

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57506; File No. SR-Amex-2008-19)

March 14, 2008

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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.

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.

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.

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.

⁵ 15 U.S.C. 78f(b)(4).

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 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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 No. SR-Amex-2008-19 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

⁶ 15 U.S.C. 78f.

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.

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).

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

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).