

*Approval: Proposed amendments to:*

Rule 17j-1, File No. 270-239;  
 Rule 204-2, File No. 270-215;  
 Form N-1A, File No. 270-21;  
 Form N-2, File No. 270-21;  
 Form N-3, File No. 270-281;  
 Form N-5, File No. 270-172;  
 Form N-8B-2, File No. 270-186;  
 Form S-6, File No. 270-181.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval proposed amendments to the following rules and forms:

The proposed amendments to Rule 17j-1 under the Investment Company Act would enhance fund oversight of personal investment activities by requiring the management of each Rule 17j-1 organization to provide the appropriate fund's board of directors with an annual report describing issues that have arisen under the organization's code of ethics. Additionally, the proposed amendments would require certain affiliated persons of Rule 17j-1 organization ("access persons") to provide the organization with information about all securities held by the access persons at the time they become access persons. The proposed amendments also would require access persons to provide certain additional information on the quarterly reports that they must provide to Rule 17j-1 organizations under the current version of the rule. It is estimated that 4,040 funds, 640 investment advisers and 230 principal underwriters would incur 10 burden hours to comply with the rule, as proposed to be amended.

Rule 204-2 sets forth requirements for keeping, maintaining and preserving specified books and records by registered investment advisers, including requirements for maintaining records of securities transactions engaged in by advisers and their representatives. The proposed amendments would expand the list of securities exempt from these recordkeeping requirements, thereby reducing the reporting and recordkeeping burden on advisers and their representatives. It is estimated that the proposed amendments to rule 204-2 would reduce the burden of compliance with the rule so that it would take each of the 22,000 registered investment advisers 235.47 hours annually to comply with the rule.

The registration forms are used by funds to register their securities. The information in these forms is publicly available. Proposed amendments to the

registration forms would require funds to disclose whether or not their personnel may invest in securities, including securities purchased or held by the funds. Additionally, the proposed amendments to these registration forms would require funds to file with the Commission the codes of ethics applicable to the funds as exhibits to their registration statements.

It is estimated that the burden of complying with the registration forms, if amended as proposed, would be 1,065.27 hours for Form N-1A, 1,634.42 hours for Form N-2, 518.85 hours for Form N-3, 352 hours for Form N-5, 1,628 hours for Form N-8B-2, and 35.2 hours for Form S-6. Although Form S-6 is not being proposed to be amended, the burden of complying with that form would change as a result of the proposed amendments to Form N-8B-2 because registrants complying with Form S-6 must refer to items in Form N-8B-2.

General comments and comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and to the Clearance Officer, Office of Information and Regulatory Affairs, Paperwork Reduction Act numbers 3235-0224 (Rule 17j-1), 3235-0278 (Rule 204-2), 3235-0307 (Form N-1A), 3235-0026 (Form N-2), 3235-0316 (Form N-3), 3235-0169 (Form N-5), 3235-0186 (Form N-8B-2), and 3235-0184 (Form S-6), Office of Management and Budget, Room 3228, New Executive Office Building, Washington, D.C. 20503.

Dated: September 12, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95-24486 Filed 10-2-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36283; File No. SR-Amex-95-26]

**Self-Regulatory Organizations;  
 American Stock Exchange, Inc; Order  
 Approving and Notice of Filing and  
 Order Granting Accelerated Approval  
 to Amendment Nos. 1, 3 and 4 to a  
 Proposed Rule Change by the  
 American Stock Exchange, Inc.  
 Relating to the Listing of Options on  
 the Morgan Stanley High Technology  
 35 Index**

September 26, 1995.

**I. Introduction**

On June 29, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to provide for the listing and trading of index options on the Morgan Stanley High Technology 35 Index ("Tech 35 Index" or "Index"). Notice of the proposed rule change appeared in the Federal Register on July 13, 1995.<sup>3</sup> No comment letters were received on the proposed rule change. The Exchange subsequently submitted Amendment No. 1 to the proposed rule change on August 10, 1995,<sup>4</sup>

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).

<sup>3</sup> See Securities Exchange Act Release No. 35944 (July 7, 1995), 60 FR 37500.

