

1. The Commission will consider whether to adopt amendments to implement Section 303 of the Sarbanes-Oxley Act of 2002. Section 303(a) prohibits an issuer's officers, directors, and persons acting under the direction of an officer or director, from taking any action to fraudulently influence, coerce, manipulate or mislead the auditor of the issuer's financial statements for the purpose of rendering those financial statements materially misleading.

2. The Commission will consider whether to adopt new rules and rule amendments to implement (a) the mandated electronic filing of reports required to be filed by officers, directors and principal security holders under Section 16(a) of the Securities Exchange Act of 1934; and (b) website posting of such reports by issuers, both of which are required by Section 16(a)(4) of the Exchange Act, as amended by Section 403 of the Sarbanes-Oxley Act of 2002.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: the Office of the Secretary at (202) 942-7070.

Dated: April 15, 2003.

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47668; File No. SR-Amex-2003-22]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Transaction Charges for Certain Exchange Traded Funds

April 11, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 31, 2003, the American Stock Exchange LLC ("Exchange" or "Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II, and III below, which items have been prepared by the Amex. The Amex filed the proposed rule change as a "non-controversial" rule change pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule

19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 Amex proposes to amend the Amex Equity Fee Schedule (1) to provide for customer transaction charges for the iShares S&P 100 Index Fund of \$.0015 per share (\$.15 per 100 shares), capped at \$100 per trade; and (2) to suspend until April 30, 2003 exchange transaction charges in the iShares Lehman 1-3 year Treasury Bond Fund; iShares Lehman 7-10 year Treasury Bond Fund; Treasury 10 FITR ETF; Treasury 5 FITR ETF; Treasury 2 FITR ETF; and Treasury 1 FITR ETF for specialist, Registered Trader and broker-dealer orders.

#### 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 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 has suspended customer transaction charges until March 31, 2003 for the iShares S&P 100 Index Fund (Symbol: OEF), an Exchange Traded Fund that the Exchange trades pursuant to unlisted trading privileges.<sup>6</sup> The Exchange proposes to amend the Amex Equity Fee Schedule to provide that the customer transaction charges in OEF will be \$.0015 per share (\$.15 per 100 shares), capped at \$100 per trade. This is one-fourth of the regular

customer transaction charge for Index Fund Shares for which customer transaction charges have not been suspended (Index Fund Shares and other securities for which customer transaction charges have been suspended are set forth in Note 3 to the Amex Equity Fee Schedule). The regular charge is \$.006 per share (\$.60 per 100 shares), capped at \$100 per trade. The Exchange believes that this fee level will encourage competition among markets trading OEF and enhance the Exchange's competitiveness in trading this security.

In addition, the Exchange is extending until April 30, 2003 the suspension of transaction charges in iShares Lehman 1-3 year Treasury Bond Fund (Symbol: SHY); iShares Lehman 7-10 year Treasury Bond Fund (Symbol: IEF); Treasury 10 FITR ETF (Symbol: TTE); Treasury 5 FITR ETF (TFI); Treasury 2 FITR ETF (TOU); and Treasury 1 FITR ETF (TFT) for specialist, Registered Trader and broker-dealer orders. The Exchange previously filed a suspension in such charges until November 30, 2002;<sup>7</sup> until December 31, 2002;<sup>8</sup> until January 31, 2003;<sup>9</sup> until February 28, 2003;<sup>10</sup> and until March 31, 2003.<sup>11</sup> The Exchange believes a suspension of fees for these securities is appropriate to enhance the competitiveness of executions in these securities on the Amex. The Exchange will reassess the fee suspension as appropriate, and will file any modification to the fee suspension with the Commission pursuant to Section 19(b)(3)(A) of the Act.<sup>12</sup>

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of section 6(b)(4) of the Act<sup>14</sup> in particular, because it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among its members,

<sup>7</sup> See Securities Exchange Act Release No. 46765 (November 1, 2002), 67 FR 68893 (November 13, 2002) (SR-Amex-2002-91).

<sup>8</sup> See Securities Exchange Act Release No. 46996 (December 13, 2002), 67 FR 78264 (December 23, 2002) (SR-Amex-2002-98).

