

**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 shall:

- (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](mailto:rule-comments@sec.gov). Please include File No. SR–Amex–2005–107 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2005–107. 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–2005–107 and should be submitted on or before April 3, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6–3490 Filed 3–10–06; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–53430; File No. SR–Amex–2005–124]

**Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval of Proposed Rule Change and Amendments Nos. 1 and 3 Thereto Relating to Increases in the Original Listing and Annual Fees**

March 7, 2006.

**I. Introduction**

On December 6, 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 proposal to amend Sections 140 and 141 of the Amex Company Guide and the Amex Fee Schedule to increase the original listing and the annual issuer fees. On December 28, 2005, Amex filed Amendment No. 1 to the proposed rule change. On January 23, 2006, Amex filed Amendment No. 2 to the proposed rule change and withdrew Amendment No. 2 on January 31, 2006. On January 27, 2006, Amex filed Amendment No. 3 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on February 8, 2006.<sup>3</sup> The Commission received no comments regarding the proposal.<sup>4</sup> This order approves the proposed rule change, as amended, on an accelerated basis.

**II. Description of the Proposal**

This proposal amends Sections 140 and 141 of the Amex Company Guide and the Amex Fee Schedule to increase the original listing and the annual issuer fees. Amex proposes to implement the increased annual fees as of January 2006 and the increased original listing fees upon the Commission’s approval of this proposal.

Currently the original listing fees pursuant to Section 140 of the Amex Company Guide for stock issues range from \$35,000 to \$65,000 (which includes a non-refundable application processing fee of \$5,000) depending on the number of shares to be listed. Amex proposes that the original listing fees be increased as follows:

Number of shares	Current fee*	Proposed fee*
Less than 5,000,000 shares .....	\$35,000	\$45,000
5,000,000 to 10,000,000 shares .....	45,000	55,000
10,000,001 to 15,000,000 shares .....	55,000	60,000
In excess of 15,000,000 shares .....	65,000	70,000

\* Includes the non-refundable application-processing fee of \$5,000.

In addition, the original listing fee for non-U.S. companies listed on a foreign stock exchange is currently 50% of the fees charged to U.S. companies. Amex proposes that the original listing fee for

non-U.S. companies be a flat fee of \$40,000, which will include the one-time, non-refundable application-processing fee of \$5,000.

The annual fees set forth in Section 141 of the Amex Company Guide currently range from \$15,000 to \$30,000 depending on the number of shares

<sup>16</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> Securities Exchange Act Release No. 53205 (February 1, 2006), 71 FR 6528.

<sup>4</sup> The comment period expired on March 1, 2006.

outstanding. Amex proposes that the annual fees be increased as follows:

Number of shares	Current fee	Proposed fee
5,000,000 shares or less .....	\$15,000	\$16,500
5,000,001 to 10,000,000 shares .....	17,500	19,000
10,000,001 to 25,000,000 shares .....	20,000	21,500
25,000,001 to 50,000,000 shares .....	22,500	24,500
50,000,001 to 75,000,000 shares .....	30,000	32,500
In excess of 75,000,000 shares .....	30,000	34,000

Amex also proposes other minor technical changes to Sections 140 and 141 of the Amex Company Guide, which will not further alter the fees but will clarify the text of these Sections.

### III. Discussion

After careful consideration, 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>5</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(4) of the Act,<sup>6</sup> in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its facilities. The Commission notes that the Exchange has represented that the proposal is necessary to cover increased costs it has incurred in the enhancement and development of its trading technology and improvements in the overall level of services provided to its members and listed companies. The Commission also notes that the Exchange's original and annual listing fees have not increased since 2002, and that pursuant to the proposed rule change, companies with a fewer number of shares will continue to be charged less than companies with a greater number of shares. The new original listing fees and annual fees therefore are consistent with the Exchange's stated goals of attracting and retaining the listing of small and mid-size companies and in recognition of the greater impact of fees on small and mid-size companies. In addition, with respect to non-U.S. companies, the Exchange represents that the amended original listing fee is below the lowest rate paid by U.S. companies, but is still competitive with rates charged by other markets.

The Exchange has requested accelerated approval of the proposed

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

rule change. The Exchange represents that its practice is to invoice its issuers the annual fee in January, and that therefore billing of the annual fee this year has been delayed until the Commission approved this proposal.<sup>7</sup> The Exchange represented that issuers have contacted the Exchange regarding the delay in billing and in one instance that they noted that they need the invoice for accrual purposes.<sup>8</sup> The Exchange believes that further delay in approving the proposal, as well as uncertainty in knowing when invoices will be issued, will continue to place a burden on the Exchange's issuers.<sup>9</sup> The Exchange also notes that this delay in invoicing the annual fee has resulted in at least a two month delay in the Exchange collecting the increased revenue generated by the annual listing fees, and that it had anticipated that the increase in the original listing fee would be in place in January as well.<sup>10</sup> The Exchange believes that further delay in the implementation of the increased annual listing fee and original listing fees will negatively impact the collection of this necessary revenue.<sup>11</sup> In addition, the Commission notes that the proposed rule change was published for a full notice and comment period and no comments were received. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the

<sup>7</sup> See e-mail from Claire McGrath, Senior Vice President and General Counsel, Amex, to Heather Seidel, Senior Special Counsel, Division of Market Regulation, Commission, dated March 2, 2006.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See *id.* The Exchange represents that based upon 2005 financial statements, the revenue generated by the annual fee accounts for 6% of the Amex's total revenues and is used to fund the operations and regulatory programs of the Exchange.

<sup>11</sup> *Id.*

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-Amex-2005-124) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-3491 Filed 3-10-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53415; File No. SR-Amex-2006-10]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Its Fee Cap Program for Certain Options Spread Trades

March 3, 2006.

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 February 2, 2006, 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 Amex. On February 28, 2006, Amex submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> Amex has designated the proposed rule change, as amended, as one establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is

<sup>14</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> In Amendment No. 1, Amex proposes to make the revised fee cap program for dividend spreads, merger spreads, and short stock interest spreads a six-month pilot program expiring August 1, 2006.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).