

U.S. dollar to foreign currencies.¹ The Amex currently trades foreign currency warrants based upon the value of the U.S. dollar in relation to a single foreign currency (e.g., Japanese yen and German mark) as well as warrants based on the value of the U.S. dollar in relation to multiple foreign currencies.²

The Exchange represents that Mexican Peso Warrants will conform to the listing guidelines under section 106 of the Guide, which provide, among other things, that: (1) the issuer must have assets in excess of U.S. \$100,000,000 and otherwise substantially exceed the size and earnings requirements in section 101(A) of the Guide; (2) the term of the warrants will be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution will be one million warrants, together with a minimum of 400 public holders, and an aggregate market value of at least U.S. \$4,000,000 million.

Mexican Peso Warrants generally will be direct obligations of their issuers and will be cash-settled in U.S. dollars. Mexican Peso Warrants will either be exercisable throughout their life (i.e., American-style) or exercisable only during a specified period immediately prior to the expiration date (i.e., European-style). Upon exercise, the holder of a warrant structured as a "put" will receive payment in U.S. dollars to the extent that the value of the Mexican peso has declined in relation to the U.S. dollar below a pre-stated base level. Conversely, upon exercise, holders of a Mexican Peso Warrant structured as a "call" will receive payment in U.S. dollars to the extent that the value of the Mexican peso has increased in relation to the U.S. dollar above a pre-stated base level. Mexican Peso Warrants that are "out-of-the-money" at the time of expiration will expire worthless.

Notwithstanding any other Amex rule,³ the Exchange will require that Mexican Peso Warrants be sold only to

customers whose accounts have been approved for options trading pursuant to Amex Rule 921. Additionally, the options suitably standards in Amex Rule 923 will apply to recommendations in Mexican Peso Warrants. Moreover, all discretionary orders in Mexican Peso Warrants must be approved and initiated by a Senior Registered Options Principal or Registered Options Principal. Further, the Exchange will require that customer positions in Mexican Peso Warrants be subject to the margin requirements applicable to foreign currency options.

Finally, prior to the commencement of trading of Mexican Peso Warrants, the Amex will distribute a circular to its membership calling attention to specific risks associated with Mexican Peso Warrants.⁴

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

The Amex 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.

⁴The Commission notes that the Amex will be required to submit a draft of the circular to the Commission staff for approval prior to distribution to members.

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, NW., Washington, DC 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, NW., Washington, DC. 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-95-04 and should be submitted by March 10, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35361 International Series Release No. 784; File No. SR-NASD-94-51]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Amendments to Parts VI and X of Schedule C of the NASD By-Laws Relating to Foreign Finders and Foreign Associates

February 13, 1995.

On September 27, 1994, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder.² The rule change amends Parts VI and X of Schedule C of

⁵ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. Section 78s(b)(1).

² 17 CFR 240.19b-4.

¹ The Commission notes that the Exchange has filed a proposed rule change that would, among other things, revise the criteria pursuant to section 106 for listing stock index and currency warrants. These new standards will apply to Mexican Peso Warrants issued following approval of that proposed rule change. See Securities Exchange Act Release No. 35086 (December 12, 1994), 59 FR 65561 (December 20, 1994) (notice of File No. SR-Amex-94-38).

² See Securities Exchange Act Release Nos. 24555 (June 5, 1987), 52 FR 22570 (June 12, 1987) (approval of listing requirements for single foreign currency warrants), and 31627 (December 21, 1992), 57 FR 62399 (December 30, 1992) (approval of listing requirements for multiple foreign currency warrants).

³ See, e.g., Amex Rule 411, Commentary .01.

the NASD By-Laws³ relating to foreign finders and foreign associates.

Under the rule as amended, member firms and persons associated with a member will be permitted to pay transaction-related compensation to non-registered foreign persons based upon the business of customers such persons direct to member firms. The following conditions must be met in order for the "foreign finder" exemption to apply: (1) the member firm must assure itself that the non-registered foreign person who will receive the compensation (the finder) is not required to register in the U.S. as a broker/dealer nor is subject to a disqualification as defined in Article II, Section 4 of the NASD By-Laws;⁴ (2) the member firm must further assure itself that the compensation arrangement does not violate applicable foreign law; (3) the finder must be a foreign national or a foreign entity domiciled abroad; (4) the customers directed to the member firm by the finder must be foreign nationals or foreign entities domiciled abroad transacting business in either foreign or U.S. securities; (5) the customers must receive a descriptive document that discloses the compensation being paid to the finder; (6) the customers must provide written acknowledgement of the existence of the compensation arrangement to the member firm and such acknowledgement must be retained and available for inspection by the Association; (7) records reflecting payments to the finder must be maintained on the member firm's books and the actual agreement between the member firm and the finder must be available for inspection by the Association; and (8) the confirmation of each transaction must indicate that a finder's fee is being paid pursuant to a compensation arrangement.