<sup>9</sup> See Securities Exchange Act Release No. 47141 (January 8, 2003), 68 FR 2090 (January 15, 2003) (SR-Amex-2002-115).

<sup>10</sup> See Securities Exchange Act Release No. 47361 (February 13, 2003), 68 FR 8534 (February 21, 2003) (SR-Amex-2003-04).

<sup>11</sup> See Securities Exchange Act Release No. 47455 (March 6, 2003), 68 FR 12111 (March 13, 2003) (SR-Amex-2003-15).

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

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4).

<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).

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

<sup>5</sup> The Amex provided written notice to the Commission on March 18, 2003, that it intended to file this proposed rule change. The Amex also asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> See Securities Exchange Act Release No. 47455 (March 6, 2003), 68 FR 12111 (March 13, 2003) (SR-Amex-2003-15).

issuers and other persons using its facilities.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary in furtherance of the purposes of the Act.

#### **III. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others**

No written comments were either solicited or received.

#### **IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing 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, the proposed rule change has become effective pursuant to section 19(b)(3)(A)<sup>15</sup> of the Act and Rule 19b-4(f)(6)<sup>16</sup> thereunder. 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 furtherance of the purposes of the Act.

The Amex has requested that the Commission accelerate the operative date. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will enable the Amex to continue suspension of its exchange transaction charges, and allow for the reinstitution of a previously suspended customer transaction fee at one-fourth its original level as of April 1, 2003. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>17</sup>

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> For purposes only of accelerating 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).

#### **V. 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. 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 Amex. All submissions should refer to File No. SR-Amex-2003-22 and should be submitted by May 9, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-47673; File No. SR-Amex-2003-08]**

#### **Self-Regulatory Organizations; Order Granting Approval to a Proposed Rule Change by the American Stock Exchange LLC To Increase to Five Hundred Contracts the Maximum Permissible Number of Equity and Index Option Contracts Executable Through Auto-Ex**

April 14, 2003.

#### **I. Introduction**

On February 10, 2003, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

increase to 500 contracts the maximum permissible number of equity and index option contracts in an order executable through its automatic execution system, Auto-Ex. On March 10, 2003, the proposed rule change was published for public comment in the **Federal Register**.<sup>3</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

#### **II. Description of the Proposal**

In 1985, the Exchange implemented the Auto-Ex system, which automatically executes public customer market and marketable limit orders in options at the best bid or offer displayed at the time the order is entered into the Amex Order File ("AOF"). There are, however, limitations on the number of option contracts that can be entered into or executed by these systems. AOF, which handles limit orders routed to the specialist's book as well as orders routed to Auto-Ex, allows for the entry of orders of up to 2500 option contracts.<sup>4</sup> Auto-Ex, however, is only permitted to execute equity option orders and index option orders of up to 250 contracts.<sup>5</sup> As a result, market and marketable limit orders of more than 250 contracts are routed by AOF to the specialist's book.

The Exchange now proposes to increase to 500 contracts the maximum permissible number of equity and index option contracts in an order that can be executed through the Auto-Ex system. It is proposed that this increase to 500 contracts in permissible order size for Auto-Ex be implemented on a case-by-case basis for an individual option class or for all option classes when two floor governors or senior floor officials deem such an increase appropriate. Currently, the Amex posts applicable quote size parameters on its web page and represents that it will continue to do so. The Exchange represents that it has sufficient systems capacity necessary to accommodate implementation of the proposed increase.

Under Commentary .03 to Amex Rule 933,<sup>6</sup> the Exchange is permitted to

<sup>3</sup> See Securities Exchange Act Release No. 47429 (March 3, 2003), 68 FR 11418.

<sup>4</sup> See Securities Exchange Act Release No. 44065 (March 12, 2001), 66 FR 15513 (March 19, 2001).

<sup>5</sup> See Securities Exchange Act Release No. 45628 (March 22, 2002), 67 FR 15262 (March 29, 2002). The Amex notes that the Auto-Ex guarantee size for Nasdaq-100 Tracking Stock ("QQQ") options is up to 2,000 contracts for the two near-term expiration months and 1,000 contracts for all other expiration months. See Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002).

<sup>6</sup> See Amex Rule 933, Commentary .03; see also Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002).