

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45211; File No. SR-Amex-2001-98]

### Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the American Stock Exchange LLC to Reinstate and Increase Options Transaction Charges

December 28, 2001.

On November 8, 2001, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934<sup>1</sup> the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change to reinstate and increase options transaction charges in select products. In April 2000, the Exchange eliminated transaction, floor brokerage, and clearance charges for customer equity option trades. At that time, fees charged to customers for transactions in index options remained unchanged at \$0.10 per contract. The Exchange proposes to increase the fees charged to (1) customers for transactions in index options from \$0.10 to \$0.15; and (2) member firms and non-member broker dealers for transactions in index options from \$0.11 to \$0.15. In addition, the Exchange is proposing to reinstate a customer transaction charge for equity options on the S&P 100 iShares. The transaction charge will be \$0.15 per contract side.

The proposed rule change was published for comment in the **Federal Register**.<sup>2</sup> The Commission received no comments on the proposal.

The Commission finds the proposed rule change is consistent with section 6(b) of the Act<sup>3</sup> in general and furthers the objectives of section 6(b)(4) of the Act<sup>4</sup> in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.<sup>5</sup> According to the Amex, these increases are necessary due to the increasing costs incurred in developing and implementing new technology for the fast and efficient trading of options.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>6</sup> that the

proposed rule change (SR-Amex-2001-98) be, and hereby is, approved.<sup>7</sup>

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

Margaret H. McFarland,

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45177; File No. SR-Amex-2001-103]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange LLC Relating to a Utilization Fee for the 'Smart' Wiring Program

December 20, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 10, 2001, 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 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 increase floor fees by assessing a \$15.00 monthly utilization fee on registered options traders operating on the Harry's floor of the Exchange (new trading facility on the first floor of the 86 Trinity Exchange building) to enable registered options traders to hard-wire their handheld computers from certain locations in the Harry's floor.

#### 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.

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

##### 1. Purpose

The Exchange is proposing to assess a \$150.00 monthly utilization fee (regardless of amount of days service is utilized during a month) on registered options traders operating on the Harry's floor of the Exchange to recover the capital investment, as well as the implementation and operating costs, for the 'Smart' Wiring program.

'Smart' Wiring involves the installation of 'Smart' wired outlets throughout the Harry's floor to enable registered options traders to change their location within that trading floor from day to day by easily connecting into a 'Smart' outlet. The need for this program arose because of the desire of users to be able to move to any location in the trading crowd and get connectivity to their member firm's servers. Through the 'Smart' Wiring connection, registered options traders receive analytical data and other information from their member firms which assists them in making better markets. 'Smart' Wiring is not part of the Exchange's order routing or other trading system.

The 'Smart' Wiring program is being implemented in the Harry's floor first, since that space requires less work than the other Amex floors to effect implementation of the program. The Exchange will monitor the program and, based on its experience with the program as well as the demand for the service, the Exchange may decide to extend the service on the Harry's floor by adding additional 'Smart' outlets and/or extend new service to the other Amex floors.

##### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>3</sup> in general and furthers the objective of Section 6(b)(4) of the Act<sup>4</sup> in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

<sup>2</sup> Securities Exchange Act Release No. 45068 (Nov. 11, 2001), 66 FR 58765 (Nov. 23, 2001).

<sup>3</sup> 15 U.S.C. 78f(b).

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

<sup>5</sup> In approving this rule, 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. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-30(a)(12).

<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. 78f(b).

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