

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

Jonathan G. Katz,  
Secretary.

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[Release No. 34-36834; File No. SR-Amex-96-04]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Changes to Its Membership Admission Procedures**

February 13, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 30, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") file 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its membership admission procedures to make several clarifying and "housekeeping" changes, including changes with respect to: (i) the designation of nominees, and (ii) the requirements applicable to pension plans seeking to own memberships.

**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 self-regulatory organization 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 self-regulatory organization 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 is proposing to make several clarifying and "housekeeping" changes to its membership procedures. Specifically, the requirements applicable to the designation of nominees are being updated.<sup>1</sup> Furthermore, the provisions relative to membership ownership by pension plans are being revised to more accurately and completely represent the procedures to be followed in this regard, and to clarify that: (i) the sponsors and trustees of such pension plans are responsible for evaluating the inherent risks of owning a membership and must determine the advisability of such without relying on advice from the Amex or any of its officers or employees, and (ii) the Amex will have on liability to either the participants in such pension plans or their beneficiaries in the event the purchase, operation or disposition of the membership results in loss to the pension plan and related trust. Moreover, the proposed rule change requires the plan sponsor and trustee to indemnify and hold the Exchange harmless from all claims, losses, expenses (including all attorney's fees) and taxes arising out of the purchase, operation and disposition of the membership.

In addition, outdated references in the Admissions of Members section to the Membership Admissions Department are being changed to refer to Membership Services, and corrections are being made with respect to certain typographical errors.<sup>2</sup>

**2. Statutory Basis**

The proposed rule change is consistent with Section 6(b)(5) of the Act<sup>3</sup> in that it is designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest.

<sup>1</sup> The Amex is changing references to "individual member or member organization" in this section to "owner of a regular or options principal membership." In addition, the Amex is amending this section to clarify an owner's responsibility for his or her nominee's obligations to the Exchange and other members or member organizations.

<sup>2</sup> The proposed rule change also requires that all applicants for Amex membership must pass a physical examination prescribed by the Exchange's physician. The current rule limits this requirement to those applicants who elect to become Participants in the Exchange's Gratuity Fund.

<sup>3</sup> 15 U.S.C. 78s(b)(5).

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

The Exchange 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 either 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 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 the 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 what may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 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 the Exchange. All submissions should refer to File No. SR-Amex-96-04 and should be submitted by March 13, 1996.

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

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-36841; File Nos. SR-CBOE-95-43 and SR-PSE-95-24]

**Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendments by the Chicago Board Options Exchange, Inc. and the Pacific Stock Exchange, Inc., Relating to the Listing of Flexible Exchange Options on Specified Equity Securities**

February 14, 1996.

**I. Introduction**

On August 15, 1995, and October 5, 1995 the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") and the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") (collectively the "Exchanges") each, respectively, filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "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> to provide for the listing and trading of Flexible Exchange Options ("FLEX Options") on specified equity securities ("FLEX Equity Options"). The CBOE submitted to the Commission Amendment No. 1 to its proposal on December 21, 1995.<sup>3</sup> The PSE submitted to the Commission Amendment Nos. 1 and 2 to its proposal on October 26, 1995, and January 24, 1996, respectively.<sup>4</sup>

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

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

<sup>3</sup> In Amendment No. 1 to its proposed rule change, CBOE proposes to: (1) set specific position limits, as described more fully, herein; (2) require FLEX Post Officials to call upon FLEX Qualified Market-Makers to quote in response to a Request for Quotes, whenever no FLEX Quotes are made in response to a specific Request for Quotes; and (3) limit FLEX Equity Option transactions to equities that are the subject of Non-FLEX Equity Options traded on the Exchange. See Letter from Michael Meyer, Attorney, CBOE, to Howard Kramer, Associate Director, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated December 21, 1995 ("CBOE Amendment No. 1").

<sup>4</sup> In Amendment No. 1, the Exchange makes certain technical amendments to conform its filing to CBOE's proposed rule change. See Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated October 26, 1995 ("PSE Amendment No. 1").

In Amendment No. 2, the Exchange makes further changes to conform its filing to subsequent

Notice of CBOE and PSE proposals were published for comment and appeared in the Federal Register on September 12, 1995<sup>5</sup> and November 13, 1995,<sup>6</sup> respectively. One comment letter was received on CBOE's proposed rule change.<sup>7</sup> This order approves the Exchanges' proposals, as amended.

