

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57506; File No. SR-Amex-2008-19]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Retroactive Application of the Options Fee Cap Pilot Program for Dividend Strategies, Merger Spreads, and Short Stock Interest Spreads

March 14, 2008.

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 March 7, 2008, 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 Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The Exchange proposes to retroactively apply the Fee Cap Pilot Program (the "Fee Cap Program") for dividend strategies, merger spreads, and short stock interest spreads from February 2, 2008 through February 18, 2008.

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 III 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 purpose of the proposed rule change is to retroactively apply the current Fee Cap Program from February 2, 2008 through February 18, 2008. The current Fee Cap Program expired on February 1, 2008. The Exchange inadvertently failed to extend the Fee Cap Program at that time. Subsequently, the Exchange filed to extend the lapsed Fee Cap Program from February 19, 2008 through February 1, 2009.³ This filing would permit the Fee Cap Program effectively to be in effect without interruption.

The Fee Cap Program provides that specialists, registered options traders, non-member market makers, firms, and member and non-member broker-dealers option transaction, comparison and floor brokerage fees are limited to an aggregate fee of \$100 for all dividend strategies, merger spreads, and short stock interest spreads executed on the same trading day in the same option class.⁴ Additionally, such fees are also limited to \$12,500 per month per initiating firm.

To date, the Exchange believes that the current Fee Cap Program has been beneficial, and submits that the retroactive application from February 2, 2008 through February 18, 2008 is warranted so that the Fee Cap Program effectively operates without interruption.

Accordingly, the proposal seeks to retroactively apply the Fee Cap Program from February 2, 2008 through February 18, 2008.

2. Statutory Basis

The Exchange submits that the proposed fee change is consistent with Section 6(b)(4) of the Act⁵ regarding the equitable allocation of reasonable dues, fees, and other charges among exchange members and other persons using exchange facilities. The Exchange believes that the proposed retroactive application of the current Fee Cap Program is beneficial to market participants by providing an uninterrupted Fee Cap Program.

³ See Securities Exchange Act Release No. 57401 (February 29, 2008), 73 FR 12233 (March 6, 2008) (SR-Amex-2008-12).

⁴ These fees are charged only to Exchange members.

⁵ 15 U.S.C. 78f(b)(4).

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

The proposed rule 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. 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 at <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-Amex-2008-19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-Amex-2008-19. 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 at <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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 No. SR-Amex-2008-19 and should be submitted on or before April 11, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change.

After careful consideration, the Commission finds that the Exchange's proposal to retroactively apply the Fee Cap Program from February 2, 2008 through February 18, 2008 is consistent with the requirements of the Section 6 of the Act⁶ and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(4) of the Act, which requires, among other things, that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.⁸

The Amex has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice thereof in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will allow the Amex to continue to operate the Fee Cap Program on an uninterrupted basis and thus, should benefit market participants by ensuring continuity of the Exchange's rules. The Commission notes that no comments were received in connection with the approval of the Fee Cap Program and no comments have been received during the operation of the Fee Cap Program. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁹ for approving the proposed rule change prior to the thirtieth day after publication of the notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change, (SR-Amex-2008-

19), is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57514; File No. SR-Amex-2008-02]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Amendment No. 2 to Proposed Rule Change and Order Granting Accelerated Approval of Such Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Rules Permitting the Listing and Trading of Managed Fund Shares, Fees Applicable to Such Managed Fund Shares, and the Listing and Trading of Shares of the Bear Stearns Current Yield Fund

March 17, 2008.

I. Introduction

On February 7, 2008, the American Stock Exchange, LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change seeking to: (1) Adopt new Amex Rules 1000B, 1001B, 1002B, and 1003B to permit the listing and trading of securities ("Managed Fund Shares") issued by an actively managed, open-end investment management company; (2) list and trade the shares ("Shares") of the Bear Stearns Current Yield Fund ("Fund"), an investment portfolio of the Bear Stearns Active ETF Trust ("Trust"), pursuant to those rules; and (3) amend its original listing and annual listing fees to include Managed Fund Shares and make certain other changes. The proposed rule change was published for comment in the **Federal Register** on February 14, 2008.³ On February 20, 2008, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ On

March 14, 2008, the Exchange filed Amendment No. 2 to the proposed rule change.⁵ The Commission received no comments regarding the proposal. This order provides notice and solicits comments from interested persons regarding Amendment No. 2 to the proposed rule change and approves the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto, on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to add new Amex Rules 1000B, 1001B, 1002B, and 1003B to permit the listing and trading of Managed Fund Shares. Pursuant to these new rules, the Exchange proposes to list and trade the Shares. Amex states that the Shares will conform to the initial and continued listing criteria under proposed Amex Rules 1000B, 1001B, and 1002B. The Exchange also proposes to amend its original listing and annual listing fees in Sections 140 and 141 of the Amex *Company Guide* to include Managed Fund Shares and make certain other technical and conforming changes in the Amex rules to incorporate references to the new Amex rules proposed herein.

Proposed Listing Rules

Proposed new Amex Rules 1000B, 1001B (for initial listing), and 1002B (for continued listing) define and establish listing standards for Managed Fund Shares. Proposed Amex Rule 1000B(b) sets forth the relevant definitions. In particular, proposed Amex Rule 1000B(b)(1) defines "Managed Fund Share" as a security that: (a) Represents an interest in a registered investment company ("Investment Company"), organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the

Exhibit 1 thereto to account for such corrections. Because Amendment No. 1 to the proposed rule change is technical in nature, it is not subject to notice and comment.

⁵ In Amendment No. 2, Amex added Commentary .06 to proposed Amex Rule 1000B which would require: (1) the investment adviser to the Investment Company (as defined herein) issuing Managed Fund Shares to erect a "firewall" around personnel who have access to information concerning the composition and/or changes to the Investment Company portfolio; and (2) personnel who make decisions on the Investment Company's portfolio composition to be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the applicable Investment Company portfolio. In addition, Amex provided a representation describing the ethical and fiduciary requirements under the Investment Advisers Act of 1940 ("Advisers Act"), as they apply to Bear Stearns Asset Management, Inc., the investment adviser of the Fund.

⁶ 15 U.S.C. 78f.

⁷ In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57297 (February 8, 2008), 73 FR 8723 ("Notice").

⁴ In Amendment No. 1, Amex made several clarifying corrections to the definitions of "Disclosed Portfolio" and "Portfolio Indicative Value" and conforming changes to Form 19b-4 and