

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

#### Extension:

Rule 6a-4; SEC File No. 270-496; OMB Control No. 3235-0554.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995,<sup>1</sup> the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 6 of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> sets out a framework for the registration and regulation of national securities exchanges. Under the Commodity Futures Modernization Act of 2000, a futures market may trade security futures products by registering as a national securities exchange. Rule 6a-4<sup>3</sup> sets forth these registration procedures and directs futures markets to submit a notice registration on Form 1-N. Form 1-N calls for information regarding how the futures market operates, its rules and procedures, its criteria for membership, its subsidiaries and affiliates, and the security futures products it intends to trade. Rule 6a-4 also would require entities that have submitted an initial Form 1-N to file: (1) amendments to Form 1-N in the event of material changes to the information provided in the initial Form 1-N; (2) periodic updates of certain information provided in the initial Form 1-N; (3) certain information that is provided to the futures market's members; and (4) a monthly report summarizing the futures market's trading of security futures products. The information required to be filed with the Commission pursuant to Rule 6a-4 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The respondents to the collection of information are futures markets.

The Commission estimates that the total annual burden for all respondents

to provide the amendments and periodic updates under Rule 6a-4 would be 105 hours (15 hours/respondent per year × seven respondents) and \$10,066 (\$1438/response × seven responses/year). The Commission estimates that the total annual burden for the filing of the supplemental information and the monthly reports required under Rule 6a-4 would be 87.5 hours (25 filings/respondent × seven respondents × 0.5 hours/response). The SEC estimates that the total annual cost for all supplemental filings would be \$3675 (25 filings/respondent per year × \$21/response).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be 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.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: May 24, 2004.

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

[FR Doc. 04-12198 Filed 5-28-04; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49763; File No. SR-Amex-2004-28]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to a Reduction in Options Transaction Fees

May 24, 2004.

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 April 29, 2004, 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 proposed rule change has been filed by the Amex as establishing or changing a due, fee or other charge under section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing. On May 13, 2004, the Amex filed Amendment No. 1 to the proposed rule change<sup>5</sup> and on May 20, 2004, the Amex filed Amendment No. 2 to the proposed rule change.<sup>6</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reduce aggregate options transaction fees for specialists and registered options traders ("ROTs") from \$0.36 per contract side to \$.30 per contract side. The text of the proposed rule change, as amended, is available at the Amex and at the Commission.

#### 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.

<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)(ii).

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

<sup>5</sup> See letter from Jeffrey Burns, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 12, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange removed from the proposed rule change those portions of the fee change that applied to non-member broker-dealers.

<sup>6</sup> See letter from Jeffrey Burns, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated May 19, 2004 ("Amendment No. 2"). In Amendment No. 2, the Exchange corrected a typographical error in the text of the proposed rule change.

<sup>1</sup> 44 U.S.C. 3501 *et seq.*

<sup>2</sup> 15 U.S.C. 78f.

<sup>3</sup> 17 CFR 240.6a-4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Amex currently imposes transactions charges for transactions in equity options executed on the Exchange by specialists and ROTs. The current charges for specialist and ROTs in equity options are \$0.36 per contract side, consisting of an options transaction fee of \$0.26, an options comparison fee of \$0.05 and an options floor brokerage fee of \$0.05. The Exchange proposes to reduce the aggregate option transaction fee for specialists and ROTs from the current level of \$0.36 per contract side to \$0.30 per contract side effective May 1, 2004. The new aggregate equity option transaction fee for specialists and ROTs will consist of an options transaction fee of \$0.20 per contract side, an options comparison fee of \$0.05 per contract side and options floor brokerage fee of \$0.05 per contract side.<sup>7</sup>

In conjunction with the proposed reduction in the aggregate equity option transaction fee for specialists and ROTs, the current fee reductions in the Options Fee Schedule for cabinet trades (the "Cabinet Trades") and reversals and conversions, dividend spreads, box spreads and butterfly spreads (the "Spread Trades") will also be reduced for specialists, ROTs and member broker-dealers.<sup>8</sup> Effective May 1, 2004, the current fee reductions applicable to specialists, ROTs and member broker-dealers for equity options and QQQ options in connection with Cabinet Trades and Spread Trades will be reduced from \$0.12 to \$0.06 per contract side and from \$0.18 to \$0.12 per contract side, respectively.<sup>9</sup> The \$2,000

<sup>7</sup> Options on S&P 100 iShares are charged the same options transaction fee as equity options, and thus are also subject to the fee changes set forth herein. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Nathan Saunders, Attorney, Division, Commission (May 24, 2004).

<sup>8</sup> See Securities Exchange Act Release Nos. 46026 (June 4, 2002), 67 FR 40034 (June 11, 2002) (File No. SR-Amex-2002-12) and 48219 (July 23, 2003), 68 FR 44823 (July 30, 2003) (File No. SR-Amex-2003-51). The Exchange in a separate rule filing will similarly reduce the fee reductions in connection with Cabinet Trades and Spread Trades for non-member broker-dealers.

