

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55459; File No. SR-Amex-2007-28]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Transaction Charges for Equities, ETFs, and Nasdaq UTP Securities

March 13, 2007.

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 March 1, 2007, 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 substantially 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 revise its Equities, Exchange Traded Funds and Trust Issued Receipts ("ETFs"), and Nasdaq UTP Fee Schedules (collectively, the "Fee Schedule").

The text of the proposed rule change is available on the Exchange's 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 recently revised its Equities, ETFs, and Nasdaq UTP Fee Schedules.<sup>3</sup> The Exchange is now proposing to make some additional changes to each of the fee schedules. The Equity Fee Schedule will be amended to (1) clarify that Amex transaction charges assessed for orders routed through the NMS Linkage Plan apply only to orders routed to Amex and not to orders routed from Amex to another market center; and (2) provide that there will be no transaction charge for equities executed at a per-share price below \$1.00. The ETF Fee Schedule will be amended to (1) decrease the rate charged to member firms for customer account transactions from \$0.34 to \$0.30 per 100 shares; (2) eliminate the Value Based Fee currently charged for transactions for the accounts of non-member competing market makers; (3) clarify that Amex transaction charges assessed for orders routed through the NMS Linkage Plan apply only to orders routed to Amex and not to orders routed from Amex to another market center; and (4) provide that there will be no transaction charge for ETFs executed at a per-share price below \$1.00. The Nasdaq UTP Fee Schedule will be amended to provide that there will be no transaction charge for Nasdaq UTP securities executed at a per-share price below \$1.00.

##### 2. Statutory Basis

The proposed fee change is consistent with Section 6(b)(4) of the Act<sup>4</sup> 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 proposed rule change does not 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.

#### 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>5</sup> and Rule 19b-4(f)(2) thereunder<sup>6</sup> 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-2007-28 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-2007-28. 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>). 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>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> See SR-Amex-2007-23 filed on February 22, 2007.

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</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-2007-28 and should be submitted on or before April 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E7-4977 Filed 3-19-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55460; File No. SR-Amex-2007-30]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Transaction Charges for Equities and ETFs

March 13, 2007.

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 March 8, 2007, 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 and II below, which Items have been substantially 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 revise Equities and Exchange Traded Funds and Trust Issued Receipts ("ETFs") Fee Schedules (collectively, the "Fee Schedule").

The text of the proposed rule change is available on the Exchange's 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 recently revised its Equities, ETFs, and Nasdaq UTP Fee Schedules.<sup>3</sup> The Exchange is now proposing to make some additional changes to the Equities and ETFs Fee Schedules. The Equity Fee Schedule currently provides a waiver of transaction charges for orders of up to 500 shares entered electronically into the Amex Order File from off the floor ("System Orders"). This transaction charge waiver does not apply to the System Orders of a member or member organization trading as an agent for the account of a non-member competing market maker.<sup>4</sup> The Exchange is now proposing to extend the transaction charge waiver to System Orders for the accounts of non-member competing market makers. Thus, the Equity Fee Schedule is being amended to eliminate the second and third sentences of Item 3 on the schedule.

The ETF Fee Schedule also provides a waiver of transaction charges for orders entered electronically into the Amex Order File from off the floor. However for ETFs, orders up to 2,400 shares are deemed to be System Orders for which transaction charges are waived. Again, the transaction charge waiver currently does not apply to the System Orders of a member or member organization trading as an agent for the account of a non-member competing market maker. The Exchange is now proposing to extend the transaction

charge waiver to System Orders for the accounts of non-member competing market makers. Thus, the ETF Fee Schedule is being amended to eliminate the second and third sentences of Note 1 on the schedule.

The Exchange is also proposing to apply the waiver of transaction charges for System Orders in equities and ETFs for the accounts of non-member competing market makers retroactively, beginning March 1, 2007.

###### 2. Statutory Basis

The proposed fee change is consistent with Section 6(b)(4) of the Act<sup>5</sup> 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 proposed rule change does not 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.

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

The foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and Rule 19b-4(f)(6)<sup>7</sup> thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.<sup>8</sup>

The Commission has determined to waive the 30-day operative delay. The Commission believes that doing so is consistent with the protection of investors and the public interest because eligible parties will be able to obtain the benefit of the fee waivers immediately. Accordingly, the

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>3</sup> See SR-Amex-2007-23 filed on February 22, 2007 and SR-Amex-2007-28 filed on March 1, 2007.

<sup>4</sup> A competing market maker is defined for purposes of the Equity and ETF Fee Schedules as a specialist or market maker registered as such on a registered stock exchange (other than Amex), or a market maker bidding and offering over-the-counter, in an Amex-traded security.

<sup>8</sup> Rule 19b-4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designed by the Commission. The Commission has determined to waive the five-day pre-filing requirement.

<sup>7</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.