

services.<sup>6</sup> Implementation of this proposal is consistent with the reduction and/or elimination of these subsidies. Amex believes that these fees will help to allocate to those market participants offering Vanguard ETF Options a fair share of the related costs of offering such options. In connection with the adoption of an options licensing fee for the Vanguard ETF Options, the Exchange notes that the proposal will better align its licensing fees with its competitors. The Exchange also maintains that charging an options licensing fee, where applicable, for all market participant orders executed on the Exchange except for customer orders is reasonable given the competitive pressures in the industry. Accordingly, the Exchange seeks, through this proposal, to better align its charges with the cost of providing these products and maintaining the trading floor and systems.

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>8</sup> in particular, regarding the equitable allocation of reasonable dues, fees, and other charges among exchange members and other persons using exchange facilities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition 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*

The Exchange has neither solicited nor received comments on the proposed rule change.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>10</sup> because it establishes or changes a due, fee, or other charge

imposed by Amex. 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.

## IV. 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 (<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-2005-089 on the subject line.

### *Paper Comments*

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

All submissions should refer to File Number SR-Amex-2005-089. 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 offices of 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-2005-089 and

should be submitted on or before October 17, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5-5169 Filed 9-23-05; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52470; File No. SR-Amex-2005-090]

### **Self-Regulatory Organizations; American Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Options Licensing Fees for Spade Defense Index Option**

September 19, 2005.

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 September 9, 2005, the American Stock Exchange, Inc. ("Amex" or "Exchange") 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 Amex. Amex submitted the proposed rule change under Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 Exchange proposes to modify its options fee schedule by adopting a per-contract side licensing fee for the orders of specialists, registered options traders ("ROTs"), firms, non-member market makers, and broker-dealers in connection with transactions in Spade Defense Index options (symbol: DXS).

The text of the proposed rule change is available on Amex's Web site <http://www.amex.com>, at Amex's principal office, and at the Commission's Public Reference Room.

<sup>11</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.

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

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

<sup>6</sup> See Securities Exchange Act Release Nos. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002) and 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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

In its filing with the Commission, 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. 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 entered into numerous license agreements with issuers and owners of indexes for the purpose of trading options on certain exchange-traded funds ("ETFs") and securities indexes. The requirement to pay an index licensing fee to third parties is a condition to the listing and trading of these ETF and index options. In many cases, the Exchange is required to pay a significant licensing fee to issuers or index owners that may not be reimbursed. In an effort to recoup the costs associated with certain index licenses, the Exchange has established a per-contract side licensing fee for the orders of specialists, ROTs, firms, non-member market makers, and broker-dealers collected on every transaction in certain designated products in which such market participant is a party.<sup>5</sup>

The purpose of the proposal is to charge a per-contract side licensing fee in connection with transactions in the Spade Defense Index options. Specifically, Amex seeks to charge an options licensing fee of \$0.09 per contract side for specialist, ROT, firm, non-member market maker, and broker-dealer orders executed on the Exchange in connection with the Spade Defense Index options. In all cases, the fees set forth in the Options Fee Schedule are charged only to Exchange members through whom the orders are placed.

The proposed options licensing fee will allow the Exchange to recoup its costs in connection with index licensing fees for the trading of the Spade Defense Index options. The fee will be collected on every Spade Defense Index option order of a specialist, ROT, firm, non-member market maker, and broker-

dealer executed on the Exchange. The Exchange believes that collection of a per-contract side licensing fee in connection with Spade Defense Index options orders placed by those market participants that are the beneficiaries of the Exchange's index license agreements is justified and consistent with the rules of the Exchange.

The Exchange notes that Amex in recent years has revised a number of fees to better align Exchange fees with the actual cost of delivering services and to reduce Exchange subsidies of such services.<sup>6</sup> Implementation of this proposal is consistent with the reduction and/or elimination of these subsidies. Amex believes that this fee will help to allocate to those market participants offering Spade Defense Index options a fair share of the related costs of offering such options. In connection with the adoption of an options licensing fee for the Spade Defense Index options, the Exchange notes that the proposal will better align its licensing fees with its competitors. The Exchange also maintains that charging an options licensing fee, where applicable, for all market participant orders executed on the Exchange except for customer orders is reasonable given the competitive pressures in the industry. Accordingly, the Exchange seeks, through this proposal, to better align its charges with the cost of providing these products and maintaining the trading floor and systems.