<sup>9</sup> The lowering of the fee reductions for equity option transactions in connection with Cabinet Trades and Spread Trades will now result in fee reductions of the options transaction fee, options comparison fee and options floor brokerage fee of \$0.03, \$0.01 and \$0.02 per contract side, respectively. With respect to QQQ option transactions only, the lowering of the fee reductions in connection with Cabinet Trades and Spread Trades will result in fee reductions of the options

per trade fee cap for specialists, ROTs, member broker-dealers and non-member broker-dealers in connection with Cabinet Trades and Spread Trades will continue to apply. This fee cap was recently adopted by the Exchange and implemented in February 2004.<sup>10</sup> In addition, the transaction fee cap of \$72,000 per month in any single options class, exclusive of the options licensing fee, for specialists and ROTs will also continue to apply.<sup>11</sup>

The Market Share Incentive Program adopted by the Exchange and implemented in December 2003 will also be eliminated effective May 1, 2004. The Market Share Incentive Program provided a slight reduction in the rate of options transaction fees based on the relative market share obtained by the specialist/ROT for the top 300 equity option classes.<sup>12</sup>

The Exchange believes that the proposed reduction in options transaction fees will benefit the Exchange by providing greater incentive to specialists and ROTs to competitively quote their markets in comparison to the markets made by other options exchanges. In addition, we also believe that the reduction in fees will help to maintain the existing floor operations of member firms at the Amex.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>13</sup> in general and furthers the objectives of 6(b)(4) of the Act<sup>14</sup> in particular regarding the equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using Exchange facilities.

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

The Exchange does not believe that the proposed rule change will impose

transaction fee, options comparison fee and options floor brokerage fee of \$0.09, \$0.01 and \$0.02 per contract side, respectively.

<sup>10</sup> See Securities Exchange Act Release No. 49358 (March 3, 2004), 69 FR 11469 (March 10, 2004) (File No. SR-Amex-2004-09).

<sup>11</sup> See Securities Exchange Act Release Nos. 49025 (January 6, 2004), 69 FR 2018 (January 13, 2004) (File No. SR-Amex-2003-106) and 49019 (January 5, 2004), 69 FR 2023 (January 13, 2004) (File No. SR-Amex-2003-104).

<sup>12</sup> See Securities Exchange Act Release No. 49019 (January 5, 2004), 69 FR 2023 (January 13, 2004) (File No. SR-Amex-2003-104). Under the Market Incentive Program, as long as a 20% market share or greater was maintained in a particular options class, the options transaction fee was reduced. With the across the board reduction in the options transaction fees proposed for equity options, the Exchange believes that the Market Share Incentive Program is now unnecessary.

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

<sup>14</sup> 15 U.S.C. 78f(b)(4).

any burden on competition 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.

**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 Act<sup>15</sup> and Rule 19b-4(f)(2) thereunder<sup>16</sup> because it changes a due, fee or other 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 the furtherance of the purposes of the Act.<sup>17</sup>

**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 Number SR-Amex-2004-28 on the subject line.

*Paper comments:*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. All submissions should refer to File Number SR-Amex-2004-28. 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>).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(2).

<sup>17</sup> See 15 U.S.C. 78(b)(3)(C). For the purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on May 20, 2004, the date the Exchange filed Amendment No. 2.

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-2004-28 and should be submitted on or before June 22, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

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

[FR Doc. 04-12255 Filed 5-28-04; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49764; File No. SR-DTC-2003-10]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to a New Messaging Service for Stock Loan Recalls

May 25, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 8, 2003, The Depository Trust Company ("DTC") 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 primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow DTC to activate its Universal Hub for Stock Loan Recalls ("Universal

Hub"), a new messaging service providing participants an efficient means to facilitate the notification, acknowledgement, and maintenance of stock loan recall information.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, industry participants utilize faxes and phone calls to recall securities on loan. Processing stock loan recalls is generally paper intensive, increasing the risk of transmission errors and delaying response time. The lack of formal, automated mechanisms to notify borrowers of a loan recall has proven inefficient for the industry.

To remedy these issues and to support the Securities Industry Association's Straight Through Processing Securities Lending Subcommittee's goals, DTC has developed a universal messaging hub which, among other things, will automate the labor-intensive stock loan recall process. The goal of the Universal Hub is to provide a central point of access for DTC participants engaging in stock loan recall transactions to send and receive recall notices, acknowledgements, cancellations, buy-in execution details, and corporate action notices. DTC participants utilizing either vendor-supplied Automated Stock Loan Recall Messaging Systems (ARMS) or their own stock loan recall capability will be able to connect directly to the Universal Hub. By providing a central point of access to all parties, the Universal Hub provides interoperability between various ARMS users and DTC participants and permits ARMS vendors and DTC participants to avoid the costs and inefficiencies of building bilateral links.

The Universal Hub's message formats will be based on ISO 15022 standards and will be supported on MQ Series and DTC's standard file transfer capabilities.

The Universal Hub will create an acknowledgement/receipt record for each message processed to notify the sender that the Universal Hub has received the message and that the message was forwarded to the receiver. In addition, the Universal Hub will create a receipt record for the sender indicating that the counterparty to the stock loan recall retrieved the message from the Universal Hub. Each message will be assigned an internal control number for audit trail purposes. If the Universal Hub cannot deliver a message, it will reject the message back to the sender for resolution. The Universal Hub will only edit the header of the message to ensure successful delivery of the message. The Universal Hub will not edit the data in the actual stock loan recall message. Participants remain responsible for the details provided in their recall messages.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(A) of the Act<sup>3</sup> and the rules and regulations thereunder applicable to DTC because it will further automate the processing of stock loan recalls while furthering the industry's efforts to achieve straight-through processing thus facilitating the prompt and accurate processing of securities transactions.

##### (B) Self-Regulatory Organization's Statement on Burden on Competition

DTC 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, in the public interest, and for the protection of investors.

##### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has discussed this rule change proposal in its current form with various DTC participants and industry groups, a number of whom have worked closely in developing the proposed Universal Hub.

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

Within thirty-five 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 ninety 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 self-regulatory

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(A).