

at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

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Dated: April 28, 2005.

**Dave Gamberoni,**

*Office of the Secretary.*

[FR Doc. 05-8872 Filed 4-29-05; 12:11 pm]

BILLING CODE 7590-01-M

## OFFICE OF MANAGEMENT AND BUDGET

### Public Availability of Fiscal Year 2004 Agency Inventories Under the Federal Activities Inventory Reform Act of 1998 (Pub. L. 105-270) ("FAIR Act")

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of public availability of agency inventory of activities that are not inherently governmental and of activities that are inherently governmental.

**SUMMARY:** In accordance with the FAIR Act, agency inventories of activities that are not inherently governmental are now available to the public from the agencies listed below. The FAIR Act requires that OMB publish an announcement of public availability of agency inventories of activities that are

not inherently governmental upon completion of OMB's review and consultation process concerning the content of the agencies' inventory submissions. After review and consultation with OMB, agencies make their inventories available to the public, and these inventories also include activities that are inherently governmental. This is the fourth and final release of the FAIR Act inventories for FY 2004. Interested parties who disagree with the agency's initial judgment can challenge the inclusion or the omission of an activity on the list of activities that are not inherently governmental within 30 working days and, if not satisfied with this review, may demand a higher agency review/appeal.

The Office of Federal Procurement Policy has made available a FAIR Act User's Guide through its Internet site: <http://www.whitehouse.gov/omb/procurement/fair-index.html>. This User's Guide will help interested parties review FY 2004 FAIR Act inventories, and gain access to agency inventories through agency Web site addresses.

**Joshua B. Bolten,**

*Director.*

## FOURTH FAIR ACT RELEASE FY 2004

Advisory Council on Historic Preservation .....	Mr. Ralston Cox, (202) 606-8528, <a href="http://www.achp.gov">http://www.achp.gov</a> .
Department of Agriculture .....	Ms. Ava Lee, (202) 720-1179, <a href="http://www.usda.gov">http://www.usda.gov</a>
Department of Agriculture (IG) .....	Mr. Delmas R. Thornsbury, (202) 720-4474, <a href="http://www.usda.gov/oig/rptsbulletins.htm">http://www.usda.gov/oig/rptsbulletins.htm</a> .
Department of Homeland Security .....	Mr. David Childs, (202) 772-9785, <a href="http://www.dhs.gov/dhspublic/display?theme=37&amp;content=3933">http://www.dhs.gov/dhspublic/display?theme=37&amp;content=3933</a> .
Department of Veterans Affairs .....	Mr. Scott Holiday, (202) 273-5053, <a href="http://www.va.gov">http://www.va.gov</a> .
Federal Communications Commission .....	Mr. Kent Baum (202) 418-0137, <a href="http://www.fcc.gov">http://www.fcc.gov</a> .
Inter-American Foundation .....	Ms. Linda Kolko, (703) 306-4308, <a href="http://www.iaf.gov">http://www.iaf.gov</a> .
Marine Mammal Commission .....	Mr. David Cottingham, (301) 504-0087, <a href="http://www.mmc.gov">http://www.mmc.gov</a> .
Merit Systems Protection Board .....	Ms. Deborah Miron, (202) 653-6772 x1168, <a href="http://www.msps.gov">http://www.msps.gov</a> .
Morris K. Udall Foundation .....	Mr. Christopher Helms, (520) 670-5530, <a href="http://www.udall.gov">http://www.udall.gov</a> .
Office of Federal Housing Enterprise Oversight .....	Ms. Jill Weide, (202) 414-3813, <a href="http://www.ofheo.gov">http://www.ofheo.gov</a> .
Office of Management and Budget .....	Ms. Lauren Wright, (202) 395-3970, <a href="http://www.whitehouse.gov/omb/procurement/fair/notices_avail.html">http://www.whitehouse.gov/omb/procurement/fair/notices_avail.html</a> .
Securities and Exchange Commission .....	Ms. Jayne Seidman, (202) 942-4000, <a href="http://www.sec.gov">http://www.sec.gov</a> .
Selective Service System .....	Mr. Calvin Montgomery, (703) 605-4038, <a href="http://www.sss.gov">http://www.sss.gov</a> .