#### 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>8</sup> in particular, regarding the equitable allocation of reasonable dues, fees, and other charges among exchange members and other persons using exchange facilities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>10</sup> because it establishes or changes a due, fee, or other charge imposed by Amex. 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.

### IV. 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 (<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-2005-090 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-Amex-2005-090. 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

<sup>6</sup> See Securities Exchange Act Release Nos. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002) and 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> See File No. SR-Amex-2005-087 (filed on August 31, 2004, and pending before the Commission).

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 offices of 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-2005-090 and should be submitted on or before October 17, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jonathan G. Katz,**  
Secretary.

[FR Doc. E5-5170 Filed 9-23-05; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52471; File No. SR-DTC-2005-08]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to the New Canadian-Link Service

September 19, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 27, 2005, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on August 30, 2005, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. 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 proposed rule change would enable participants of DTC and participants of The Canadian Depository for Securities Limited ("CDS") (i) to clear and settle securities transactions in Canadian dollars and (ii) to transfer or

receive Canadian dollars without any corresponding delivery or receipt of securities.

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

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>2</sup>

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

###### 1. Overview of the Canadian Link Service

The purpose of the proposed rule change is to create a new DTC service, the Canadian-Link Service, that will facilitate the clearance and settlement of valued securities transactions and the transfer of funds denominated in Canadian dollars between DTC's Participants using the Canadian-Link Service ("Canadian-Link Participants") and CDS Participants and between Canadian-Link Participants and other Canadian-Link Participants. Currently, DTC processes transactions in U.S. dollars only. The Canadian-Link Service will:

(1) Create a new link between DTC and CDS to leverage the existing CDS infrastructure for clearing and settling valued securities transactions and transferring funds in Canadian dollars so that DTC will not have to replicate this infrastructure;

(2) Apply enhanced DTC risk management controls to the transactions processed for Canadian-Link Participants through the Canadian-Link Service and will also subject DTC to CDS risk management controls, which are similar in most respects to DTC risk management controls; and

(3) Permit DTC Participants to concentrate their securities positions at DTC and not bifurcate inventory between DTC and CDS or a Canadian custodian.

At the present time, CDS maintains a number of links with DTC and the National Securities Clearing Corporation ("NSCC"). These links include:

(1) The American and Canadian Connection for Efficient Securities Settlement ("ACCESS") Service enables CDS Participants to clear and settle transactions with DTC Participants through omnibus accounts maintained by CDS with DTC and NSCC.<sup>3</sup> CDS Participants that use the ACCESS Service are not participants or members of DTC or NSCC nor does CDS maintain or sponsor individual accounts at DTC or NSCC for such CDS Participants.

(2) The New York Link Service enables CDS Participants to clear and settle transactions with DTC Participants through sponsored accounts maintained by CDS with DTC and NSCC. Through such sponsored accounts, CDS Participants may clear and settle transactions on a trade for trade basis or on a continuous net settlement basis through the facilities of DTC and NSCC.

(3) The DTC Direct Link Service enables CDS Participants to clear and settle transactions with DTC Participants through sponsored accounts maintained by CDS with DTC. Through such sponsored accounts, CDS Participants may clear and settle their transactions on a trade for trade basis through the facilities of DTC.

At the present time, DTC maintains no comparable links with CDS, although DTC Participants may use the ACCESS Service of CDS for free deliveries of securities to and from CDS Participants. With the implementation of the Canadian-Link Service by DTC, Canadian-Link Participants will have the same ability to clear and settle valued securities transactions with CDS Participants and other Canadian-Link Participants in Canadian dollars that CDS Participants now have to clear and settle valued securities transactions with DTC Participants in U.S. dollars. As noted above, this will be accomplished using the existing CDS infrastructure for processing transactions in Canadian dollars together with enhanced DTC risk management controls.

###### 2. The DTC Omnibus Account

CDS will maintain for DTC, as a participant of CDS, a ledger consisting of a series of accounts, including a securities account to record securities held by CDS for DTC and securities to be delivered by DTC to CDS and a funds account to record the net amount of money owing from time to time intraday

<sup>3</sup> CDS has advised DTC that it has decided to terminate the ACCESS Service and transfer its users to the New York Link Service. However, the ACCESS Service will continue to be available to DTC Participants for free deliveries of securities to and from CDS Participants.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The Commission has modified parts of these statements.