Protection Transactions without a requirement to prevent trade-throughs of the current protected quotations or to qualify for one of the exceptions in Rule 611(b). It thereby will minimize the expense incurred by trading centers to offer beneficial transactions to customers when such customers have contributed to public price discovery by displaying trading interest at a price and offering immediately accessible liquidity at such price.

Promoting the display of customer limit orders and public price discovery were primary objectives of Rule 611.[10] The trade-through protection of Rule 611, however, is limited to the best bids and offers (''BBOs'') displayed by automated trading centers. The Commission did not adopt a proposal to extend trade-through protection to certain ''depth-of-book'' quotations outside a trading center's BBOs, but noted that a number of commenters believed that enhanced order interaction with depth-of-book quotations would likely result even if the proposal were not adopted.[11] These commenters asserted that competition and best execution responsibilities would lead market participants to voluntarily access depth-of-book quotations in addition to quotations at BBOs. The Commission noted that such a competition-driven outcome would benefit investors and the markets in general.[12]

Print protection offered by trading centers is an additional competition-driven factor that can improve the execution of depth-of-book quotations and thereby promote price discovery. The Commission therefore believes that the exemption is fully consistent with the policies of Rule 611. The terms of the exemption are designed to achieve this goal. The customer's order must be displayed in whole or in part by an automated trading center that displays protected quotations. An automated trading center is required to offer immediate and automatic access to its displayed quotations, including both the displayed size and any reserve (*i.e.,* undisplayed) size of such quotations.[13] The size of a Print Protection Transaction cannot exceed the total of the displayed size and reserve size of

the customer's order. Given that those who seek to trade in large size often are unwilling to display the full extent of their trading interest because of the risk of causing an adverse price movement, the Commission believes it is appropriate to allow Print Protection Transactions to protect both displayed size and reserve size of customer orders. As a result, customers will be rewarded for displaying some of their trading interest at a particular price, while also providing immediately available liquidity at such price that is undisplayed.[14] Finally, the trading center must execute the Print Protection Transaction promptly after the Triggering Transaction, the contra side of the execution of the order must be provided by a broker-dealer who has responsibility for the order, and the Triggering Transaction must be identified as qualifying for the ISO exceptions in paragraphs (b)(5) or (b)(6) of Rule 611. These exceptions indicate that ISOs were routed to execute against all protected quotations with prices superior to the price of the Triggering Transaction, but may not have satisfied the full extent of the customer's order. If they did not, the trading center will be allowed to offer print protection and give the customer's order a beneficial execution.

For the foregoing reasons, the Commission finds that granting the foregoing exemption is necessary and appropriate in the public interest, and is consistent with the protection of investors.

IV. Conclusion

It is hereby ordered, pursuant to Rule 611(d) of Regulation NMS, that trading centers shall be exempt from the requirement in Rule 611(a) to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs when the transaction that constituted the trade-through qualifies as an Print Protection Transaction, as defined above.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11442 Filed 6–13–07; 8:45 am]

BILLING CODE 8010–01–P

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating to the Adoption of Market Data Fees for AMEX Real-Time Trade Price Service

June 8, 2007.

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, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II, and III below, which Items have been substantially prepared by Amex. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

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

The Exchange proposes to establish a one-year pilot program to disseminate AMEX Real-Time Trade Prices, a new Amex-only market data service that allows a vendor to redistribute on a real-time basis last sale prices of transactions that take place on the Exchange (''AMEX Trade Prices'') and to establish a flat monthly fee for that service. The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and *http://www.amex.com.*

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

In filings with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments 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.

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[10] *See, e.g.*, NMS Adopting Release, 70 FR at 37501.

[11] NMS Adopting Release, 70 FR at 37530.

[12] *Id.*

[13] *See* Rule 600(b)(4)(i) (automated trading center must be capable of displaying automated quotations); Rule 600(b)(3)(ii) (automated quotation must be immediately and automatically accessible); Regulation NMS Adopting Release, 70 FR at 37534 n. 313 (automated quotation ''must be immediately and automatically accessible up to its full size, which will include both the displayed and reserve size of the quotation'').