<sup>4</sup> In Amendment No. 1, the Exchange proposed: (1) that if a determination is made to increase the number of components in the Index to more than 46 or decrease the number to less than 24, the Exchange will obtain Commission approval pursuant to Section 19(b) of the Act prior to making such a change; (2) that all securities placed on a Replacement List (as defined herein) provided to the Exchange must have a share price of at least \$7.50 at the time the list is provided to the Exchange and also at the time a replacement security chosen from a Replacement List is announced as an addition to the Index; (3) that the Exchange will be required, after each quarterly review, to replace component securities that fail to meet the maintenance criteria discussed herein; (4) that if a component remains in the Index following a merger or consolidation, the number of shares of that security in the Index will be adjusted, if necessary, to the nearest whole share, to maintain the component's relative weight in the Index; (5) the Exchange will review on a quarterly basis, whether the component securities continue to meet the required options eligibility standards discussed herein; and (6) to maintain the Index so that if at any time between annual rebalancings the top five component securities, by weight, account for more than one-third of the weight of the Index, the Amex will rebalance the Index after the close of trading on Expiration Friday (as defined herein) in the next month in the March cycle. See Letter from Claire McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated August 10, 1995 ("Amendment No. 1").

Amendment No. 2 on August 15, 1995,<sup>5</sup> Amendment No. 3 on September 6, 1995,<sup>6</sup> and Amendment No. 4 on September 19, 1995.<sup>7</sup> This order approves the Exchange's proposal, as amended.

## II. Description of Proposal

### A. General

The Amex proposes to trade options on the Tech 35 Index, a new stock index developed by Morgan Stanley & Co. Incorporated ("Morgan Stanley") based on technology stocks that are traded on the Amex, the New York Stock Exchange, Inc. ("NYSE"), or are National Market securities traded through Nasdaq. In addition, the Amex proposes to amend Amex Rule 902C(d) to include the Tec 35 Index in the disclaimer provisions of that rule.<sup>8</sup> The Amex also proposes to list long-term options on the Index having up to 36 months to expiration. In lieu of such long-term options on the full value of the Index, the Amex may instead list long-term options based on one-tenth of the value of the Tech 35 Index. These long-term options on either the full or reduced value of the Index are referred

<sup>5</sup> Amendment No. 2 was subsequently superseded by Amendment No. 3. See Amendment No. 3, *infra* note 6.

<sup>6</sup> In Amendment No. 3, the Amex provided that: (1) the Exchange will replace component securities in the Index that, at the time of any quarterly review, have failed to maintain a share price of \$5.00 or greater for a majority of business days during the three months prior to such quarterly review; and (2) the Exchange will publicly disseminate each Replacement List as soon as practicable following receipt from Morgan Stanley. In Amendment No. 3 the Exchange also clarified that options on the Index will be listed on the March cycle. See Letter from Claire McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated September 6, 1995 ("Amendment No. 3").

<sup>7</sup> In Amendment No. 4, the Amex provided that: (1) the Exchange will in its initial Information Circular describing the trading of options on the High Tech 35 Index advise its membership that a list of securities from which the Exchange will choose replacements for the Index will be publicly available each quarter for their review, and that the Exchange will issue an Information Circular each quarter setting forth the updated replacement list; and (2) each security included on the replacement list will meet the initial criteria for components in the Index and each security chosen from that list as a replacement will continue to meet those criteria at the time of its inclusion in the Index. See letter from Claire McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated September 19, 1995 ("Amendment No. 4").

<sup>8</sup> Amex Rule 902C(d) provides, among other things, that Morgan Stanley does not guarantee the accuracy or completeness of the Tech 35 Index or any data included therein, nor does Morgan Stanley make any warranty, either express or implied, as to the results to be obtained by any person or entity from the use of the Tech 35 Index or any data included therein.

to as "Tech 35 LEAPS" or "Index LEAPS." Tech 35 LEAPS will trade independent of and in addition to regular Index options traded on the Exchange. However, as discussed below, position and exercise limits of Index LEAPS (both full and reduced-value) and regular Index options will be aggregated.

