(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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–95–04 and should be submitted within March 3, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–3326 Filed 2–9–95; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35326; File No. SR–Phlx–95–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange Relating to the Listing and Trading of Options on the Phlx USTOP Index

February 3, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 30, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

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

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to list and trade options on the Phlx USTOP 100 Index, a broad-based index developed by the Phlx and comprised of 100 highly capitalized U.S. stocks representing a variety of industries (''USTOP 100 Index'' or ''Index''). Exchange Rules 1001A, 1006A and 1101A respecting position limits, exercise restrictions, trading hours and far term strike prices respectively will be amended to add references to the USTOP 100 Index. The test of the proposed rule changes is available at the Office of the Secretary, Phlx, and at the Commission.

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

In its filing with the Commission, the Phlx 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 Phlx 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

The Phlx proposes to list for trading European-style options[2] on the Index, a broad-based, capitalization-weighted index composed of 100 highly capitalized U.S. common stocks in a variety of industries, including but not limited to technology, manufacturing and the service industries. USTOP 100 Index options will be traded pursuant to current Phlx rules governing the trading of index options.[3]

The Phlx represents that the Index includes some of the largest and most widely-held U.S. common stocks. As of January 23, 1995, the Phlx represents that the market capitalization of the individual stocks in the Index ranged from a high of $86 billion to a low of $7.6 billion. The market capitalization of all of the stocks in the Index was approximately $2 trillion. As of that same date, no one stock accounted for more than 4.17% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 17.28% of the Index's value. The percentage weighting of the lowest weighted stock was 0.37% of the Index's value.

The formula for calculating the value of the Index is as follows:[4]

$$\frac{(MV_1)+(MV_2)+\ldots(MV_{100})}{\text{Divisor}}\times 100$$

Where:

MV_n=Price × Shares outstanding for each component of the Index

Divisor=Number calculated to achieve a base value of 370 for the Index as of the close of trading on December 14, 1994.

In order to maintain continuity in the value of the Index, the index divisor will be adjusted for changes in capitalization of any of the component issues resulting from, among other things, mergers, acquisitions, delistings, and substitutions. As the close of trading on January 27, 1995, the Index Value was 383.81.

The Index value will be updated dynamically at least once every 15 seconds during the trading day. The Phlx has retained Bridge Data, Inc. to compute the value of the Index. Pursuant to Phlx Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority. The Index value will also be available on broker/dealer interrogation devices to subscribers of the option information.

In accordance with Phlx Rule 1009A, if any change in the nature of any stock in the Index occurs as a result of delisting, merger, acquisition or otherwise, the Exchange will take appropriate steps to delete that stock from the Index and replace it with another stock which the Exchange believes would be compatible with the intended market character of the Index. In making replacement determinations, the Exchange will also take into account

[2] European-style options can be exercised only during a specific time period prior to expiration of the options.

[3] *See* Phlx Rules 1000A through 1103A, and 1000 through 1070.

[4] The formula for calculating the value of the Index is the same as that previously approved by the Commission for calculating the value of the Phlx Big Cap Index. See Securities and Exchange Act Release No. 33973 (April 28, 1994), 59 FR 23245 (May 5, 1994). Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, on February 2, 1995.

the capitalization, liquidity, and volatility of a particular stock.

The Exchange represents that all of the stocks comprising the Index currently are options eligible[5] and have standardized options listed on them. If at any time, less than 90% of the components in the Index, by weight, are options eligible, the Exchange will submit a Rule 19b-4 filing for Commission approval before opening any new series of options on the Index for trading. Further, the Exchange will submit a Rule 19b-4 filing for Commission approval prior to opening any new series of options on the Index if the number of stocks in the Index ever increases to more than 120 or decreases to less than 80.

The settlement value for Index options will be based on the opening values of the component securities on the date prior to expiration. Index options will expire on the Saturday following the third Friday of the expiration month, and the last day for trading in an expiring series will be the second business day (ordinarily a Thursday) preceding the expiration date.

The Phlx proposes to employ position and exercise limits applicable to the Exchange's other broad-based indexes pursuant to Phlx Rule 1001A(b)(i) and 1002A, respectively. Specifically, the position limit will be $25,000 contracts total, of which no more than 15,000 contracts can be in the nearest expiration month.

Exercise price intervals will be set at five point intervals in terms of the current value of the Index except exercise prices in the far-term series shall be $25.00 unless demonstrated customer interest exists at $5.00 intervals. The Exchange represents that demonstrated customer interest will include institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit but not interest expressed by a registered options trader (''ROT'') with respect to trading for the ROT's own account. Exchange Rule 1101A, Commentary .02, which already permits $25.00 intervals for the Exchange's other broad-based indexes, will be amended to include this treatment for the USTOP 100 Index. Additional exercise prices will be added in accordance with Phlx Rule 1101A(a).

As with the Exchange's other indexes, the multiplier for options on the USTOP 100 Index will be 100. Index options will trade during the Exchange's regular trading hours (9:30 a.m. through 4:15 p.m., Eastern time).

The Phlx will trade consecutive and cycle month series pursuant to Phlx Rule 1101A. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the three nearest term months will always be available.

