

Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 12d2–2(d) thereunder,<sup>2</sup> to withdraw its common stock, no par value (“Security”), from listing and registration on the American Stock Exchange LLC (“Amex”).

On November 4, 2005, the Board of Directors (“Board”) of the Issuer unanimously approved resolutions to withdraw the Security from listing and registration on Amex. The Issuer stated that the Board is taking such action for the following reasons: (i) The Board has conducted a thorough review of the Issuer’s current standing internally and in the market and has determined that the costs to the Issuer of public reporting company status outweigh the corresponding benefits; (ii) the Board had voted to approve a plan to effect a 1 for 5,000 reverse stock split of the Security with the purpose of bringing the number of record holders below 300 to allow the Issuer to deregister the Security as a class under the Act; (iii) on September 28, 2005, the Issuer filed a preliminary proxy statement with the Commission to announce a special meeting of shareholders of the Issuer scheduled for December 19, 2005 to seek shareholder approval of the proposed reverse stock split; and (iv) provided that the reverse stock split is effected and the number of holders of record of the Security falls below 300, the Board has determined it to be in the Issuer’s best interest to deregister the Security from the Act. The Issuer stated that it expects the Security to trade in the over-the-counter market and quote on the Pink Sheets following the withdrawal of the Security from Amex.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the Commonwealth of Pennsylvania, in which it is incorporated, and providing written notice of withdrawal to Amex.

The Issuer’s application relates solely to withdrawal of the Security from listing on the Amex and from registration under section 12(b) of the Act,<sup>3</sup> and shall not affect its obligation to be registered under section 12(g) of the Act.<sup>4</sup>

Any interested person may, on or before December 20, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be

submitted by either of the following methods:

#### *Electronic Comments*

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/delist.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include the File Number 1–07708 or;

#### *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 1–07708. This file number should be included on the subject line if e-mail is used. To help us 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/delist.shtml>). Comments are also available for public inspection and copying in the Commission’s Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Jonathan G. Katz,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52812; File No. SR–Amex–2005–118]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt an Options Licensing Fee for Options on Certain StreetTRACKS Exchange-Traded Funds and the SPDR Dividend Exchange-Traded Fund

November 21, 2005.

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 14, 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. Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b–4(f)(2) thereunder,<sup>4</sup> which renders the proposal 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

Amex proposes to modify its Options Fee Schedule by adopting a per-contract license fee for the orders of specialists, registered options traders, firms, non-member market makers, and broker-dealers (collectively, “Market Participants”) in connection with options transactions in five new streetTRACKS exchange-traded funds (“ETFs”) and the SPDR Dividend ETF.

The text of the proposed rule change is available on the Exchange’s Internet Web site (<http://www.amex.com>), at the Exchange’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 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 has entered into numerous agreements with various

<sup>1</sup> 15 U.S.C. 78j(d).

<sup>2</sup> 17 CFR 240.12d2–2(d).

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

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

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

<sup>2</sup> 17 CFR 240.19b–4.

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

<sup>4</sup> 17 CFR 240.19b–4(f)(2).

<sup>5</sup> 17 CFR 200.30–3(a)(1).

index providers for the purpose of trading options on certain ETFs. As a result, the Exchange is required to pay index license fees to third parties as a condition to the listing and trading of these ETF options. In many cases, the Exchange is required to pay a significant licensing fee to the index provider that may not be reimbursed. In an effort to recoup the costs associated with certain index licenses, the Exchange has recently established per-contract licensing fees for orders of Market Participants that are collected on each option transaction in certain designated products in which such Market Participant is a party.<sup>5</sup>

The purpose of the proposal is to charge options licensing fees in connection with options on the following streetTRACKS ETFs: (1) streetTRACKS DJ Wilshire Small Cap ETF (symbol: DSC); (2) streetTRACKS DJ Wilshire Large Cap ETF (symbol: ELR); (3) streetTRACKS DJ Wilshire Mid Cap ETF (symbol: EMM); (4) streetTRACKS DJ Wilshire Mid Cap Growth ETF (symbol: EMG); and (5) streetTRACKS DJ Wilshire Mid Cap Value ETF (symbol: EMV) (collectively, "streetTRACKS ETFs"). In addition, the Exchange also proposes to charge an options licensing fee in connection with options on the SPDR Dividend ETF (symbol: SDY) ("SPDR ETF"). Specifically, Amex seeks to charge an options licensing fee of \$0.10 per contract side for each streetTRACKS ETF option and \$0.09 per contract side for each SPDR ETF option, for the order of a Market Participants executed on the Exchange. In all cases, the fee would be charged only to the Exchange member through whom such order is placed.

Amex represents that the proposed options licensing fees would allow the Exchange to recoup its costs in connection with the index license fees for the trading of streetTRACKS ETF and SPDR ETF options. The fees would be collected on every Market Participant order executed on the Exchange. The Exchange believes that requiring the payment of a per-contract licensing fee in connection with streetTRACKS ETF and SPDR ETF options by those Market Participants that benefit from the index license agreements is justified and consistent with the rules of the Exchange.

The Exchange notes that, in recent years, it has revised a number of its fees to better align Amex fees with the actual cost of delivering services and reduce

Amex's subsidization of such services.<sup>6</sup> The Exchange represents that the implementation of this proposal is consistent with the reduction and/or elimination of these subsidies. Amex believes that these fees will help to allocate to those Market Participants engaging in transactions in streetTRACKS ETF and SPDR ETF options a fair share of the related costs of offering such options for trading.