### B. Composition of the Index

The Index is comprised of 35 large, actively traded, technology stocks. Included in this group are companies in the following industries: computer services, design software, server software, PC software and new media, networking and telecommunications equipment, server hardware, PC hardware and peripherals, specialized systems, and semiconductors.<sup>9</sup> The Exchange will use an "equal dollar-weighted" method to calculate the value of the Index.<sup>10</sup> The Index was initialized at a level of 200 as of the close of trading on December 16, 1994. As of the close of trading on September 5, 1995, the Index was valued at 300.0. The market capitalizations of the individual stocks in the Index as of the close of trading on June 15, 1995, ranged from a high of \$54.0 billion to a low of \$1.1 billion, with the mean and median being \$11.0 billion and \$5.2 billion, respectively. The market capitalization of all the stocks in the Index on that date was approximately \$386.7 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 588.6 million shares to a low of 19.9 million shares. In addition, the average monthly trading volume of the stocks in the Index, for the six-month period from December 1, 1994 through May 31, 1995, ranged from a high of 63.3 million shares per month to a low of 4.5 million shares per month, with the mean and median being 24.1 million and 14.4 million shares, respectively. Lastly, as of the close on June 15, 1995, no one stock accounted for more than 3.98% of the

<sup>9</sup> The current components of the Index are: Apple Computer, Inc.; Autodesk, Inc.; Adobe Systems Incorporated; Applied Materials, Inc.; America Online, Inc.; Automatic Data Processing, Inc.; Bay Networks, Inc.; Broderbund Software, Inc.; Computer Associates International Inc.; 3Com Corporation; Compaq Computer Corporation; Cabletron Systems, Inc.; Computer Sciences Corporation; Cisco Systems, Inc.; EMC Corporation; Electronic Arts Inc.; First Data Corporation; General Motors (Class E); Hewlett-Packard Company; IBM; Intel Corporation; Intuit Inc.; KLA Instruments Corporation; Linear Technology Corporation; Motorola, Inc.; Microsoft Corporation; Novell, Inc.; Oracle Systems Corporation; Parametric Technology Corporation; Seagate Technology, Inc.; Silicon Graphics, Inc.; Synopsys, Inc.; Tellabs Inc.; Texas Instruments, Incorporated; and Xilinx, Inc.

<sup>10</sup> T3See *infra* Section II.D entitled "Calculation of the Index" for a description of this calculation method.

Index's total value and the percentage weighting of the five largest issues in the Index accounted for 18.25% of the Index's value.

### C. Eligibility Standards for the Inclusion Component Stocks in the Index

The Tech 35 Index conforms with Exchange Rule 901C, which specifies criteria for the inclusion of stocks in an index on which standardized options will be traded on the Exchange. In addition, Morgan Stanley has included in the Index only those stocks that meet the following standards: (1) a minimum market capitalization of \$75 million; (2) average monthly trading volume of at least one million shares during the preceding six month period; (3) each component security must be traded on the Amex or the NYSE, or must be a National Market security traded through Nasdaq; and (4) upon annual rebalancing, at least 90% of the Index's numerical value must satisfy the then current criteria for standardized options trading set forth in Exchange Rule 915.<sup>11</sup>

### D. Calculation of the Index

The Index will be calculated using an "equal dollar-weighting" methodology designed to ensure that each of the component stocks are represented in approximately "equal" dollar amounts in the Index. In calculating the initial "equal dollar-weighting" of component stocks, the Amex, using closing prices on December 16, 1994, calculated the number of shares that would represent an investment of \$300,000 in each of the stocks contained in the Index (to the nearest whole share). The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the assigned number of shares of each of the stocks in the Index divided by the current Index divisor. The Index divisor was initially calculated to yield a benchmark value of 200.00 at the close of trading on December 16, 1994. Annually thereafter, following the close of trading on the third Friday of December, the Index portfolio will be adjusted by changing the number of shares of each component stock so that each company is again represented in "equal" dollar

<sup>11</sup> The Amex'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 must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least \$7.50 for a majority of the business days during the preceding three calendar months. See Amex Rule 915. As of June 15, 1995, all of the Index component securities had standardized options trading on them.

amounts.<sup>12</sup> If necessary, a divisor adjustment is made to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the annual adjustment.

Subject to the maintenance criteria discussed below, the number of shares of each component stock in the Index will remain fixed between annual reviews except in the event of certain types of corporate actions, such as the payment of a dividend (other than an ordinary cash dividend), stock distributions, stock splits, reverse stock splits, rights offerings, distributions, reorganizations, recapitalizations, or similar event with respect to an Index component stock. In a merger or consolidation of an issuer of a component security, if the security remains in the Index, the number of shares of that security will be adjusted, if necessary, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action.<sup>13</sup> In the event of a stock replacement, the average dollar value of the remaining Index components will be calculated and that amount invested in the replacement stock, rounded to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B and to the Options Price Reporting Authority ("OPRA").

