

By the Commission.

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52270; File No. SR-Amex-2005-066]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Calculation of the National Best Bid or Offer When Another Exchange is Disconnected From the Intermarket Option Linkage

August 16, 2005.

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 June 17, 2005, the American Stock Exchange LLC ("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. On August 4, 2005, the Amex filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Amex proposes to amend Amex Rules 933(g) and 933(g)—ANTE regarding the calculation of the national best bid or offer ("NBBO") when another participant in the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan") is disconnected from the Intermarket Option Linkage ("Linkage"). The text of the proposed rule change is available on the Amex's Web site (<http://www.amex.com>), at the Amex's Office of the Secretary, 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 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 purpose of this proposed rule change is to set forth the Amex's policy in connection with declaring quotes from other options exchanges unreliable when such other exchange is disconnected from the Linkage. The Amex currently relies on Amex Rules 933(g) and 933(g)—ANTE to determine whether quotes from another options exchange(s) are unreliable.

Amex Rules 933(g) and 933(g)—ANTE provide that a Floor Governor or Exchange Official may determine that certain quotes from another options exchange(s) are not reliable. The existing Amex rules provide that a Floor Governor or Exchange Official may make such determination in the following circumstances: (i) when another options exchange declares its quotes non-firm and directly communicates or disseminates a message through OPRA; and (ii) when another options exchange communicates to the Amex that such options exchange is experiencing reliability of its disseminated quotes.

The Amex believes that an additional circumstance whereby a Floor Governor or Exchange Official may determine the quotes from another options exchange to be unreliable should be added to Amex Rules 933(g) and 933(g)—ANTE. This additional circumstance would arise when another Participant Exchange⁴ is disconnected from the Linkage and is not accepting Linkage orders. The Amex believes that this additional circumstance for determining quotes from away options markets unreliable is necessary because there are times when because of system malfunctions, a Participant Exchange is disconnected from the Linkage but has not declared its quotes to be "non-firm" and has not informed the other options exchanges that such Participant Exchange may have quote problems. As a result, access to the Participant Exchange is limited,

and the Amex believes such Participant Exchange's quotes should be excluded from the Amex's calculation of the NBBO.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act⁵ in general and furthers the objectives of section 6(b)(5) of the Act⁶ in particular, in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism 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 Amex believes that the proposed rule change does not impose any 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Form 19b-4 dated August 4, 2005

("Amendment No. 1"). Amendment No. 1 supersedes and replaces the original filing in its entirety.

⁴ A "Participant Exchange" is a registered national securities exchange that is a party to the Linkage Plan. See Amex Rule 940 (b)(14).

- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR-Amex-2005-066 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-Amex-2005-066. 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 Room. Copies of the 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-2005-066 and should be submitted on or before September 13, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52268; File No. SR-Amex-2005-077]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to a Temporary Suspension of Specialist Transaction Charges for the Nasdaq-100 Tracking Stock® (QQQQ)

August 15, 2005.

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 July 15, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or the "Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by Amex. On July 20, 2005, the Exchange filed Amendment No. 1 to the proposal.³ On August 11, 2005, the Exchange filed Amendment No. 2 to the proposal.⁴ Amex has designated the proposed rule change, as amended, as establishing or changing a due, fee, or other charge imposed by the Exchange pursuant to Section 19(b)(3)(A)(ii) of the Act⁵ and Rule 19b-4(f)(2) thereunder,⁶ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to amend the Amex Equity and Exchange Traded Funds and Trust Issued Receipts Fee Schedules to suspend specialist transaction charges for the trading of Nasdaq-100 Index Tracking Stock® (Symbol: QQQQ) from July 18, 2005

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, Amex added language to the purpose section to explain that the proposal is deleting certain provisions from its fee schedules because such provisions, by their terms, have already expired.

⁴ In Amendment No. 2, Amex made minor technical changes to the proposed rule text and provided further discussion on how the proposal is consistent with the requirement under Section 6(b)(4) of the Act to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons its members and issuers and other persons using its facilities. See 15 U.S.C. 78f(b)(4).

⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

⁶ 17 CFR 240.19b-4(f)(2).

through July 31, 2005. The text of the proposed rule change is available on Amex's Web site (<http://www.amex.com>), at Amex's principal office, and from 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, as amended, 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 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 Exchange is proposing to suspend transaction charges for specialist orders in the Nasdaq-100 Index Tracking Stock® (QQQQ) from July 18, 2005 through July 31, 2005. This proposed rule change also deletes the references in the Amex Fee Schedules regarding the suspension of transaction charges for customer/broker-dealer, specialist and registered trader orders in QQQQ through February 28, 2005 because those provisions are no longer effective due to their expiration. Similarly, the references in the Amex Fee Schedules regarding the suspension of transaction charges for specialist, registered trader, and broker-dealer orders in IAU from January 28, 2005 through February 28, 2005 will also be deleted because these provisions are also no longer effective due to their expiration.

Specialists orders for transactions in the Nasdaq-100 Index Tracking Stock® currently are charged \$0.0037 (\$0.37 per 100 shares), capped at \$300 per trade. Effective December 1, 2004, the Nasdaq-100 Index Tracking Stock® (formerly "QQQ") transferred its listing from Amex to the Nasdaq Stock Market, Inc. It now trades on Nasdaq under the symbol QQQQ. After the transfer, Amex began trading QQQQ on an unlisted trading privileges basis. Amex previously suspended the transaction charges of specialist and registered trader orders in connection with QQQQ from December 1, 2004 through

⁷ 17 CFR 200.30-3(a)(12).