**II. Background**

The purpose of the Exchanges' proposals is to provide a framework for the Exchanges to list and trade equity options that give investors the ability, within specified limits, to designate certain of the terms of the options. In recent years, an over-the-counter ("OTC") market in customized equity options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price, and exercise settlement value, in order to meet their individual investment needs. Participants in this OTC market are typically institutional investors, who buy and sell options in large-size transactions through a relatively small number of securities dealers. To compete with this growing OTC market in customized equity options, the Exchanges propose to expand their FLEX Options rules<sup>8</sup> to permit the introduction of trading in FLEX Options on specified equity securities that satisfy the Exchanges' listing standards for equity options and that are currently the subject of regular (non-FLEX) standardized options trading on the Exchange that is seeking to list the FLEX Option.<sup>9</sup> The Exchanges' proposals will also FLEX Equity Option market participants to designate the following contract terms: (1) exercise price; (2) exercise style (i.e., American,<sup>10</sup>

amendments submitted to the Commission by the CBOE. See Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated January 24, 1996 ("PSE Amendment No. 2"). See also CBOE Amendment No. 1, *supra* note 3.

<sup>5</sup> See Securities Exchange Act Release No. 36185 (September 5, 1995), 60 FR 47415 (SR-CBOE-95-43).

<sup>6</sup> See Securities Exchange Act Release No. 36452 (November 2, 1995), 60 FR 57027 (SR-PSE-95-24). Amendment No. 1 to PSE's proposal was also published for comment in this release.

<sup>7</sup> See Letter from Salvatore R. DiDonna, Executive Vice President & Chief Operating Officer, Swiss American Securities Inc., to Jonathan G. Katz, Secretary, SEC, dated September 27, 1995 ("Swiss American Securities Letter").

<sup>8</sup> See CBOE Rules 24A.1 through 24A.17 and PSE Rules 8.100 through 8.115.

<sup>9</sup> See CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supra* note 4.

<sup>10</sup> An American-style equity option is one that may be exercised at any time on or before the expiration date.

European,<sup>11</sup> or capped<sup>12</sup>); (3) expiration date;<sup>13</sup> and (4) option type (put, call, or spread).

Currently, both the CBOE<sup>14</sup> and PSE<sup>15</sup> have received Commission approval to list and trade FLEX Options on several broad-based market indexes of equity securities ("FLEX Index Options"). The Exchanges believe that because of the success of these products in meeting the needs of investors for greater flexibility is designating the terms of index options within the parameters of the Exchanges' FLEX Options rules, the Exchanges are now proposing to provide comparable flexibility to investors in equity options. The Exchanges believe that FLEX Equity Options will further broaden the base of institutional investors that use FLEX Options to manage their trading and investment risk.

For the most part, the Exchanges represent that their current rules governing FLEX Index Options will apply unchanged to FLEX Equity Options. Certain changes to the Exchanges' existing FLEX Options rules, however, are proposed to deal with the special characteristics of FLEX Equity Options. Specifically, the Exchanges propose to add several new definitions to accommodate the introduction of trading in FLEX Equity Options,<sup>16</sup> and to revise certain other rules governing FLEX Options and their trading, as described below.

As with FLEX Index Options, the Options Clearing Corporation ("OCC")

<sup>11</sup> A European-style equity option is one that may be exercised only during a limited period of time prior to expiration of the option.

<sup>12</sup> A capped-style equity option is one that is exercised automatically prior to expiration when the cap price is less than or equal to the closing price of the underlying security for calls or when the cap price is greater than or equal to the closing price of the underlying security for puts.

<sup>13</sup> The proposals, however, require that the expiration date of a FLEX Equity Option may not fall on a day that is within two business days of the expiration date of a Non-FLEX Equity Option.

<sup>14</sup> Specifically, the Commission has approved the listing by the CBOE of FLEX Options on the S&P 100 ("OEX"), S&P 500 ("SPX"), Nasdaq 100, and Russell 2000 Indexes. See Securities Exchange Act Release Nos. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (approval of FLEX Options on the SPX and OEX indexes), 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval of FLEX Options on the Nasdaq 100 index), and 32694 (July 29, 1993), 58 FR 41814 (July 5, 1993) (approval of FLEX Options on the Russell 2000 index).

<sup>15</sup> The Commission has approved the listing by the PSE of FLEX Options on the Wilshire Small Cap Index and the PSE Technology Index. See Securities Exchange Act Release No. 34364 (July 13, 1994), 59 FR 36813 (July 19, 1994).

<sup>16</sup> In addition to the term FLEX Equity Options, the proposal also defines the terms "FLEX Index Options," "Non-FLEX Options," "Non-FLEX Equity Option," and "Applicable Floor Procedure Committee." See CBOE Rule 24A.1 and PSE Rule 8.1000(b).