

“Release”).¹ The Release states that investment companies that are two-tier real estate partnerships that invest in limited partnerships engaged in the development and operation of housing for low and moderate income persons may qualify for an exemption from the Act pursuant to section 6(c). Section 6(c) provides that the Commission may exempt any person from any provision of the Act and any rule thereunder, if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 6(e) permits the Commission to require companies exempted from the registration requirements of the Act to comply with certain specified provisions of the Act as though the company were a registered investment company.

5. The Release lists two conditions, designed for the protection of investors, which must be satisfied by two-tier partnerships to qualify for the exemption under section 6(c). First, interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be unsuitable. Second, requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company.

6. Applicants assert, among other things, that the suitability standards set forth in the application, the requirements for fair dealing provided by the Partnership Agreement, and pertinent governmental regulations imposed on each Local Limited Partnership by various Federal, state, and local agencies provide protection to investors in Units. In addition, applicants assert that the requested exemption is both necessary and appropriate in the public interest.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48577; File No. SR-Amex-2003-80]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to a Pilot Program for Marketing Fee Procedures

September 30, 2003.

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 September 24, 2003, 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 the Exchange has prepared. 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 adopt Commentary .11 to Amex Rule 958 specifying the procedures by which specialists and registered options traders (“ROTs”) may determine whether to continue to participate in the marketing fee program recently established by the Exchange. The Exchange proposes to institute these procedures on a six-month pilot basis. The text of the proposed rule change is below. Proposed new language is *italicized*.

* * * * *

Rule 958. Options Transactions of Registered Traders

(a) through (h) No Change

Commentary

.01 through .10 No Change

.11 Marketing Fee Program Voting Procedures. The following procedures specify how a specialist and Registered Trader determine whether to participate or not to participate in the Exchange's marketing fee program. These procedures will expire six (6) months from the date of effectiveness unless extended, or adopted on a permanent basis.

(a) *Eligible Voters*

(i) *Eligible Registered Traders. For option classes traded by an individual specialist, Registered Traders to be*

eligible to participate in the vote must have transacted at least 80% of their contracts and transactions in each of the three immediately preceding calendar months in one or more option classes traded by that specialist. For cases when one specialist trades a single option class or multiple specialists trade a single option class, Registered Traders to be eligible to participate in the vote must have transacted at least 80% of their contracts and transactions in each of the three immediately preceding calendar months in that option class. Registered Traders are required to continue to trade the particular option class at the time of the vote. Eligible Registered Traders and the specialist shall each have one vote.

(b) *Requesting a Vote. After the marketing fee initially has been in effect for three consecutive calendar months with respect to the option classes of an individual specialist, any eligible Registered Trader and specialist can request that a vote be held to determine whether or not the Registered Trader and specialist should continue to participate in the marketing fee program by submitting a written request to that effect to the Secretary of the Exchange. The Exchange shall post a notice of the time and date of any vote to be taken at least 10 calendar days prior to the time of the vote. The Marketing Fee Program Committee shall determine all other administrative procedures pertaining to the vote.*

(c) *Participation in the Marketing Fee Program. The Registered Traders and specialist shall be deemed to have indicated that they desire to participate in the Exchange's marketing fee program if a majority of those eligible Registered Traders participate in the vote and if a majority of the total votes cast are in favor of participating in the marketing fee program. Conversely, the eligible Registered Traders and the specialist shall be deemed to have indicated that they do not desire to participate in the Exchange's marketing fee program if a majority of those eligible Registered Traders participate in the vote and if a majority of the total votes cast are against participating in the marketing fee program.*

(i) *Frequency of Vote. Once eligible Registered Traders and the specialist vote to participate in the marketing fee program, subsequent votes to determine whether to continue participation may be held only once every three calendar months. Once eligible Registered Traders and the specialist vote not to participate in the marketing fee program, subsequent votes to determine whether to participate in the marketing*

¹ Investment Company Act Release No. 8465 (Aug. 9, 1974).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.