

trading Nasdaq/NM securities on the CHX floor because it provides investors with auction-based trading, including unified opening transactions, in Nasdaq/NM securities. In addition, the CHX represents that it has assigned virtually all of its current allocation of 500 Nasdaq/NM securities.

The Commission continues to solicit comment regarding the BBO calculation, the trade through rule and the CHX's use of the BRASS system as well as issues presented by changes occurring in the market place. The Commission also solicits comment on the CHX's request to expand the number of Nasdaq/NM securities eligible to be traded on an unlisted basis on an exchange, pursuant to the Plan.

VI. Discussion

The Commission finds that an extension of temporary approval of the operation of the Plan, as amended, through September 30, 1999, is appropriate and in furtherance of Section 11A of the Act. The Commission believes that such extension will provide the Participants with additional time to seek Commission approval of pending proposals concerning the BBO calculation²² and to begin to make reasonable proposals concerning a trade through rule to facilitate the trading of OTC securities pursuant to UTP. In addition, the Commission believes that the extension will afford the CHX adequate time to test the BRASS system, address any operating issues concerning its use and implement it. While the Commission continues to solicit comment on these matters, the Commission believes that these matters should be addressed directly by the Participants on or before September 30, 1999 so that the Commission may have ample time to determine whether to approve the Plan on a permanent basis by September 30, 1999.

The Commission also finds that it is appropriate to extend the exemptive relief from Rule 11Ac1-2 under the Act until the earlier of September 30, 1999 or until such time as the calculation methodology for the BBO is based on a price/size/time algorithm pursuant to a mutual agreement among the

Participants approved by the Commission. The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Aa3-1 under the Act, that requires transaction reporting plans to include market identifiers for transaction reports and last sale data, to the BSE through September 30, 1999. The Commission believes that the extensions of the exemptive relief provided to vendors and the BSE, respectively, are consistent with the Act, the Rules thereunder, and specifically with the objectives set forth in Sections 12(f) and 11A of the Act and in Rules 11Aa-3 and 11Aa3-2 thereunder.

VII. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the extension, including whether the extension is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission and all written communications relating to the proposed plan amendment 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 at the Commission's Public Reference Room. All submissions should refer to File No. S7-24-89 and should be submitted by February 2, 1999.

VIII. Conclusion

It is therefore ordered, pursuant to Sections 12(f) and 11A of the Act and paragraph (c)(2) of Rule 11Aa3-2 thereunder, that the Participants' request to extend the effectiveness of the Joint Transaction Reporting Plan, as amended, for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis through September 30, 1999, and certain exemptive relief through September 30, 1999, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40881; File No. SR-Amex-98-46]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Revised Equity Fee Schedule

January 4, 1999.

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 December 11, 1998, 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 Amex. 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

Amex is proposing to revise its equity fee schedule to reflect the transaction charges that will be imposed on trades in Select Sector SPDRs and the Nasdaq 100 Index Trust, the new exchange-traded fund products that are scheduled to begin trading in December and January, respectively.³ The text of the proposed rule change is set forth below. Proposed new language is italicized.

²³ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In December 1998, the Commission approved trading of Select Sector SPDRs, see Securities Exchange Act Release No. 40749 (December 4, 1998), 63 FR 68483 (December 11, 1998), and noticed the Exchange's intention to trade the Nasdaq 100 Index Trust, see Securities Exchange Act Release No. 40809 (December 18, 1998), 63 FR 71524 (December 28, 1998).

²² See e.g., Actual Size Rule Release, supra note 13 and IODES Proposal, supra note 14.

Amex Equity Fee Schedule

I.

Transaction charges

Share—Based Charge

Total shares/month	Rate, per share
Up to 16,500,000	\$.00225
16,500,00–25,000,00000200
25,000,001–33,000,00000175
Over 33,000,00000150

Value—Based Charge

Total gross dollar value/month	Rate per \$1,000
Up to \$200,000,000	\$0.7500
\$200,000,001–300,000,00007000
\$300,000,001–400,000,00006500
Over \$400,000,00005000

Notes:

1. In calculating these charges, each order will be assessed on the first 25,000 shares only.

2. Amex specialist/REMM trades are 100% deductible.

3. Amex option specialist/ROT trades in paired securities are 100% deductible.

4. The value-based portion of the transaction charge (based on the value of shares traded) is subject to a maximum charge of \$40 per trade.

5. Proprietary trades in Canadian securities are charged at 50% of the above rates.

6. PER System orders for up to 1,099 shares will not be assessed a share or value charge. This provision does not apply to PER orders of a member of member organization trading as an agent for the account of a non-member competing market maker. A "competing market maker" is defined as a specialist or market maker registered as such on a registered stock exchange (other than the Amex), or a market maker bidding and offering over-the-counter, in an Amex-traded security.