#### E. Maintenance of the Index

The Tech 35 Index will be calculated and maintained by the Amex in consultation with Morgan Stanley which may, from time to time, suggest changes in the technology industry categories represented in the Index or changes in the number of component stocks in an industry category to reflect the changing conditions in the technology sector. In addition to the annual rebalancings of the Index discussed above, the Amex will maintain the Index so that if at any time between annual rebalancing the top five component securities, by weight, account for more than one-third of the weight of the Index, the Index will be rebalanced after the close of trading on

the third Friday ("Expiration Friday") in the next month in the March cycle.<sup>14</sup>

The Amex will also review the Index securities on a quarterly basis and will replace component securities that fail to meet the following maintenance criteria:<sup>15</sup> (1) a minimum market capitalization of \$75 million; (2) average monthly trading volume in the component security of at least 500,000 shares during the preceding six month period; (3) a share price greater than \$5.00 for a majority of the trading days during the preceding three month period;<sup>16</sup> and (4) at least 90% of the Index components, by weight, must satisfy the Exchange's options eligibility requirements in Rule 915. In addition, the Exchange expects to maintain the Index with 35 components, however, in the event that the Exchange determines to increase the number of components in the Index to more than 46 or decrease the number of components to less than 24, the Exchange must obtain prior approval from the Commission pursuant to Section 19(b) of the Act.<sup>17</sup>

At the beginning of each calendar quarter, Morgan Stanley will provide the Amex with a current list of 45 replacement stocks from which to draw in the event that a component in the Index must be replaced due to merger, takeover, failure to satisfy the above maintenance criteria, or other similar event (each a "Replacement List"). The Amex will be required to hold each Replacement List for a three month "seasoning period" before that Replacement List can be used by the Amex for selecting replacement securities for the Index.<sup>18</sup> The Amex will publicly distribute the Replacement Lists as soon as practicable following receipt from Morgan Stanley.<sup>19</sup> In addition to the requirements discussed above for initial inclusion in the Index, a security must have a share price of at least \$7.50 at the time it is added to a Replacement List.<sup>20</sup> Moreover, a security selected from a Replacement List to be added to the Index must also have a share price of at least \$7.50, as

<sup>14</sup> See Amendment No. 1, *supra* note 4.

<sup>15</sup> *Id.*

<sup>16</sup> See Amendment No. 3, *supra* note 6.

<sup>17</sup> See Amendment No. 1, *supra* note 4. The Commission notes that in the event that the number of components in the Index is changed to any number other than 35, the Amex must contact the Commission to determine whether a rule filing pursuant to Section 19(b) of the Act will be required to change the name of the Index.

<sup>18</sup> See Letter from Robin Roger, Vice President and Counsel, Morgan Stanley, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated September 18, 1995 ("Morgan Stanley Letter").

<sup>19</sup> See Amendment No. 3, *supra* note 6.

<sup>20</sup> See Amendment No. 1, *supra* note 4.

well as meet the other criteria for inclusion in the Index, at the time it is publicly announced as a replacement.<sup>21</sup>

The stocks on each Replacement List will be selected and ranked by Morgan Stanley based on a number of criteria, including conformity to Exchange Rules 915 and 916, which set forth the criteria for the initial and continued listing of standardized options on equity securities, trading liquidity, market capitalization, ability to borrow shares, and share price. The replacement stocks will be categorized by Morgan Stanley by industry within the technology sector and ranked within their category based on the aforementioned criteria. The replacement stock for a security being removed from the Index will be selected solely by the Amex from the most recent "seasoned" Replacement List based on industry category and liquidity.<sup>22</sup>

In addition, Morgan Stanley will advise the Exchange regarding the handling of unusual corporate actions which may arise from time to time. Routine corporate actions (e.g., stock splits, routine spinoffs, etc.) which require straightforward index divisor adjustments will be handled by the Exchange's staff without consultation with Morgan Stanley. All stock replacements and unusual divisor adjustments caused by the occurrence of extraordinary events such as dissolution, merger, bankruptcy, non-routine spin-offs, or extraordinary dividends will be made by Exchange staff in consultation with Morgan Stanley, although Amex ultimately will select the actual replacement stock from the Replacement List without Morgan Stanley's assistance. All stock replacements and the handling of non-routine corporate actions will be announced at least ten business days in advance of such effective change, whenever practicable. As with all options currently trading on the Amex, the Exchange will make this information available to the public through the dissemination of information circulars.