[14] *See* NMS Adopting Release, 70 FR at 37514 (noting common use of ''pinging'' orders—marketable orders with sizes greater than displayed size that seek to access both displayed and reserve liquidity at automated trading centers).

[15] 17 CFR 200.30–3(a)(82).

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

[2] 17 CFR 240.19b–4.

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

1. Purpose

Currently, Amex provides real-time last-sale information for transactions executed on the Exchange to a Securities Information Processor known as the Consolidated Tape Association's ("CTA") Network B. Amex's last-sale information is consolidated with the last-sale information generated by other markets trading its securities and is disseminated by CTA to market data vendors. The revenue generated by the dissemination of consolidated last-sale information is shared among the CTA participants in accordance with the CTA Plan. The CTA Plan also allows, free of charge, the dissemination of 20-minute delayed consolidated last-sale data to market data vendors. The real-time consolidated last-sale data is used by industry professionals to make trading and order routing decisions. Rule 603(c)(1) of Regulation NMS specifies that only consolidated data be used to support trading and order routing functionality. On the other hand, casual investors have traditionally relied upon the free 20-minute delayed consolidated last-sale data to ''get a feel'' for the market in a security or to price a portfolio.

The Exchange now proposes to establish a program in which it would allow the redistribution of Amex-only last-sale prices on a real-time basis. The service would be known as the AMEX Real-Time Trade Price service and provide the last-sale prices of transactions that take place on the Exchange. During the pilot program, the AMEX Real-Time Trade Price service would allow Internet service providers, traditional market data vendors, and others ''AMEX-Only Vendors'' to make available AMEX Trade Prices on a real-time basis.[3] The AMEX Real-Time Trade Price information would include last-sale prices for all securities that are traded on AEMI. It would include prices, and may include the trade condition code if the customers desire. It would not include bid/offer quotations.

The proposed pilot program for AMEX Real-Time Trade Prices responds to the requirements for distribution of real-time last-sale prices over the Internet for reference purposes, rather than as a basis for making trading

decisions. The Exchange contemplates that Internet service providers with a substantial customer base and traditional vendors with large numbers of less active investors are potential subscribers to AMEX Real-Time Trade Prices. The Exchange believes that AMEX Real-Time Trade Prices would replace delayed last-sale prices for many casual investors.

The Exchange believes that, while vendors want AMEX real-time, last-sale prices for widespread Internet distribution, they also want to eliminate the administrative burdens associated with the current distribution of real-time CTA prices. In addition, because these vendor services do not support trading or order-routing functionality, the vendors do not require, nor do they wish to pay for, the full spectrum of consolidated CTA information. At the same time, they recognize the quality and branding value of an AMEX print. In response, the Exchange proposes the AMEX Trade Price program feature a flat, fixed monthly vendor fee, no user-based fees, no vendor reporting requirements, and no professional or non-professional subscriber agreements.

The Exchange proposes to establish a flat monthly fee of $25,000 that would entitle an AMEX-Only Vendor to receive access to the AMEX Real-Time Trade Prices datafeed. The AMEX-Only Vendor may use that access to provide unlimited AMEX Trade Prices to an unlimited number of the AMEX-Only Vendor's subscribers and customers. It may also syndicate the service to an unlimited number of other Web site proprietors (as described below). The Exchange would not impose any device or end-user fee for the AMEX-Only Vendor's distribution of AMEX Trade Prices.

It is proposed that the AMEX-Only Vendor agree to identify the AMEX Trade Price by placing the text ''AMEX Data'' in close proximity to the display of each AMEX Trade Price or series of AMEX Trade Prices. The flat fee would enable the AMEX-Only Vendor to make AMEX Trade Prices available without having to differentiate between professional subscribers and nonprofessional subscribers, without having to account for the extent of access to the data, and without having to report the number of users. The flat fee would enable Internet service providers and traditional vendors that have large numbers of casual investors as subscribers and customers to contribute to the Exchange's operating costs in a manner that is appropriate for their means of distribution.

