incoming options quotes during high option quote volume periods and peaks. The Commission notes that Options Size Mitigation operated on a pilot basis for four months and the Amex believes it is functioning as intended.

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 Options Size Mitigation program without interruption and thus, should facilitate the processing of incoming options quotes. The Commission notes that no comments were received in connection with the approval of the temporary Pilot Program and no comments have been received during the operation of the temporary Pilot 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**.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change, as amended (SR–Amex–2006–50), is hereby approved on an accelerated basis for a period to expire on March 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–8477 Filed 5–31–06; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(2).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53871; File No. SR–Amex–2006–42]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to a Retroactive Suspension of Transaction Charges for Specialist Orders in the Nasdaq–100 Tracking Stock® (QQQQ)

May 25, 2006.

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 May 2, 2006, 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, II, and III below, which Items have been prepared by the Exchange. On May 12, 2005, 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 Exchange proposes to retroactively apply a suspension of transaction charges for specialist orders in connection with the trading of the Nasdaq–100 Index Tracking Stock® (Symbol: QQQQ) from March 1, 2006, through April 5, 2006.

The text of the proposed rule change is available on Amex's Web site at *http://www.amex.com,* at Amex's principal office, 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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below, and is set forth in Sections A, B, and C below.

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

1. Purpose

The Exchange, in a companion filing (File No. SR–Amex–2006–30), adopted a suspension of transaction charges for specialist orders in the Nasdaq–100 Tracking Stock (''QQQQ'') from April 6, 2006, through June 30, 2006.[4] In order to waive transaction fees for specialist orders in the QQQQ from March 1, 2006, through June 30, 2006, the Exchange has proposed to retroactively suspend transaction fees for specialist transactions from March 1, 2006, through April 5, 2006.

Specialist orders currently are charged $0.0034 ($0.34 per 100 shares), capped at $300 per trade (88,235 shares). Effective December 1, 2004, the Nasdaq–100 Index Tracking Stock® (formerly ''QQQ'') transferred its listing from Amex to The Nasdaq Stock Market, Inc (''Nasdaq''). It now trades on Nasdaq under the symbol QQQQ. After the transfer, Amex began trading QQQQ on an unlisted trading privileges basis.

The Exchange believes that the retroactive suspension of transaction charges for specialist transactions in the QQQQ from March 1, 2006, through April 5, 2006, is consistent with the adoption of the proposal to suspend transaction charges for specialist orders generally in the QQQQ through June 30, 2006. The Exchange further believes that a retroactive suspension of transaction fees on specialist orders in the QQQQ is appropriate to enhance the competitiveness of executions on Amex. The Exchange proposes to amend the Amex Fee Schedule to indicate that transaction charges for specialist orders in the QQQQ have been suspended from March 1, 2006, through June 30, 2006.

As detailed in File No. SR–Amex–2006–30, the Exchange submits that a suspension of transaction fees for specialist orders in connection with the QQQQ is consistent with section 6(b)(4) of the Act.[5] Specifically, the Exchange believes that suspending transaction charges for QQQQ specialist orders is an equitable allocation of reasonable fees among Exchange members. The Exchange believes that the fact that specialists have greater obligations than other members and are also subject to other Exchange fees, in addition to transaction fees, supports this proposal

[1] 15 U.S.C 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1, which replaced and superseded the original filing in its entirety, is incorporated in this notice.

[4] *See* Securities Exchange Act Release No. 53701 (April 21, 2006), 71 FR 25253 (April 28, 2006). The Exchange previously adopted the suspension of specialist transaction charges in connection with the QQQQ from July 1, 2005, through December 31, 2005. *See* Securities Exchange Act Release Nos. 52268 (August 15, 2005), 70 FR 49336 (August 23, 2005); 52267 (August 15, 2005), 70 FR 49338 (August 23, 2005); 52460 (September 16, 2005), 70 FR 55639 (September 22, 2005); 52516 (September 27, 2005), 70 FR 58247 (October 5, 2005); and 52736 (November 4, 2005), 70 FR 69171 (November 14, 2005) (proposals previously introducing and extending this specialist transaction fee waiver). However, from January 1, 2006, through April 5, 2006, the specialist fee suspension for the QQQQ lapsed; therefore, the QQQQ specialists have been subject to transaction fees in connection with QQQQ executions during that time period.

[5] Section 6(b)(4) states that the rules of a national securities exchange must provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

to retroactively apply the fee suspension.

The Exchange notes that specialists are subject to a variety of Exchange fees other than transaction charges, such as a floor clerk fee, a floor facility fee, a post fee, and a registration fee.[6] In addition, specialists and other floor members of the Exchange are subject to technology and membership fees.[7] Certain market participants, such as customers, non-member broker-dealers and market-makers and member broker-dealers are not subject to the majority of these fees. In addition, a specialist unit, in order to adequately ''make a market'' in assigned securities, must be sufficiently staffed [8] and have adequate technology resources to handle the volume of orders (especially in the QQQQ) that are sent to the Exchange. The Exchange believes that these operational costs borne by a specialist further support the proposal to temporarily suspend QQQQ transaction fees on specialist orders.

Specialists have certain obligations under Exchange rules, as well as the Act, that do not exist for other market participants. For example, a specialist, pursuant to Amex Rule 170, is required to maintain a fair and orderly market in his or her assigned securities. Other members of the Exchange, as well as non-member market participants, do not have this obligation. As a result, the Exchange believes that the proposed retroactive suspension of transaction charges for specialist orders in the QQQQ is reasonable and equitable, given the obligations that specialists must adhere to in making markets. The Exchange further submits that the fee suspension will provide greater incentive to the specialist to continue to provide market liquidity, rendering the Exchange an attractive venue for market participants to execute orders.

2. Statutory Basis

The Exchange believes that the proposed fee change is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(4) of the Act,[10] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.[11]

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

The Exchange 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 1934 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 Exchange consents, the Commission will:

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

(B) Institute proceedings to determine whether the proposed rule change, as amended, 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
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2006–42 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–42. 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 such filing also will be available for inspection and copying at the principal office 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–2006–42 and should be submitted on or before June 22, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6–8486 Filed 5–31–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53866; File No. SR–CBOE–2006–44]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the Communications Review Fee and DPM Linkage Fees Credit Program

May 25, 2006.

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 May 18, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III

[6] The floor clerk, floor facility, post, and registration fees, on an annual basis, are $900, $2,400, $1,000, and $800, respectively.

[7] A technology fee of $3,000 per year is assessed on all specialists and other floor participants at the Exchange. Annual membership dues of $1,500 must be paid by all members while annual membership fees are payable depending on the type of membership and circumstances. Non-members are not subject to these fees.

[8] *See* Securities Exchange Act Release No. 53386 (February 28, 2006), 71 FR 11250 (March 6, 2006).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] At the request of the Exchange, the Commission staff conformed this sentence to the statement made by the Exchange in the statutory basis section of the Exchange's Form 19b–4 for this filing (Section 3(b)).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.