#### F. Expiration and Settlement

The Index value for purposes of settling outstanding Index options and Index LEAPS contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of National Market securities traded through Nasdaq, the first reported sale

<sup>21</sup> *Id.* See Also Amendment No. 4, *supra* note 7.

<sup>22</sup> The Amex will ensure that at the time of selection it will only select securities that continue to meet the eligibility requirements discussed above. See Amendment No. 4, *supra* note 7.

<sup>12</sup> In certain circumstances, the Index will be rebalanced prior to the end of a calendar year. See *infra* Section II.E. (Maintenance of the Index).

<sup>13</sup> See Amendment No. 1, *supra* note 4.

price will be used. Once all of the component stocks have opened for trading, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the Amex will wait until the end of the trading day on expiration Friday.<sup>23</sup>

### G. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.<sup>24</sup> Standard options trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply to the contracts. The options on the Index will expire on the Saturday following the third Friday of the expiration month. Under Amex Rule 903C, the Exchange intends to list up to three near-term calendar months and two additional calendar months in three month intervals in the March cycle.<sup>25</sup> The Exchange also intends to list Index LEAPS having up to thirty-six months to expiration. Pursuant to the Amex's rules, strike price interval, bid/ask differential and price continuity rules will not apply to the trading of Index LEAPS until their time to expiration is less than twelve months.

The options on the Index will expire on the Saturday following Expiration Friday. Because options on the Index will settle based upon the opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

### H. Listing of Long-Term Options on the Full Value or Reduced Value Broker/Dealer Index

The proposal provides that the Exchange may list long-term index

<sup>23</sup> For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, the Amex will use the closing value of that stock in its primary market on the prior trading day when calculating the value of the Index, until the stock opens for trading.

<sup>24</sup> A European-style option can be exercised only during a specified period before the option expires.

<sup>25</sup> See Amendment No. 3, *supra* note 6. With respect to Amex Rule 903C(b), the Exchange proposes to list near-the-money option series on the Index at 2½ point strike price intervals when the value of the Index is below 200.

options that expire from 12 to 36 months from listing on the full-value Tech 35 Index or a reduced-value Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Tech 35 LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. The reduced-value Index LEAPS will also have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than \$2.50 instead of \$5.00.

In addition, the Amex's rules provide that full-value or reduced-value Index LEAPS will be issued at no less than six month intervals and that new strike prices will either be near or bracketing the current Index value.

### I. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is a Stock Index Option under Amex Rule 901C(a) and a Stock Index Industry Group under Rule 900C(b)(1), the proposal provides that Exchange rules that are applicable to the trading of narrow-based index options will apply to the trading of options on the Index. Specifically, Exchange rules governing margin requirements,<sup>26</sup> position and exercise limits,<sup>27</sup> and trading halt procedures<sup>28</sup> that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that positions in full and reduced-value Index LEAPS will be aggregated with positions in regular Index options. For aggregation purposes, ten reduced-value contracts will equal one full-value contract.

### J. Surveillance

Surveillance procedures currently used to monitor trading in each of the

<sup>26</sup> Pursuant to Amex Rule 462(d)(2)(D)(iv), the margin requirements for the Index options will be: (1) For each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.

<sup>27</sup> Pursuant to Amex Rules 904C and 905C, respectively, the position and exercise limits for the Index options will be 10,500 contracts, unless the Exchange determines, pursuant to Rules 904C and 905C, that a lower limit is warranted.

<sup>28</sup> Pursuant to Amex Rule 918C, the trading of Index options will be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

Exchange's other index options will also be used to monitor trading in Index options and full-value and reduced-value Index LEAPS. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group ("ISG") Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.<sup>29</sup>

Morgan Stanley has also adopted special procedures to prevent the potential misuse of material, non-public information by the research, sales and trading divisions of the firm in connection with the maintenance of the Index.<sup>30</sup> As discussed above, the stocks on each Replacement List are not eligible to be added to the Index by the Amex for a period of three months after receipt of the Replacement List by the Exchange. Moreover, the Amex has agreed to publicly disseminate each Replacement List by issuing information circulars so that investors will know in advance which securities will be considered as replacements for the Index.<sup>31</sup>

In addition, Morgan Stanley will have a limited role in the stock replacement selection and substitution process. First, when a stock in the Index no longer meets the published criteria as determined following a quarterly review of the components by the Exchange, the Amex will determine, without consultation with Morgan Stanley, which security from the applicable Replacement List will be selected for addition to the Index. Second, the Amex will also make adjustments as a result of stock splits, spin-offs, and otherwise, without consultation with Morgan Stanley. Finally, even in those situations where the Amex consults

<sup>29</sup> 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 Philadelphia Stock Exchange, Inc. 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.