[FR Doc. 05-8775 Filed 5-2-05; 8:45 am]

BILLING CODE 3110-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51621; File No. SR-Amex-2005-037]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto By the American Stock Exchange LLC Relating to When Floor Official Approval for a Transaction in a High-Priced Security Is Necessary

April 27, 2005.

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 April 4, 2005, 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 April 20, 2005, Amex submitted Amendment No.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

1 to the proposal.<sup>3</sup> 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**

Amex seeks to amend its Rule 154, Commentary .08 to require Floor Official approval for a transaction in a stock at a price of \$20 or more a share only when the trade is to be made at the greater of 1% or two dollars away from the last previous sale. The Exchange also proposes a conforming amendment to its Rule 119, governing indications, openings, and reopenings.

The text of the proposed rule change is available on Amex's Web site (<http://www.amex.com>), at the 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 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 the Statutory Basis for, the Proposed Rule Change**

##### **1. Purpose**

Amex Rule 154, Commentary .08 places limitations on the amount a stock may trade away from its previous sale. Depending upon the price of the stock, Commentary .08 allows a stock to trade up to 50 cents, one dollar, or two dollars away from its previous sale. For high-priced stocks trading at more than \$20 per share, Commentary .08 currently limits members from effecting trades at more than two dollars away from the previous sale.<sup>4</sup> Specialists who wish to

effect trades outside the foregoing limit must obtain the prior approval of a Floor Official.

High-priced stocks<sup>5</sup> frequently may trade more than two dollars away from the last sale in the ordinary course, and Floor Officials will approve these trades since they do not involve a significant price change in percentage terms. The need to obtain prior Floor Official approval for a proposed transaction, however, delays order processing in circumstances where an independent review of the transaction is not otherwise necessary. Therefore, the Exchange proposes to amend its Rule 154, Commentary .08 to provide that, for stocks that trade at more than \$20 per share, the next trade may be up to the greater of two dollars or 1% away from the previous sale, thus eliminating the need for Floor Official approval in those situations. The Exchange believes that permitting trades to be effected at the greater of 1% or two dollars away from the last previous sale is a moderate adjustment, conservative in percentage terms relative to other price moves allowed under Rule 154, Commentary .08 and appropriate in maintaining adequate trade-to-trade price continuity.

The Exchange further believes that allowing such flexibility in price movement would improve efficiency of order processing on the floor by exempting those who trade in high-priced stocks from obtaining approval in every instance they trade through the two-dollar limit in the normal course of business.

Corresponding to the proposed amendment of Amex Rule 154, the Exchange proposes a conforming change to its Rule 119, which governs indications, openings, and reopenings. That rule defines a "significant order imbalance" as one which would result in a reopening at a price change constituting two or more dollars away from the last sale in a stock selling at \$20 or more per share, one point or more away from the last sale in a stock selling at \$10 or more (but less than \$20) per share, and one-half point or more away from the last sale in a stock selling at less than \$10. Amex proposes to amend Rule 119(3)(a)(iii) to provide that a significant order imbalance is one which results in a reopening at a price change constituting the greater of 1% or two dollars from the last previous sale for stocks that trade at \$20 or more.

over 5% and, theoretically, a maximum of just under 5000% away from the last previous sale).

<sup>5</sup> Examples of such high priced securities include NVR, Inc. (ticker symbol: NVR), whose last sale on March 22, 2005 was \$795.50 and Seaboard Corporation (ticker symbol: SEB), whose last sale on March 22, 2005 was \$1,124.

Accordingly, the proposed amendment to Rule 119 would limit the frequency of significant order imbalances.

