

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

The Amex does not believe that the proposed rule change, as amended, 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

Written comments on the proposed rule change, as amended, were neither solicited nor received.

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

The foregoing proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A)(ii) of the Act⁹ and subparagraph (f)(2) of Rule 19b-4¹⁰ thereunder, because it establishes or changes a due, fee, or other charge. At any time within 60 days of March 18, 2002,¹¹ 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.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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, as amended, 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-2002-08 and should be submitted by May 8, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45728; File No. SR-Amex-2002-17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange LLC Relating to IntraDay Comparison Fees for Equities

April 10, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on March 20, 2002, 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 amend the Amex's Registration and IntraDay Comparison ("IDC") Fees Schedule relating to Equity IDC Fees. New language is in italics.

Registration and IDC Fees

I. Membership Registration

No change

II. Options IDC

No change

III. *Equities IDC*

Dedicated Access \$200/month

User I.D. 50/month

Transaction Processing Fee

(applied to T0 trades):

Shares per side

1-999 0.00 per side

1,000-2,999 0.03 per side

3,000 + 0.09 per side

Questioned Trade Charge

(applied to T+1, T+2, etc. trades):
0.20 per side

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 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 will be implementing a new trade comparison system for equities called Intra-Day Comparison System for Equities ("IDC-E"), as developed by the Securities Industry Automation Corporation ("SIAC"). IDC-E will provide real-time intra-day trade comparisons applicable to all trades, including system and non-system trades. System trades include executions of orders entered in the Amex Order File ("AOF"), the Exchange's automated order routing facility; non-system trades include execution of orders not entered into AOF (e.g., crowd to crowd trades). The benefits of intra-day comparison include reduction of the uncompleted rate for equities, improvement in trade processing efficiency, and reduction of risk to member firms resulting from open positions.

Amex proposes to charge the following IDC-E transaction processing fees to Amex clearing firm members, effective May 1, 2002. The Questioned Trade Charge per questioned trade (applied to T+1, T+2, etc. trades) will be \$0.20 per side. The transaction processing fee for transactions submitted for trade date comparison (per side) will be \$0.03 for transactions of 1,000-2,999 shares per side, and \$0.09 for transactions of 3,000 shares or more per side. (Transactions of less than 1,000 shares per side will not be charged.)

The Exchange also proposes to charge each clearing firm member a Dedicated Remote Access Fee of \$2,400 annually. This is equal to Amex's Dedicated Remote Access fee of \$2,400 per year for Intra-Day Comparison for Options ("IDC-O"). The Exchange will charge each clearing firm member \$600

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹¹ See *supra* note 4.

¹² See 15 U.S.C. 78s(b)(3)(C).

¹³ 17 CFR 200.30-3(a)(12).

¹⁴ 15 U.S.C. 78s(b)(1).

annually for User ID's, equal to AMEX's User ID fee of \$600 per year for IDC-O.

IDC-E charges are intended to be cost-neutral to the clearing firm members and are not expected to result in overall increased comparison charges for clearing firm members.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(4) of the Act 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

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

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-2002-17 and should be submitted by May 8, 2002.

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

Margaret H. McFarland, Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45726; File No. SR-ISE-2002-07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC Relating to Mandatory System Testing

April 10, 2002.

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 13, 2002, the International Securities Exchange LLC (the "Exchange" or the "ISE") 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 ISE. 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 is proposing to adopt a rule requiring members to participate in specified systems tests. Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * * Rule 419. Mandatory Systems Testing (a) Each member that the Exchange designates as required to participate in

a system test must conduct or participate in the testing of its computer systems to ascertain the compatibility of such systems with the Exchange's systems in the manner and frequency prescribed by the Exchange. The Exchange will designate members as required to participate in a system test based on: the category of membership (Primary Market Maker, Competitive Market Maker and Electronic Access Member); the computer system(s) the member uses; and the manner in which the member connects to the Exchange. The Exchange will give Members reasonable notice of any mandatory systems test, which notice will specify the nature of the test and Members' obligations in participating in the test.

(b) Every member required by the Exchange to conduct or participate in testing of computer systems shall provide to the Exchange such reports relating to the testing as the Exchange may prescribe. Members shall maintain adequate documentation of tests required by this Rule and results of such testing for examination by the Exchange.

(c) A member or member organization that is subject to this Rule and that fails to conduct or participate in the tests, fails to file the required reports, or fails to maintain the required documentation, may be subject to disciplinary action pursuant to the Exchange's rules.

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Rule 1614. Imposition of Fines for Minor Rule Violations

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(d) Violations Subject to Fines. The following is a list of rule violations subject to, and the applicable sanctions that may be imposed by the Exchange pursuant to, this Rule:

* * * * *

(8) Mandatory Systems Testing (Rule 419). Failure to conduct or participate in the testing of computer systems, or failure to provide required reports or maintain required documentation, shall be subject to the fines listed below.

Table with 2 columns: Violations within one calendar year, Sanction. Rows include First Violation (\$250), Second Violation (\$500), Third Violation (\$1000), Fourth Violation (\$2000), Fifth Violation or more (Formal Disciplinary Action).

2 15 U.S.C. 78f(b).

3 15 U.S.C. 78f(b)(4).

4 15 U.S.C. 78s(b)(3)(A)(ii).

5 17 CFR 240.19b-4(f)(2).

6 17 CFR 200.30-3(a)(12).

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.