

Trading Volume Standard is consistent with the Act and with the ELN Approval Orders. As noted above, the 20% Test + Daily Trading Volume Standard will allow the Exchange to list ELNs on a non-U.S. security if, over the six month period preceding the date of selection of the non-U.S. security for ELNs trading (1) the combined world-wide trading volume for the non-U.S. security in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and other related non-U.S. securities;¹⁵ (2) the average daily trading volume for the non-U.S. security in the U.S. market is at least 100,000 shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days.

The Commission believes that these requirements present a reasonable alternative to the 50% Test by limiting the actual listing of ELNs on non-U.S. securities to only those non-U.S. securities that have a significant amount of U.S. market trading volume. This will ensure that the U.S. market is sufficiently active to serve as a relevant pricing market for the non-U.S. security and that the underlying foreign security is readily available to meet the delivery requirements upon exercise of the ELN. Accordingly, the Commission believes that the 20% Test + Daily Trading Volume Standard should help to ensure that the U.S. markets serve a significant role in the price discovery of the applicable non-U.S. security and are generally deep, liquid markets.

Finally, the Exchange believes, for similar reasons, that it is appropriate to reduce the minimum U.S. trading volume requirements for ELNs issuances from 30% to 20%. As noted above, the Commission believes that the 20% Test + Daily Trading Volume Standard will ensure that an underlying non-U.S. security has deep and liquid markets to sustain an ELNs listing. The Commission believes that it is appropriate to adjust the limitations on the size of the ELNs issuance to correspond to this requirement. Accordingly, where the trading volume in the U.S. market for the underlying non-U.S. security is between 20% and 50% of the worldwide trading volume,

¹⁵ See *supra* note 8. The Commission notes that the 20% Test + Daily Trading Volume Standard does not include worldwide trading volume in the non-U.S. security that takes place in a foreign market regardless of the existence of a comprehensive surveillance sharing agreement with the listing exchange. The 20% Test is a minimum U.S. market share trading test intended to permit the listing of ELNs only on non-U.S. securities that have active and liquid markets in the U.S.

the issuance will be limited to 2% of the total outstanding shares of the underlying security. The 20% minimum U.S. trading volume requirement should continue to ensure that the U.S. market is significant enough to accommodate ELNs trading. In this regard, the Commission believes that these restrictions will minimize the possibility that trading in such issuances will adversely impact the market for the security to which it is linked.

The Commission notes that other existing ELNs listing requirements relating to the protection of investors will continue to apply. Among other things, these rules set forth issuer standards as well as minimum market capitalization and trading volume requirements that must be met prior to listing an ELN.¹⁶

The Commission finds good cause for approving Amendment No. 1 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, Amendment No. 1 to the proposal makes certain technical clarifications, and revises paragraph (f) of Section 107B of the Amex Company Guide to reflect the amendments to the listing criteria in paragraph (e) as set forth herein. Accordingly, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. 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

¹⁶ The Commission recently approved the Exchange's proposed rule change amending some of the initial listing standards regarding such structured notes. The Exchange's amended initial listing standards require, among other things, that the linked stock underlying the Exchange-listed ELNs either: (i) has a minimum market capitalization of \$3 billion and during the 12 months preceding listing is shown to have traded at least 2.5 million shares; (ii) has a minimum market capitalization of \$500 million and during the 12 months preceding listing is shown to have traded at least 10 million shares; or (iii) has a minimum market capitalization of \$1.5 billion and during the 12 months preceding listing is shown to have traded at least 15 million shares. See Securities Exchange Act Release No. 36989 (March 20, 1996).

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 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 SR-Amex-95-44 and should be submitted by April 17, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change (File No. SR-Amex-95-44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,
Deputy Secretary.
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[Release No. 34-36989; File No. AR-Amex-95-48]

**Self-Regulatory Organizations;
American Stock Exchange, Inc.; Order
Approving Proposed Rule Change
Relating to Revised Listing Standards
for Equity Linked Notes**

March 20, 1996.

On December 5, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the trading volume requirement for securities underlying Equity Linked Notes ("ELNs").

Notice of the proposed rule change was published for comment and appeared in the Federal Register on December 20, 1995.³ No comments were received on the proposal. This order approves the proposal.

I. Description of the Proposal

On May 20, 1993 and December 13, 1993, the SEC approved amendments to Section 107 of the Amex Company Guide ("Section 107") to provide for the

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

² 17 CFR § 240.19b-4 (1994).