7. In lieu of the above transaction charge, a separate fee will be imposed for executing trades in Standard & Poor's Depository Receipts ("SPDRs"), *Select Sector Standard & Poor's Depository Receipts* ("Select Sector SPDRs"), Standard and Poor's MidCap Depository Receipts ("MidCap SPDRs"), DIAMONDS, and the *Nasdaq 100 Index Trust*, which will vary depending on for whom the trade is executed. Specialists will be charged a transaction fee of \$.006 per share (.60 per 100 shares), capped at \$300 per trade (50,000 shares). Registered Traders will be charged a transaction fee of \$.007 per share (\$.70 per 100 shares), capped at \$350 per trade (50,000 shares). Off-floor orders (i.e., customer and broker-dealer) will be charged a transaction fee of \$.006 per share (\$.60 per 100 shares), capped at \$100 per trade (16,667 shares).

8. PER System orders for up to 5,099 shares in SPDRs, *Select Sector SPDRs*, MidCap SPDRs, DIAMONDS, and the *Nasdaq 100*

Index Trust will not be assessed a transaction charge. This provision does not apply to PER orders of a member of member organization trading as an agent for the account of a non-member competing market maker.

II.

Regulatory Fee

.00005 × Total Value

Notes:

1. All trades executed on the Exchange in SPDRs, *Select Sector SPDRs*, MidCap SPDRs, DIAMONDS, and the *Nasdaq 100 Index Trust* will be exempt from the regulatory fee. This provision does not apply to PER orders of a member or member organization trading as agent for the account of a non-member competing market maker.

III. DIAMONDS Specialist Fee

In addition to the \$.006 per share transaction charge imposed on the specialist in DIAMONDS under Note 7 above, such specialist will be required to pay a separate fee of \$90,000 per months, payable at the beginning of each month.

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 fee 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

In 1997, the Amex approved certain changes in its equity fee schedule relative to trades in SPDRs, MidCap SPDRs, and DIAMONDS executed on the Amex. Under the fee schedule, specialists are charged a transaction fee of \$.006 per share (\$.60 per 100 shares), capped at \$300 per trade (50,000 shares). Registered Traders are charged a transaction fee of \$.007 per share (\$.70 per 100 shares), capped at \$350 per trade (50,000 shares). Off-floor orders (both customer and broker-dealer) are charged a transaction fee of \$.006 per share (\$.60 per 100 shares), capped at \$100 per trade (16,667 shares).

In addition to the foregoing, orders up to 5,099 shares in SPDRs, MidCap SPDRs, and DIAMONDS routed to the Amex floor electronically through the Amex's Post Execution Reporting (PER) System are not assessed a transaction fee. However, the fee schedule operates on a principle consistent with that applied in the context of the Amex's current fee waiver in equities generally for PER orders up to 1,099 shares, in that the various fee waivers in SPDRs, MidCap SPDRs, and DIAMONDS are not available to PER orders for the account of a nonmember competing market maker.

In connection with the introduction of *Select Sector SPDRs* and the *Nasdaq 100 Index Trust*, the new exchange-traded fund products scheduled to begin trading in December and January, we are imposing on such products the same transaction fee schedule that we impose

on trading in SPDRs, MidCap SPDRs, and DIAMONDS. These fees are calculated to provide low costs to users of the products while making the cost of trading on the Exchange comparable to the economics of trading these and functionally similar products in other markets. The Exchange will notify member firms regarding the fee change, as well as the date of its effectiveness.

2. Statutory Basis

The fee change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(4) in particular in that it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers and other persons using the Exchange's facilities.

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

Amex does not believe that the proposed rule change will result in 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

Amex has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change, which establishes or changes a due, fee, or other charge applicable to members of the Exchange, has become effective pursuant to section 19(b)(3)(A) of the Act⁴ and subparagraph (e)(2) of Rule 19b-4 thereunder.⁵

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 foregoing 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. Copies of the submission, all subsequent amendments, all written statements with respect to the rule change that are filed with the Commission, and all written communications relating to the 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-98-46 and should be submitted by February 2, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40871; File No. SR-BSE-98-15]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Mandatory Year 2000 Testing

December 31, 1998.

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 December 23, 1998, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The Exchange seeks to adopt mandatory Year 2000 testing and reporting guidelines. The text of the

proposed rule change is below. Proposed new language is italicized.

* * * * *

CHAPTER XXXIII

Boston Exchange Automated Communication Order-routing Network

(BEACON)

Year 2000 Testing

Sec. 8(a) Each member and member organization shall participate in testing of computer systems designed to prepare for Year 2000, in a manner and frequency prescribed by the Exchange, and shall provide to the Exchange reports related to such testing as requested by the Exchange.

(b) The Exchange may exempt a member or member organization from this requirement if that member cannot be accommodated in the testing schedule by the organization conducting the test, if the member does not employ computers in its business, or for other good reasons.

(c) Every member of the Exchange that clears securities transactions on behalf of other broker-dealers must take reasonable measures to ensure that each broker-dealer for which it clears securities transactions conducts testing with such member.

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 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 purpose of the proposed rule change is to specifically mandate that all Exchange member firms, unless exempt, participate in Year 2000 ("Y2K") tests and report on Y2K remediation progress. The Exchange is proposing that the rule expire on January 2, 2001 so that the Exchange will be empowered to continue requiring testing and reporting as necessary to correct any Y2K problems which may not be resolved prior to January 1, 2000, as well as any unforeseen problems which may arise after January 1, 2000. Unresolved programming issues could result in erroneous data causing significant disruption in the securities industry,

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(e)(2).

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.