

temporarily waive Associate Member and Electronic Access fees for broker/dealer firms that currently do not have electronic access to the Amex Order File.<sup>4</sup> The Exchange is proposing to renumber footnotes 4 and 5 to the Member Fee Schedule to accommodate footnote 3 which was inadvertently dropped in SR-Amex-2002-78 but approved by the Commission on April 16, 2002.<sup>5</sup>

## 2. Statutory Basis

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

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

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

### 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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, and therefore, has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>9</sup>

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.

<sup>4</sup> Securities Exchange Act Release No. 46731 (October 28, 2002), 67 FR 67226 (November 11, 2002).

<sup>5</sup> Securities Exchange Act Release No. 45764 (April 16, 2002), 67 FR 19783 (April 23, 2002), approving SR-Amex 2002-10.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

## 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2002-100 and should be submitted by February 5, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47141; File No. SR-Amex-2002-115]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Extend the Suspension of Exchange Transaction Charges for Certain Exchange-Traded Funds

January 8, 2003.

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 December 27, 2002, the American Stock Exchange LLC ("Amex") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is

<sup>10</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.

publishing this notice to solicit comments on the proposed rule change.

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

The Amex proposes to extend until January 31, 2003 the suspension of Exchange transaction charges for specialist, Registered Trader and broker-dealer orders for the iShares Lehman 1-3 year Treasury Bond Fund; iShares Lehman 7-10 year Treasury Bond Fund; Treasury 10 FITR ETF; Treasury 5 FITR ETF; Treasury 2 FITR ETF; and Treasury 1 FITR ETF. Proposed new language is *italicized*; proposed deletions are in [brackets].

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### AMEX Equity Fee Schedule

#### I. Transaction Charges

No change.

#### II. Regulatory Fee

No Change.

Notes: 1. and 2. No change.

3. Customer transaction charges for the following Portfolio Depositary Receipts, Index Fund Shares, and Trust Issued Receipts have been suspended:

DIA—DIAMONDS®

QQQ—Nasdaq-100® Index Tracking

Stock

SPY—SPDRs®

IVV—iShares S&P 500

MDY—MidCap SPDRs

XLV—Select Sector SPDR-Consumer

Discretionary

XLK—Select Sector SPDR-Consumer

Staples

XLE—Select Sector SPDR-Energy

XLF—Select Sector SPDR-Financial

XLV—Select Sector SPDR-Health Care

XLI—Select Sector SPDR-Industrial

XLB—Select Sector SPDR-Materials

XLK—Select Sector SPDR-Technology

XLU—Select Sector SPDR-Utilities

BHH—B2B Internet HOLDRs™

BBH—Biotech HOLDRs

BDH—Broadband HOLDRs

EKH—Europe 2001 HOLDRs

1AH—Internet Architecture HOLDRs

HHH—Internet HOLDRs

IIH—Internet Infrastructure HOLDRs

MKH—Market 2000+ HOLDRs

OIH—Oil Service HOLDRs

PPH—Pharmaceutical HOLDRs

RKH—Regional Bank HOLDRs

RTH—Retail HOLDRs

SMH—Semiconductor HOLDRs

SWH—Software HOLDRs

TTH—Telecom HOLDRs

UTH—Utilities HOLDRs

WMH—Wireless HOLDRs

SHY—iShares Lehman 1-3 Year

Treasury Bond Fund

IEF—iShares Lehman 7-10 Year

Treasury Bond Fund