##### **2. Statutory Basis**

Amex 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)(5),<sup>7</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

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

The proposed rule change would impose no 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**

No written comments were solicited or received by the Exchange on this proposal.

### **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, 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](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2005-037 on the subject line.

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>3</sup> In Amendment No. 1, Amex made minor, non-substantive changes to the text of the proposal and a conforming amendment to Amex Rule 119.

<sup>4</sup> Rule 154, Commentary .08 currently allows for stocks trading at \$10 or more (but less than \$20) per share to execute at no more than one dollar away from the last previous sale (which allows for a minimum of just over 5% and a maximum of just under 10% away from the last previous sale). Stocks trading at less than \$10 per share may execute at no more than 50 cents away from the last previous sale (which allows for a minimum just

## Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2005-037. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2005-037 and should be submitted on or before May 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. E5-2125 Filed 5-2-05; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51616; File No. SR-Amex-2005-034]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade ETFs Based on the Dow Jones STOXX 50 and the Dow Jones EURO STOXX 50 Indexes Pursuant to Unlisted Trading Privileges

April 26, 2005.

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 March 21, 2005, 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 and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposal 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 is proposing to trade shares of two exchange-traded funds ("ETFs")—the streetTRACKS® Dow Jones STOXX 50 Fund (ticker symbol: FEU) and streetTRACKS® Dow Jones EURO STOXX 50 Fund (ticker symbol: FEZ)—pursuant to unlisted trading privileges ("UTP"). The text of the proposed rule change is available from the Exchange's Web site (<http://www.amex.com/>), at the principal office of the Exchange, 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 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 III 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 Exchange proposes to trade FEU and FEZ, which are Index Fund Shares under Amex Rules 1000A *et seq.*, pursuant to UTP. Each fund is a separate series of the streetTRACKS Index Shares Funds. STOXX Ltd., a joint venture between Deutsche Börse AG, Dow Jones & Company ("Dow Jones"), and the SWX Group, services the Dow Jones STOXX 50 Index and Dow Jones EURO STOXX 50 Index. Both indexes track the large-cap markets of the European and Eurozone regions. Their components have a high degree of liquidity and represent the largest companies across all 18 market sectors defined by the Dow Jones Global Classification standard. The Commission previously approved the original listing and trading of FEU and FEZ on the New York Stock Exchange, Inc. ("NYSE").<sup>3</sup>

The Exchange deems the shares of these ETFs to be equity securities, thus rendering trading in these shares subject to the Exchange's existing rules governing the trading of equity securities.<sup>4</sup> The trading hours for these ETFs on the Exchange would be 9:30 a.m. to 4:15 p.m. Eastern time ("ET").<sup>5</sup>

Quotations for and last sale information regarding these ETFs are disseminated through the Consolidated Tape Association ("CTA"). The NAV of each ETF is calculated by the funds' custodian, State Street Bank and Trust Company, and determined each business day, normally at the close of regular trading on the NYSE. To provide updated information relating to these ETFs for use by investors, professionals, and persons wishing to create or redeem shares in creation unit aggregations ("creation units"), Bloomberg calculates an indicative optimized portfolio value

<sup>3</sup> See Securities Exchange Act Release No. 46686 (October 18, 2002), 67 FR 65388 (October 24, 2002) ("NYSE Approval Order"). Shares of these ETFs commenced trading on the NYSE in October 2002.

<sup>4</sup> This includes Amex Rule 154, Commentary .04(c), which provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i-v).

<sup>5</sup> In its initial proposal to list and trade FEU and FEZ, the NYSE stated incorrectly that the close of trading in these ETFs would be 4:00 p.m. See NYSE Approval Order, 67 FR at 65391. The NYSE later corrected the misstatement and specified that the ETFs may be traded until 4:15 p.m. See Securities Exchange Act Release No. 49776 (May 26, 2004), 69 FR 31439 (June 3, 2004).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>8</sup> 17 CFR 200.30-3(a)(12).