

information about each deposit or withdrawal of fund assets, and must transmit the notation to another officer or director designated by the directors. Independent public accountants must verify the fund's assets at least three times a year and two of the examinations must be unscheduled.

The requirement that directors designate access persons is intended to ensure that directors evaluate the trustworthiness of insiders who handle fund assets. The requirements that access persons act jointly in handling fund assets, prepare a written notation of each transaction, and transmit the notation to another designated person are intended to reduce the risk of misappropriation of fund assets by access persons, and to ensure that adequate records are prepared, reviewed by a responsible third person, and available for examination by the Commission's examination staff. The requirement that auditors verify fund assets without notice twice each year is intended to provide an additional deterrent to the misappropriation of fund assets and to detect any irregularities.

The Commission staff estimates that each fund makes 270.5 responses and spends an average of 95 hours annually in complying with the rule's requirements.<sup>1</sup> Commission staff estimates that on an annual basis it takes: (i) 0.17 hours of fund accounting personnel at a total cost of \$10 to draft director resolutions;<sup>2</sup> (ii) 0.6 hours of the fund's board of directors at a total cost of \$1200 to adopt the resolution; (iii) 75 hours for the fund's accounting personnel at a total cost of \$5228 to prepare written notations of transactions;<sup>3</sup> and (iv) 18.9 hours for the

fund's accounting personnel at a total cost of \$1087 to assist the independent public accountants when they perform verifications of fund assets.<sup>4</sup> Approximately 140 funds rely upon Rule 17f-2 annually.<sup>5</sup> Thus, the total annual hour burden for Rule 17f-2 is estimated to be 13,300 hours.<sup>6</sup> Based on the total costs per fund listed above, the total cost of the Rule 17f-2's collection of information requirements is estimated to be \$1 million.<sup>7</sup>

Form N-17f-2 (17 CFR 274.220) under the Act is entitled "Certificate of Accounting of Securities and Similar Investments in the Custody of Management Investment Companies." Form N-17f-2 is the cover sheet for the accountant examination certificates filed under Rule 17f-2 under the Act by registered management investment companies ("funds") maintaining custody of securities or other investments. Form N-17f-2 facilitates the filing of the accountant's examination certificates. The use of the form allows the certificates to be filed electronically, and increases the accessibility of the examination certificates to both the Commission's examination staff and interested investors by ensuring that the certificates are filed under the proper Commission file number and the correct name of a fund.

Commission staff estimates that on an annual basis it takes: (i) On average 3.25 hours of fund accounting personnel at a total cost of \$187 to prepare the Form N-17f-2;<sup>8</sup> and (ii) 3.15 hours of clerical time at a total cost of \$87 to file the Form N-17f-2 with the Commission.<sup>9</sup> As noted above, approximately 140 funds currently file Form N-17f-2 with the Commission, and each fund is required to make three filings annually for a total annual hourly burden per fund of approximately 6.4 hours at a

based on the following calculation:  $269 \times 0.28 \times \$69.41 = \$5227.96$ .

<sup>4</sup> This estimate is based on the following calculation:  $18.9 \times \$57.52$  (fund senior accountant hourly rate) = \$1087.

<sup>5</sup> Based on a review of Form N-17f-2 filings in 2004, the Commission staff estimates that 140 funds relied on Rule 17f-2 in 2005.

<sup>6</sup> This estimate is based on the following calculation:  $140$  (funds)  $\times$   $95$  (total annual hourly burden per fund) = 13,300 hours for rule. The annual burden for Rule 17f-2 does not include time spent preparing Form N-17f-2. The burden for Form N-17f-2 is included in a separate collection of information.

<sup>7</sup> This estimate is based on the following calculation:  $\$7525$  (total annual cost per fund)  $\times$   $140$  funds = \$1,053,500.

<sup>8</sup> This estimate is based on the following calculation:  $3.25 \times \$57.52$  (fund senior accountant's hourly rate) = \$186.9.

<sup>9</sup> This estimate is based on the following calculation:  $3.15 \times \$27.6$  (secretary hourly rate) = \$86.94.

total cost of \$274. The total annual hour burden for Form N-17f-2 is therefore estimated to be approximately 896 hours. Based on the total annual costs per fund listed above, the total cost of Form N-17f-2's collection of information requirements is estimated to be approximately \$38,360.<sup>10</sup>

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Complying with the collections of information required by Rule 17f-2 and Form N-17f-1 is mandatory for those funds that maintain custody of their own assets. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

Dated: March 14, 2006.

