

of publication of the notice thereof in the **Federal Register**. CBOE, Phlx, and PCX all permit, to some extent, broker-dealer orders to be executed on their automatic execution systems. Accordingly, the Commission believes that no new issues are being raised by Amex's proposed rule change. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with sections 6 and 19(b) of the Act.²⁶

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,²⁷ that the proposed rule change (SR-Amex-2002-57) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46483; File No. SR-Amex-2002-47]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 by the American Stock Exchange LLC Relating to Non-Member Fees for Transactions in Nasdaq Securities Traded on an Unlisted Basis

September 10, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 3, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex.³ The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.⁴

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

The Amex proposes to adopt transaction fees for non-member trades in Nasdaq securities admitted to dealings on an unlisted basis. The text of the proposed revision to the Exchange's fee schedule is below. Additions are italicized.

* * * * *

Floor Fees through Registration and IDC Fees (No change)

Equity Fees

Amex Listed Company Equity Fee Schedule (No change)

Nasdaq UTP Equity Fee Schedule

Non-Member Competing Market Maker trades: \$.15 per 100 shares
Non-Member Customer trades: \$.15 per 100 shares

Notes:

1. A "competing market maker" is defined as a specialist or market maker registered as such on a registered stock exchange (other than the Amex) or on Nasdaq, or a market maker bidding and offering over-the-counter, in an Amex traded security.

2. The term "customer" includes any market participant other than a "competing market maker."

3. The transaction charge for crosses is subject to a maximum charge of \$50 per side.

Amex Exchange Traded Funds Fee Schedule (No change)

Bond Charges through Other Fees (No change)

* * * * *

(b) Not applicable.

(c) Not applicable.

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 the 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.

⁴ See Securities Exchange Act Release No. 46484 (September 10, 2002), which implements these same fees for members.

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

1. Purpose

The Exchange is implementing a program to trade Nasdaq securities on an unlisted basis. The Exchange, accordingly, is implementing a separate fee schedule for transactions in Nasdaq securities admitted to dealings so that the Amex can be competitive with other market centers that trade Nasdaq securities. The proposed fees are in line with similar fees charged by other market centers for transactions in Nasdaq securities.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act⁵ in general and furthers the objectives of Section 6(b)⁶ in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its member, issuers and other persons using its facilities.

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

The proposed fee change will impose no 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

Within 35 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 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 will:

(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,

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

²⁶ 15 U.S.C. 78f and 78s(b).

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On June 11, 2002, Amex filed Amendment No. 1 to clarify that the \$50.00 cap on transaction charges for cross trades applies to each side of the trade. On August 27, 2002, Amex filed Amendment No. 2 to reduce transaction fees for non-member competing market makers from \$0.40 per 100 shares to \$0.15 per 100 shares.

including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2002-47 and should be submitted by October 8, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46484; File No. SR-Amex-2002-59]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Fees for Transactions in Nasdaq Securities Traded on an Unlisted Trading Privileges Basis

September 10, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 27, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex.³ The

Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.⁴

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

The Exchange proposes to adopt transaction fees for trades in Nasdaq securities traded pursuant to Unlisted Trading Privileges ("UTP"). The text of the proposed rule change is below. Proposed new language is in italics.

* * * * *

Floor Fees through Registration and IDC Fees (No change)

Equity Fees

Amex Listed Company Equity Fee Schedule (No change)

Nasdaq UTP Equity Fee Schedule

<i>Specialist trades:</i>	<i>\$.10 per 100 shares</i>
<i>Member Competing Market Maker trades:</i>	<i>\$.15 per 100 shares</i>
<i>Amex Option Market Maker trades:</i>	<i>\$.15 per 100 shares</i>
<i>Trades by Amex Equity Traders:</i>	<i>\$.15 per 100 shares</i>
<i>Member Customer trades:</i>	<i>\$.15 per 100 shares</i>

Notes:

1. *The Exchange will waive the transaction charge for specialist principal trades for six months after the start of Nasdaq UTP trading for specialist firms that do not charge any commission to "customers" in Nasdaq UTP securities.*

2. *A "competing market maker" is defined as a specialist or market maker registered as such on a registered stock exchange (other than the Amex) or on Nasdaq, or a market maker bidding and offering over-the-counter, in an Amex traded security.*

3. *The term "customer" includes any market participant other than a "competing market maker."*

4. *The transaction charge for crosses is subject to a maximum charge of \$50 per side per trade.*

Amex Exchange Traded Funds Fee Schedule (No change)

Bond Charges through Other Fees (No change)

* * * * *

(b) Not applicable.

(c) Not applicable.

makers from \$0.40 per 100 shares to \$ 0.15 per 100 shares. Because this is a substantive amendment, the Commission deems the proposal to have been filed on the date it received Amendment No. 2.

⁴ See Securities Exchange Act Release No. 46483 (September 10, 2002), which proposes to implement these fees for non-members.

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 the 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to implement a program to trade Nasdaq securities on a UTP basis.⁵ The Exchange, accordingly, is implementing a separate fee schedule for transactions in Nasdaq securities admitted to trading on the Exchange pursuant to UTP to make the Amex competitive with other market centers trading Nasdaq securities. The Exchange asserts that the proposed fees are similar to those charged by other market centers for transactions in Nasdaq securities traded pursuant to UTP.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and the provisions of Section 6(b)(4) of the Act,⁷ in particular, which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

The Amex does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁵ See Securities Exchange Act Release No. 45365 (January 30, 2002), 67 FR 5626 (February 6, 2002) (SR-Amex-2001-106) (Notice of Amex's proposed trading rules for Nasdaq securities traded pursuant to UTP).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposal was originally filed on June 28, 2002. On August 19, 2002, Amex filed Amendment No. 1 to clarify that the proposed transaction fees only apply to member transactions. On August 27, 2002, Amex filed Amendment No. 2 to reduce transaction fees for member competing market