<sup>30</sup> See Morgan Stanley Letter, *supra* note 18.

<sup>31</sup> See Amendment No. 3, *supra*, note 6.

with Morgan Stanley, upon the occurrence of certain events, the actual replacement stock will be selected solely by Amex from the 45 stocks on the replacement list.

### III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)<sup>32</sup> Specifically, the Commission finds that the trading of Tech 35 Index options, including full-value and reduced-value Index LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with an additional means to hedge exposure to market risk associated with stocks in the various high technology industries.<sup>33</sup>

The trading of options on the Tech 35 Index and on a reduced-value Index, however, raises several issues relating to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the Amex adequately has addressed these issues.

#### A. Index Design and Structure

The Commission believes it is appropriate for the Exchange to designate the Index as a narrow-based index for purposes of index options trading. The Index is comprised of a limited number (35) of stocks intended to track a limited range of the technology sector of the stock market. Accordingly, the Commission believes it is appropriate for the Amex to apply its rules governing narrow-based index options to trading in the Index options.<sup>34</sup>

The Commission also believes that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly

minimize the potential for manipulation of the Index. First, the stocks that comprise the Index are actively traded, with a mean and median average monthly trading volume for the period between December 1, 1994, and May 31, 1995, of 24.1 million and 14.4 million shares, respectively. Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of \$54.0 billion to a low of \$1.1 billion as of June 15, 1995, with the mean and median being \$11.0 billion and \$5.2 billion, respectively. Third, because the index is equal dollar-weighted, no one particular stock or group of stocks dominates the Index. Specifically, as of July 15, 1995, no one stock accounted for more than 3.98% of the Index's total value and the percentage weighting of the five highest weighted stocks in the Index accounted for 18.25% of the Index's value. Fourth, the Index will be maintained so that in addition to the other maintenance criteria discussed above, at each quarterly review and rebalancing (annual or otherwise), at least 90% of the weight of the Index will be composed of securities eligible for standardized options trading.<sup>35</sup> Currently, all of the component stocks in the Index have standardized options trading on them. Fifth, Morgan Stanley and the Amex will be required to ensure that each component of the Index is subject to last sale reporting requirements in the U.S. pursuant to Rule 11Aa3-1 of the Act. This will further reduce the potential for manipulation of the value of the Index. Finally, the Commission believes that the existing mechanisms to monitor trading activity in the component stocks of the Index, or options on those stocks, will help deter as well as detect any illegal activity.

In addition, even though the Index is only scheduled to be rebalanced annually, the Commission believes that the Amex and Morgan Stanley have developed several composition and maintenance criteria for the Index that will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or floats. First, if at any time during the year the top five components in the Index, by weight, account for more than one-third of the weight of the Index, the Exchange will rebalance the Index following the close of trading on Expiration Friday in the next month in the March cycle. These rebalancing requirements will serve to ensure that

any "overweight" stock<sup>36</sup> will be brought back into line with the other stocks, thus ensuring that less capitalized stocks do not become excessively weighted in the Index.

Second, after each quarterly review and each rebalancing (annual or otherwise), at least 90% of the weight of the Index will be comprised of stocks that are eligible for standardized options trading. The Commission believes that this requirement will ensure that the Index will be almost entirely made up of stocks with large public floats that are actively traded, thus reducing the likelihood that the Index could be easily manipulated by abusive trading in the smaller stocks contained in the Index.

Third, at each quarterly review of the Index, a component may only remain in the Index if it satisfies the maintenance requirements discussed above.<sup>37</sup> These requirements are similar to the continued listing requirements for options on individual equity securities.<sup>38</sup>

Fourth, because the Index is narrow-based, the applicable position and exercise limits (currently 10,500) and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, Morgan Stanley will only add stocks to a Replacement List that are representative of the high technology sector and, as discussed above,<sup>39</sup> satisfy the inclusion criteria.

The Commission notes that certain concerns are raised when a broker-dealer, such as Morgan Stanley, is involved in the development and maintenance of a stock index that underlies an exchange-traded derivative product. For several reasons, however, the Commission believes that the Amex has adequately addressed this concern with respect to options on the Index.