The Exchange asserts that the proposal provides for an equitable allocation of fees as required by section 6(b)(4) of the Act.<sup>7</sup> In connection with the adoption of options licensing fees for streetTRACKS ETF and SPDR ETF options, the Exchange notes that charging the options licensing fees, where applicable, to all Market Participant orders, except for customer order, is reasonable given the competitive pressures in the industry. Accordingly, the Exchange seeks, through this proposal, to better align its transaction charges with the cost of providing trading products.

## 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) of the Act<sup>9</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members 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 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.

<sup>6</sup> See, e.g., Securities Exchange Act Release No. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002); Securities Exchange Act Release No. 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001).

<sup>7</sup> Section 6(b)(4) of the Act states that the rules of a national securities exchange must "provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities." 15 U.S.C. 78f(b)(4).

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

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

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

The foregoing proposed 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 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 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](mailto:rule-comments@sec.gov). Please include File No. SR-Amex-2005-118 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-Amex-2005-118. 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

<sup>5</sup> See Securities Exchange Act Release No. 52493 (September 22, 2005), 70 FR 56941 (September 29, 2005).

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

<sup>11</sup> 17 CFR 19b-4(f)(2).

Room. Copies of the filing also will be available for inspection and copying at the principal office of 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-2005-118 and should be submitted on or before December 22, 2005.

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

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52837; File No. SR-Amex-2005-056]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Requirement That Registered Options Traders May Only Sign on to Auto-Ex for ETFs Traded by the Same or Adjoining Specialists and Shall Sign on to Auto-Ex for a Maximum of Fifteen ETFs

November 25, 2005.

On May 23, 2005, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to provide that Registered Options Traders (“ROT”) may only sign on to Auto-Ex<sup>3</sup> for a maximum of fifteen Portfolio Depository Receipts, Index Fund Shares, and Trust Issued Receipts (collectively, “Exchange-Traded Funds” or “ETFs”) and only if such ETFs are traded by the same or adjoining specialists for a maximum of three contiguous panels (*i.e.*, electronic order book work stations).<sup>4</sup> On September 13, 2005, the Exchange filed Amendment No. 1 to the proposed rule

change.<sup>5</sup> The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on September 30, 2005.<sup>6</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

Amex Rule 958(c) and Amex Rule 958(c)-ANTE currently require ROTs to make competitive bids and offers necessary to contribute to the maintenance of a fair and orderly market and to engage, to a reasonable degree, in dealings for their own accounts when there exists a lack of price continuity and a temporary disparity between the supply and demand of ETFs. As part of their market making activities in ETFs, ROTs may sign on to Auto-Ex.

The proposed rule change would amend Amex Rule 958, Commentary .10, and Amex Rule 958-ANTE, Commentary .09, to state that, if an ROT logs on to Auto-Ex for ETFs, the ROT would only be permitted to log on to Auto-Ex for ETFs traded on the same or contiguous panels, *i.e.*, ETFs traded by the same or adjoining specialists, for a maximum of three contiguous panels. The proposal also would limit an ROT to trading in a maximum of fifteen ETFs while signed on to Auto-Ex.<sup>7</sup> A Senior Floor Official would be permitted to modify these restrictions if he or she determines that an ROT is able to appropriately fulfill his obligations to the market due to the level of activity in the ETFs and their proximity.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>8</sup> and, in particular, the requirements of section 6(b) of the Act<sup>9</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,<sup>10</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

principles of trade, and, in general, to protect investors and the public interest.

In exchange for receiving certain benefits for carrying out their duties as market makers, ROTs have affirmative obligations, one of which is incorporated in current Amex Rule 958(c) and Amex Rule 958(c)-ANTE, which require ROTs to make competitive bids and offers as reasonably necessary to contribute to the maintenance of a fair and orderly market. The Exchange believes that, in order to make competitive bids and offers in an ETF, ROTs must be present in the crowd near the specialist panels for such ETF. ROTs logged on to Auto-Ex are entitled to receive executions at the specialist's quote but are not currently required to be present in the crowd. If an ROT is logged onto Auto-Ex panels throughout the trading floor, the ROT is less likely to be physically present in the trading crowd for a particular ETF, thus making it less likely that the ROT is able to make competitive bids and offers in such ETF because, in order to make competitive bids and offers, a ROT must be physically present in the trading crowd near the specialist panel for that ETF. The proposed rule change, by limiting the ROTs ability to log on to Auto-Ex to a maximum of three contiguous Auto-Ex panels, would confine the ROT to one area of the floor, thus encouraging the ROT to remain in the trading crowd for a particular ETF that such ROT is entitled to receive automatic executions at the specialist's quote. In this regard, the Commission believes that the proposed rule change should help ensure that ROTs fulfill their market maker obligations to make competitive bids and offers.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-Amex-2005-056), as amended, is approved.

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

**Jonathan G. Katz,**  
Secretary.

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<sup>12</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> Auto-Ex is the Exchange's automated execution system.

<sup>4</sup> The Exchange stated that each panel has one specialist assigned to it and that numerous ETFs may be traded on each panel.

<sup>5</sup> See Form 19b-4 dated September 13, 2005, which replaced the original filing in its entirety (“Amendment No. 1”).

<sup>6</sup> Securities Exchange Act Release No. 52505 (September 23, 2005), 70 FR 57226.

<sup>7</sup> Although ETFs are traded on NETS (New Equity Trading System) and not ANTE (Amex New Trading Environment), Amex Rule 958-ANTE applies to ETFs.

<sup>8</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78f(b).

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