The amendment also will change the requirements with respect to foreign associates. Those persons designated as foreign associates pursuant to Part X of Schedule C of the NASD By-Laws⁵ now will be subject to U-4 registration but still will not be required to pass a qualification examination.

Notice of the proposed rule change, together with its terms of substance was provided by issuance of a Commission release⁶ and by publication in the **Federal Register**.⁷ No comments were

received in response to the notice. This order approves the proposed rule change.

As the NASD indicated in its rule filing, the scope of permissible business activities and the associated regulatory requirements differ between foreign finders and foreign associates. The NASD clarified these differences in a letter to the Commission.⁸ The NASD states that, "[t]he foreign associate will be registered with the NASD and will be deemed an associated person or employee of the member. The foreign associate would therefore be allowed to act in any registered capacity on behalf of the member [consistent with its designation as a foreign associate]. This could include acting as a trader or being the registered person responsible for servicing the accounts of [a] foreign national. The foreign finder would not be considered an associated person of the member and [its] activities would, therefore, be limited to those discussed in the rule filing.⁹ Under the rule as amended, the sole involvement of a foreign finder in the business of a member firm will be the initial referral of non-U.S. customers to the firm.

The Commission has determined to approve the NASD's proposal. The Commission finds that the rule change is consistent with the requirements of the Act and the rules and regulations promulgated thereunder applicable to the NASD, including the requirements of Section 15A(b)(6) of the Act.¹⁰ Section 15A(b)(6) requires, in part that the rules of a national securities association be designated to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds that the amendments to Parts VI and X of Schedule C to the NASD By-Laws¹¹ are consistent with the foregoing statutory provision. The addition of Part VI, Section 2 will allow member firms to use foreign finders to expand overseas business opportunities while requiring the maintenance of necessary safeguards for investor protection. Further, the changes to Part X of Schedule C will improve regulatory oversight of member firms and their foreign associates.

Although foreign associates will continue to be free of the requirement of taking a qualification examination, the amendment will require foreign associates to be subject to U-4 registration.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR-NASD-94-51 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35362; File No. SR-OCC-94-13]

Self-Regulatory Organizations; The Options Clearing Corporation, Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Stockholders Agreement

February 13, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 28, 1994, The Options Clearing Corporation ("OCC") 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 primarily by OCC. 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

OCC proposes to amend Section 2 of its Stockholders Agreement to extend the voting agreement contained therein for a term coextensive with the term of the Stockholders Agreement and to conform the Stockholders Agreement to an amendment made to OCC's Restated Certificate of Incorporation providing for public directors on OCC's board of directors.² OCC also proposes to amend its address and that of the Chicago Board Options Exchange, Inc. as they appear in the Stockholders Agreement.

³ *MASD Manual*, Schedules to the By-Laws, Schedule C, Parts VI and X, (CCH) ¶¶ 1787, 1791.

⁴ *NASD Manual*, By Laws, Article II, Sec. 4, (CCH) ¶ 1124.

⁵ *Supra*, note 3.

⁶ Securities Exchange Act Release No. 34941 (November 4, 1994).

⁷ 59 FR 56102 (November 10, 1994).

⁸ Letter from Craig L. Landauer, Associate General Counsel, NASD, to Mark P. Barracca, Branch Chief, SEC, (Feb. 8, 1995).

⁹ *Id.*

¹⁰ 15 U.S.C. Section 78o-3(b)(6).

¹¹ *Supra*, note 3.

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² For a description of the amendment to OCC's Restated Certificate of Incorporation providing for public directors on OCC's board of directors, refer to Securities Exchange Act Release No. 30449 (March 6, 1992), 57 FR 8949 [File No. 92-02] (order approving proposed rule change).