First, the value of the Index is to be calculated and disseminated by the Amex so that unless a party independently calculates the Index value, neither Morgan Stanley nor any other party will be in receipt of the values prior to the public dissemination of the Index value. Second, routine corporate actions (e.g., stock splits, routine spinoffs, etc.) will be handled by the Amex without consultation with Morgan Stanley. Third, although stock

<sup>36</sup> A stock would be "overweight" if its weight in the Index were greater than the average weight of all of the stocks in the Index. This would occur, for example, if the price of a component stock significantly increased relative to the other stocks in the Index during a particular quarter and prior to the rebalancing.

<sup>37</sup> See *supra* Section II.E (Maintenance of the Index).

<sup>38</sup> See Amex Rule 916.

<sup>39</sup> See *supra* Section II.C (Eligibility Standards for the Inclusion of Component Stocks in the Index).

<sup>32</sup> 15 U.S.C. 78f(b)(5) (1988).

<sup>33</sup> Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instruments is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks representing companies in the high technology sector in the U.S. stock markets.

<sup>34</sup> See *supra* Section II.I (Position and Exercise Limits, Margin Requirements, and Trading Halts).

<sup>35</sup> See Amendment No. 1, *supra* note 4.

replacements and unusual divisor adjustments caused by the occurrence of extraordinary events, such as dissolution, merger, bankruptcy, non-routine spinoffs, or extraordinary dividends, will be made by Exchange staff in consultation with Morgan Stanley, Amex alone ultimately will select the actual replacement stock from the Replacement List without Morgan Stanley's assistance. Such replacements will be announced publicly at least 10 business days in advance of the effective change by the Amex through the dissemination of an information circular, whenever practicable. Fourth, each Replacement List submitted to the Amex by Morgan Stanley will be published by the Amex and securities cannot be selected from a Replacement List for three months after receipt by the Amex. Fifth, the Commission believes that the procedures Morgan Stanley has established to detect and prevent material non-public information concerning the Index from being improperly used by the person or persons responsible for compiling the Replacement Lists, as well as other persons within Morgan Stanley, as discussed above,<sup>40</sup> adequately serve to minimize the susceptibility to manipulation of the Index, the securities in the Index, and securities added to and deleted from any Replacement List. Finally the Exchange's existing surveillance procedures for stock index options will apply to the options on the Index and should provide the Amex with adequate information to detect and deter trading abuses that may occur. In summary, the Commission believes that the procedures outlined above help to ensure that Morgan Stanley will not have any informational advantages concerning modifications to the composition of the Index due to its limited role in consulting with Amex on the maintenance of the Index under certain circumstances.

#### B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Index options (including full-value and reduced-value LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and

bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the Amex, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Tech 35 Index options and full-value or reduced value Index LEAPS. Finally, the Amex has stated that it will distribute information circulars to members following rebalancings and prior to component changes to notify members of changes in the composition of the Index. Additionally, the Amex will publicly disseminate each Replacement List by means of information circulars. The Commission believes this should help to protect investors and avoid investor confusion.

#### C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.<sup>41</sup> In this regard, the Amex, NYSE, and National Association of Securities Dealers, Inc. are all members of the ISG, which provides for the exchange of all necessary surveillance information.<sup>42</sup>

#### D. Market Impact

The Commission believes that the listing and trading of Index options, including full-value and reduced-value Index LEAPS on the Amex will not adversely impact the underlying securities markets.<sup>43</sup> First, as described

<sup>41</sup> See Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45829 (October 5, 1992).

<sup>42</sup> See *supra* note 29.

<sup>43</sup> In addition, the Amex has represented that the Amex and the OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. See Letter from Charles Faurot, Managing Director, Market Data Services, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated August 10, 1995; Letter from Edward Cook, Jr., Managing Director, Information Technology, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated August 15, 1995; and Letter from Joe Corrigan, Executive Director, OPRA, to

above, due to the "equal dollar-weighting" method, no one stock or group of stocks dominates the Index. Second, because at each quarterly review and each rebalancing of the Index, at least 90% of the weight of the Index must be accounted for by stocks that meet the Amex's options listing standards, the component stocks generally will be actively-traded, highly-capitalized stocks. Third, the currently applicable 10,500 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Tech 35 Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for stocks underlying options on the Index.<sup>44</sup>

The Commission finds good cause for approving Amendment Nos. 1, 3,<sup>45</sup> and 4 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, as discussed above, the Commission believes that Amendment Nos. 1, 3, and 4 serve to minimize the susceptibility of the Index to manipulation by, among other things, requiring more restrictive maintenance standards than those originally proposed by the Exchange, and, in certain circumstances, requiring rebalancing of the Index more frequently than on an annual basis. Additionally, the Amex's original proposal was published in the Federal Register for the full 21-day comment period without any comments being received by the Commission. Finally, the Commission notes that except for the proposed rebalancing requirements, the proposal, as amended, satisfies the Exchange's generic narrow-based index option listing standards contained in Amex Rule 901C, Commentary .02. As

Michael Walinskas, Branch Chief, OMS, Division, Commission, dated August 14, 1995.

