total Estimated Burden based on number of forms received per year.)

*Type of Request:* Extension of Currently Approved Collection Without Change.

*Originating Office:* Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

*Title of Information Collection:* Application/License for Temporary Import of Unclassified Defense Articles.

*Frequency:* On occasion.

*Form Number:* DSP-61.

*Respondents:* Business and non-profit organizations.

*Estimated Number of Respondents:* 4,500.

*Average Hours Per Response:* 30 minutes.

*Total Estimated Burden:* 4,500 hours.

(Total Estimated Burden based on number of forms received per year.)

*Type of Request:* Extension of Currently Approved Collection Without Change.

*Originating Office:* Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

*Title of Information Collection:* Application/License for Temporary Export of Unclassified Defense Articles.

*Frequency:* On occasion.

*Form Number:* DSP-73.

*Respondents:* Business and non-profit organizations.

*Estimated Number of Respondents:* 5,000.

*Average Hours Per Response:* 1 hour.  
*Total Estimated Burden:* 2,500 hours.

(Total Estimated Burden based on number of forms received per year.)

*Type of Request:* Extension of Currently Approved Collection Without Change.