**Nancy M. Morris,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange

<sup>10</sup> This estimate is based on the following calculation:  $140$  funds  $\times$   $\$274$  (total annual cost per fund) = \$38,360.

<sup>1</sup> The 270.5 responses are: 1.5 responses to draft and adopt the resolution and 269 notations. Estimates of the number of hours are based on conversations with individuals in the mutual fund industry. In preparing this submission, Commission staff randomly selected 9 funds from the pool of Form N-17f-2 filers. The actual number of hours may vary significantly depending on individual fund assets.

<sup>2</sup> This estimate is based on the following calculation:  $0.17$  (burden hours per fund)  $\times$   $\$57.52$  (fund senior accountant's hourly rate) = \$9.78. The estimated costs for fund personnel were based on the average annual salaries reported for employees in New York City in Securities Industry Association, *Management and Professional Earnings in the Securities Industry* (2003) and Securities Industry Association, *Office Salaries in the Securities Industry* (2003), which were adjusted to include overhead costs and employee benefits.

<sup>3</sup> Respondents estimated that each fund makes 269 responses on an annual basis and spent a total of 0.28 hours per response. The fund personnel involved are Fund Payable Manager (\$47.03 hourly rate), Fund Operations Manager (\$64.25 hourly rate) and Fund Accounting Manager (\$96.95 hourly rate). The weighted hourly rate of these personnel is \$69.41. The estimated cost of preparing notations is

Commission will hold the following meeting during the week of March 20, 2006:

A Closed Meeting will be held on Thursday, March 23, 2006 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, March 23, 2006 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551-5400.

Dated: March 16, 2006.

**Nancy M. Morris,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53478; File No. SR-Amex-2006-21]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Rebate of the Exchange's Options Cancellation Fee

March 14, 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

24, 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 the Exchange. The Amex has filed the proposed rule change as one establishing or changing a due, fee, or other charge imposed by the Amex under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder, 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

The Exchange proposes to rebate the options cancellation fee collected by the Exchange for the months of September and October 2005. The text of the proposed rule change is available on the Amex's Internet Web site at (<http://www.amex.com>), at the principal office of the Amex, 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 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 the Statutory Basis for, the Proposed Rule Change

###### (1) Purpose

In November 2001, the Amex established a fee for the cancellation of options orders.<sup>5</sup> Pursuant to this fee, a clearing firm is subject to a charge of \$1.00 for every order it cancels in any month in which the total number of orders cancelled by that clearing firm exceeds the total number of orders executed by that firm in that month. The

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

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

<sup>5</sup> See Securities Exchange Act Release No. 45110 (November 27, 2001) 66 FR 63080 (December 4, 2001) (notice of filing and immediate effectiveness of SR-Amex-2001-90).

fee does not apply to clearing firms that cancel fewer than 500 orders in a given month. The options cancellation fee was deemed to be necessary given the often disproportionate number of order cancellations received relative to order executions and the increased costs associated with the practice of immediately following an order routed through Exchange systems with a cancel request for that order.

The Amex's billing system receives only completed transaction data and does not receive data regarding orders that have been cancelled. Therefore, the information necessary to determine whether the cancellation fee should be charged is compiled outside the billing system. It came to the Exchange's attention a few months ago that the options cancellation fee was not currently being charged and may never have been charged, even though some clearing firms may have triggered the charge. The problem was corrected, and, beginning with options orders and cancellations entered in September 2005, the Exchange began billing the cancellation fee to the clearing firms when appropriate. Unfortunately, notice of the application of this fee, almost 4 years after the fee was adopted, was not widely disseminated to the clearing firms. Many clearing firms first learned of the application of the fee when they received their September 2005 invoices. As a result, the clearing firms were unable to notify their customers of the fee or convert their billing systems to charge back this fee to their customers.

The Exchange now proposes to rebate the amounts billed and collected pursuant to the options cancellation fee for the months of September and October 2005. The clearing firms were fully notified by November 1, 2005; therefore, the Exchange believes that it is only necessary to rebate the fees billed and collected for the months of September and October. The Exchange believes that the rebate of options cancellation fees for a limited period of time is appropriate given its failure to fully inform the clearing firms of the application of the fee.

###### (2) Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>7</sup> in particular, in that it is intended to assure the equitable allocation of reasonable dues, fees and other charges

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

<sup>7</sup> 15 U.S.C. 78f(b)(4).

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

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