<sup>44</sup> Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

<sup>45</sup> As noted above, Amendment No. 2 has been superseded by Amendment No. 3. See *supra* note 5.

<sup>40</sup> See Morgan Stanley Letter, *supra* note 18.

discussed above, the Commission believes that the Exchange's proposed rebalancing requirements are adequate to ensure that any overweight components are brought back into line with the other components in the Index. As a result, the Commission believes that accelerating approval of Amendment Nos. 1, 3, and 4 will allow the Exchange to begin listing options on the Index (including Index LEAPS) without further delay in order to provide an additional exchange-traded hedging vehicle for investors with risk exposure to securities in the various technology industries.

Based on the above, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act and that good cause exists to approve Amendment Nos. 1, 3, and 4 to the Amex's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 3, and 4 to the proposed rule change. 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 Amex. All submissions should refer to File No. SR-Amex-95-26 and should be submitted by October 24, 1995.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>46</sup> that the proposed rule change (SR-Amex-95-26), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>47</sup>

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 95-24536 Filed 10-2-95; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

### Advisory Committee on Voluntary Foreign Aid (ACVFA); Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

*Date:* October 11, 1995 (8:30 a.m. to 5 p.m.).

*Location:* State Department, Loy Henderson Auditorium, 23rd Street Entrance.

The purposes of the meeting are: To be briefed on, and provide nongovernmental input regarding the implications of the UN Fourth World Conference on Women for U.S. foreign assistance.

The meeting is free and open to the public. HOWEVER, NOTIFICATION BY OCTOBER 6, 1995, THROUGH THE ADVISORY COMMITTEE HEADQUARTERS IS REQUIRED. Persons wishing to attend the meeting must call Lisa Douglas-Watson (703) 351-0243 or Susan Saragi (703) 351-0244 or FAX (703) 351-0228/0212. Persons attending must include their name, organization, birthdate and social security number for security purposes.

*Dated:* September 14, 1995.

John Grant,

*Office Director, Office of Private and Voluntary Cooperation, Bureau for Humanitarian Response.*

[FR Doc. 95-24482 Filed 10-2-95; 8:45 am]

BILLING CODE 6116-01-M

## THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

### National Advisory Board Meeting

**AGENCY:** Thrift Depositor Protection Oversight Board.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published for the final meeting of the National Advisory Board. The meeting is open to the public.

**DATES:** The National Advisory Board meeting is scheduled for Wednesday, October 18, 1995, 9 a.m. to 12 noon.

**ADDRESSES:** The meeting will be held at the Federal Deposit Insurance Corporation, Board Room 6010, 550 17th St., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 808 17th Street, N.W., Washington, D.C. 20232, 202/416-2626.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 21A (d) of the Federal Home Loan Bank Act, the Thrift Depositor

Protection Oversight Board established a National Advisory Board and six Regional Advisory Boards to advise the Oversight Board and the Resolution Trust Corporation (RTC) on the disposition of real property assets of the Corporation.

### Agenda

A detailed agenda will be available at the meeting. The meeting will include a discussion of the Board's final report entitled "The Role of Citizen Advisory Boards in the Federal Governments Resolution of the S&L Crisis" and, in recognition of the dedicated public service of the volunteer citizen national and six regional advisory boards and its accomplishments. In addition, there will be remarks by the executives of the RTC, the Executive Director of the Thrift Depositor Protection Oversight Board and the chair of the National Advisory Board.

### Statements

Interested persons may submit, in writing, data, information or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating is available on a first come first served basis for this open meeting.

*Dated:* September 28, 1995.

Jill Nevius,

*Committee Management Officer.*

[FR Doc. 95-24543 Filed 10-2-95; 8:45 am]

BILLING CODE 2221-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-95-36]

### Petitions for Exemption, Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's

<sup>46</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>47</sup> 17 CFR 200.30-3(a)(12) (1994).