

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-53750; File No. SR-Amex-2006-33)

May 2, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Section 141 of the Company Guide

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 11, 2006, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission.<sup>5</sup> On April 12, 2006, Nasdaq filed Amendment No. 1 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.

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<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)(iii).

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

<sup>5</sup> The Exchange requested the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> In Amendment No. 1, Nasdaq made minor revisions to Section 141 of the Amex Company Guide to reflect changes to set forth in File No. SR-Amex-2005-124. Securities Exchange Act Release No. 53430 (March 7, 2006), 71 FR 12744 (March 13, 2006).

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

The Exchange proposes to correct Section 141 of the Amex Company Guide so that annual fees in connection with Closed-End Fund issuers may not be deferred, waived, or rebated (in all or part).

The text of the proposed rule change is available on the Amex's Web site at <http://www.amex.com>, at the principal office of the Amex, 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 those 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 parts of such statements.

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

1. Purpose

According to the Exchange, the purpose of the proposal is to correct Section 141 of the Amex Company Guide to properly reflect the fact that annual fees (in all or part) for Closed-End Funds may not be deferred, waived, or rebated in the discretion of the Board. As a result, Section 141 will now provide that the Board of Governors of the Exchange or its designee may, in its discretion, defer, waive, or rebate all or any part of the applicable annual listing fee for stock issues.

The Exchange previously adopted in File No. SR-Amex-2004-70<sup>7</sup> the ability of the Board of Governors or its designee, in its discretion, to defer, waive, or rebate all or any part of the applicable annual listing fees, except in the case of issues listed under Sections 106 and 107 of the Amex Company Guide and Rule 1200 (Trust Issued Receipts); and Closed-End Funds. As part of an amendment to File No. SR-Amex-2005-127, the Exchange inadvertently omitted Closed-End Funds from the class of issuers whose annual fees cannot be deferred, waived, or rebated. Accordingly, in this rule filing, the Exchange seeks to correct this error so that only stock issues may, in the discretion of the Board of Governors, be deferred, waived, or rebated.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b)<sup>8</sup> of the Act in general and furthers the objectives of Section 6(b)(5)<sup>9</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>7</sup> See Securities Exchange Act Release No. 50270 (August 26, 2004), 69 FR 53750 (September 2, 2004).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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, as amended.

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) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder<sup>11</sup> because the proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6)<sup>13</sup> thereunder.

The Exchange has requested that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay.<sup>14</sup> The Commission is exercising its authority to waive the five-day pre-filing notice requirement and believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest.

Acceleration of the operative delay allows Amex to correct what it represents was an inadvertent omission, in an earlier filing, of Closed-End Funds from the class of issuers whose annual fees cannot be deferred, waived, or rebated. This correction will clarify that only stock issues may, in the discretion of the Board of Governors, be deferred, waived, or

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

rebated. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>15</sup>

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 the furtherance of the purposes of the Act.<sup>16</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, as amended, 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-2006-33 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.

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<sup>15</sup> For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>16</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on April 12, 2006, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

All submissions should refer to File Number SR-Amex-2006-33. 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 Section, 100 F Street, NE, Washington, DC 20549-1090. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2006-33 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

Nancy M. Morris  
Secretary

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