The Exchange has determined to allow AMEX-Only Vendors to provide

AMEX Real-Time Trade Prices to their subscribers and customers without requiring the end-users to enter into contracts for the benefit of the Exchange. Instead, the Exchange would require AMEX-Only Vendors to provide a readily visible hyperlink that would send the end-user to a warning notice about the end-user's receipt and use of market data. The notice would be similar to the notice that vendors provide today when providing CTA delayed data services. The Exchange proposes to require AMEX-Only Vendors to enter into the form of ''vendor'' agreement into which the CTA and CQ Plans require recipients of the Network B datafeeds to enter (the ''Network B Vendor Form''). The Network B Vendor Form would authorize the AMEX-Only Vendor to provide the AMEX Real-Time Trade Prices service to its subscribers and customers.

The Exchange proposes to supplement the Network B Vendor Form with an Exhibit C that would provide above-described terms and conditions that are unique to the AMEX Real-Time Trade Prices service. The supplemental terms would govern things such as the restriction against providing the service in the context of a trading or order-routing service, the replacement of end-user agreements with a hyperlink to a notice, the substance of the notice, the ''AMEX Data'' labeling requirement, and the AMEX-Only Vendor's obligation to impose the below-described Syndication Requirements on other Web site proprietors.

In addition to allowing an AMEX-Only Vendor to make AMEX Trade Prices available on its Web site, the Exchange further proposes that the program would allow AMEX-Only Vendors to syndicate the service by arranging with other Web site proprietors to link any such other proprietor's Web site to the AMEX-Only Vendor's AMEX Trade Prices service. The Exchange is proposing a separate fee of $25,000 per month for an AMEX-Only Vendor that enters into an agreement to syndicate the AMEX Trade Prices service to other Web site proprietors. The Exchange would allow an AMEX-Only Vendor to syndicate its AMEX Trade Price services in this manner to the AMEX-Only Vendor or to the other Web site proprietors, subject to the following ''Syndication Requirements'':

1. Each other Web site proprietor must provide the same readily visible hyperlink that the AMEX-Only Vendor must provide on its Web site: The hyperlink that will send the end-user to

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[3] The Exchange notes that it would make the AMEX Trade Prices available to vendors no earlier than it makes those prices available to the processor under the CTA Plan.

a warning notice about the end-user's receipt and use of market data.[4]

2. Each other Web site proprietor must identify the AMEX Trade Price by placing the text ''AMEX Data'' in close proximity to the display of each AMEX Trade Price or series of AMEX Trade Prices, just as Amex proposes to require AMEX-Only Vendors to do.

3. Each other Web site proprietor must identify the AMEX-Only Vendor as the source of the AMEX Trade Price data in close proximity to the display of each AMEX Trade Price or series of AMEX Trade Prices.

4. Each other Web site proprietor must agree not to provide AMEX Trade Prices in a context in which a trading or order-routing decision can be implemented unless the other Web site proprietor also provides consolidated displays of Network B last-sale prices available in an equivalent manner.

The Exchange believes that the AMEX Real-Time Trade Prices service would (1) provide a low-cost service that would make real-time prices widely available to many millions of casual investors; (2) provide vendors with a real-time substitute for delayed prices; and (3) relieve vendors of most administrative burdens.

Prior to the end of the one-year pilot program, the Exchange would assess its experience with the program. It either would submit a proposed rule change that seeks to extend or modify the pilot program or to make it permanent, or would announce publicly that it does not seek to extend the pilot program beyond the one-year termination date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. Specifically, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act[5] that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent

with the provisions of Section 6(b)(4),[6] which requires that the rules an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

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.

B. 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 self-regulatory organization 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 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–2007–49 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.

All submissions should refer to File No. SR–Amex–2007–49. 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. 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–49 and should be submitted on or before July 5, 2007.

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

Nancy M. Morris,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55882; File No. SR–CBOE–2007–54]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to CBOE and CBSX Market Data Fees

June 8, 2007.

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 29, 2007, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described

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[4] While Amex will not dictate the exact terms of this warning notice (which is consistent with the CTA delayed data service), it will require the AMEX-Only Vendors to state that the display of AMEX Data may not be used in a context in which a trading or order-routing decision can be implemented. *See* e-mail dated June 7, 2007, from Claire McGrath, Senior Vice President and General Counsel, Amex, to Michael Gaw, Assistant Director, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

[7] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.