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. These procedures include having complete access to trading activity in the securities underlying the Index, all of which are traded on either the New York Stock Exchange (''NYSE'') or the American Stock Exchange (''Amex''), or are Nasdaq National Market securities. In addition, the Intermarket Surveillance Group Agreement will be applicable to the trading of options on the Index.[6]

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and with Section 6(b)(5),[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to facilitate transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx 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

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-95–07 and should be submitted by March 3, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

[5] The Phlx's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000 shares; (2) there must be a minimum of 2,000 stockholders; (3) trading volume in the U.S. must have been at least 2.4 million over the preceding twelve months; and (4) the U.S. market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* Phlx Rule 1009, Commentary .01.

[6] The Intermarket Surveillance Group (''ISG'') was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the NYSE; the Pacific Stock Exchange, Inc.; and the Phlx. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[7] 15 U.S.C. 78f(b)(5) (1988).

[8] 17 CFR 200.30–3(a)(12) (1994).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–3327 Filed 2–9–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20882; 812–9356]

Nicholas-Applegate Mutual Funds, et al.; Notice of Application

February 6, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Nicholas-Applegate Mutual Funds (the ''Trust''), Nicholas-Applegate Capital Management (the ''Adviser''), and Nicholas-Applegate Securities (the ''Distributor'').

RELEVANT ACT SECTIONS: Order requested to amend a prior order under section 6(c) that granted an exemption from sections 2(a)(32), 2(a)(35), 22(c), and 22(d), and rule 22c–1.

SUMMARY OF APPLICATION: Applicants seek to amend an order permitting them to assess a contingent deferred sales charge (''CDSC'') on certain redemptions of shares of certain series of the Trust. The amended order would permit applicants to impose a CDSC on redemptions of shares of certain other series of the Trust not covered by the previous order.

FILING DATES: The application was filed on December 9, 1994, and amended on February 3, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 6, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, 600 West Broadway, 30th Floor, San Diego, California 92101.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 942–0581, or C. David Messman, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust and Nicholas-Applegate Investment Trust (the ''Master Trust'') are open-end management investment companies organized as Delaware business trusts. Under a ''master-feeder'' structure, each of the Trust's portfolios invests all of its assets in a corresponding series of the Master Trust. The Adviser is a registered investment adviser that serves as investment adviser to the Master Trust. The Distributor serves as principal underwriter of the shares of the portfolios of the Trust.

2. On March 30, 1993, the SEC issued an order (the ''Existing Order'') [1] permitting certain existing portfolios of the Trust (the ''Portfolios'') to impose a CDSC on certain redemptions and waive the CDSC under certain circumstances. The application for the Existing Order sought, and accordingly the Existing Order granted, relief on behalf of the Trust only with respect to the Trust's Portfolio A Series, Portfolio B Series, and Money Market Portfolio. The Existing Order also applied to all other open-end management investment companies or series thereof that invest substantially all of their assets in a registered investment company for which the Adviser serves in the future as investment adviser and that are in the same ''group of investment companies'' as the Portfolios, as defined in rule 11a–3 under the Act, the shares of which will be distributed on substantially the same basis as those of the Portfolios.

3. Applicants seek to amend the Existing Order to permit other portfolios of the Trust (the ''Portfolio C Series'') to impose a CDSC. Shares of the Portfolio C Series would be offered at net asset value without a front-end sales load. The shares would be offered under a distribution plan and shareholder service plan, each adopted pursuant to rule 12b–1 under the Act. Under the distribution plan, each Portfolio C Series may pay the Distributor an amount equal to .75% of the average daily net assets of the series to compensate the Distributor for selling the shares of the series. Under the shareholder service plan, each series pays the Distributor an annual fee of up to .25% of the series' average daily net assets as reimbursement for certain expenses incurred in connection with shareholder services provided by the Distributor.

4. If the shares of a Portfolio C CDSC are redeemed within specified periods after their purchase date, the redemption proceeds will be reduced by a percentage of the lesser of the value of the shares redeemed or the total cost of such shares. The percentage will vary depending on the period the shares were held, as set forth in the applicable prospectus. The Distributor will retain the CDSC as compensation for dealer commissions paid with respect to sales of shares of the series and to recover a portion of the sales and marketing expenses incurred in marketing such shares. Applicants may in the future reduce the CDSC percentage, shorten the applicable holding period, or temporarily or permanently discontinue the CDSC.

5. No CDSC will be imposed on exchanges of shares of a Portfolio C Series for shares of other Portfolio C Series or for shares of the Trust's Money Market Portfolio Series. No CDSC will be imposed on the amount which represents a capital appreciation of shares, reinvestment of dividends, or capital gains distributions. In determining whether a CDSC is applicable, it will be assumed that a redemption is made first of shares not subject to the CDSC, including shares derived from reinvestment of dividends or capital gains distributions, and then of other shares in the order of purchase.

6. Applicants request relief to permit each investment company or series thereof that would assess a CDSC under the requested order to waive or reduce the CDSC in certain circumstances. Any waiver or reduction will comply with the conditions in paragraphs (a) through (d) of rule 22d–1. In addition, applicants will comply with rule 11a–3 with respect to any exchanges of shares.

7. The Distributor will refund out of its own assets any CDSC paid in connection with a redemption of shares of a Portfolio C Series upon reinvestment in a Portfolio C Series within 90 days of such redemption.

Applicants' Legal Analysis

Section 6(c) provides that the SEC may exempt any transactions from any transactions from any provision of the Act if 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. For the reasons set forth in the

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[1] Investment Company Act Release Nos. 19315 (March 5, 1993) (Notice) and 19367 (March 30, 1993) (order).