³ See Securities Exchange Act Release No. 36578 (Dec. 13, 1995).

listing and trading of ELNs.⁴ ELNs are intermediate term, nonconvertible, hybrid debt instruments, the value of which is linked to the performance of a highly capitalized, actively traded U.S. common stock or non-convertible preferred stock ("linked security"). In order to list an ELNs product, Section 107B currently requires the linked security to meet one of the following criteria:

Market Capitalization and Annual Trading Volume

\$3 billion and 2.5 million shares.
\$1.5 billion and 20 million shares.
\$500 million and 80 million shares.

Amex now proposes to amend Section 107(B) to provide for greater flexibility in the listing criteria for ELNs. The proposed rule change will lower the trading volume requirements criteria for underlying linked stocks meeting the capitalization requirements of \$1.5 billion and \$500 million. Under the revised criteria, a linked stock with market capitalization of \$1.5 billion would now need an annual trading volume of 10 million shares, as opposed to the current trading volume requirement of 20 million shares. Securities with a market capitalization in excess of \$500 million also would be eligible for ELNs listing if they have annual trading volume of 15 million shares, as opposed to the 80 million shares under the current rule.⁵ The proposal will also delete the current provision of the rule that allows the Exchange to list ELNs that do not meet the market capitalization and trading volume criteria if the Division of Market Regulation of the SEC concurs.

The Exchange believes these revisions strike an appropriate balance between the Exchange's responsiveness to innovations in the securities markets and its need to ensure the protection of investors and the maintenance of fair and orderly markets. Moreover, the Exchange believes that these changes will not have an adverse impact on the markets for the underlying linked security since the requirements will continue to ensure that the linked security has a large minimum market capitalization and a significant amount of trading volume over the preceding twelve months. The Exchange will continue to require that the issuer have

a minimum tangible net worth of \$150 million and that the total issue price of the ELNs combined with all of the issuer's other listed ELNs shall not be greater than 25% of the issuer's tangible net worth at the time of issuance.

II. Discussion

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).⁶ In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, and dealers.

The Commission finds that the proposal to reduce the trading volume requirement for eligible linked securities will expand the number of securities that can be linked on ELNs while maintaining the requirement that the linked security be an actively traded, highly capitalized common stock or ADR. While the proposal reduces the trading volume criteria for securities with market capitalizations in the \$1.5 billion and \$500 million tiers to 10 million and 15 million shares, respectively (from 20 and 80 million shares, respectively), the Commission nevertheless believes that, together, the applicable capitalization and new trading volume requirements will continue to help ensure that ELNs are only issued on highly liquid securities of broadly capitalized companies. Accordingly, the Commission believes that these requirements will continue to help reduce the likelihood of any adverse market impact on the securities underlying ELNs.

Finally, the Commission notes that the Exchange has deleted the provision that allows it to list ELNs on securities not meeting the market capitalization and trading volume criteria if the Division of Market Regulation of the SEC concurs. The revised criteria will expand the number of securities eligible for ELNs trading. The increased flexibility in the ELNs listing criteria should effectively reduce or eliminate the need for additional discretion in this area, in addition to providing issuers and the Exchange with specific and clear guidance on the applicable listing criteria for a security to be eligible to underlie an ELN.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-Amex-95-48) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority:⁸

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36992; File No. SR-CBOE-96-11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing and Trading of Options on the CBOE PC Index

March 20, 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 March 7, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" 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 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 CBOE proposes to provide for the listing and trading on the Exchange of options on the CBOE PC Index ("CBOE PC Index" or "Index"), a narrow-based, equal weighted index comprised of eight of the largest personal computer manufacturing companies.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

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 CBOE 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 CBOE has prepared summaries, set forth in

⁴ See Securities Exchange Act Release Nos. 32345 (May 20, 1993) and 33328 (Dec. 13, 1993).

⁵ Under the rule, as amended by this proposal, ELNs could be listed where the linked security met any of the following criteria:

Market capitalization and Annual Trading Volume

\$3 billion and 2.5 million shares.
\$1.5 billion and 10 million shares.
\$500 million and 15 million shares.

⁶ 15 U.S.C. 78f(b)(5) (1982).

⁷ 15 U.S.C. 78s(b)(2) (1988).

⁸ 17 CFR § 200.30-3(a)(12) (1994).