

submissions should refer to file number SR-OPRA-97-1 and should be submitted by February 15, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-38202; File No. SR-Amex-96-41]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the American Stock Exchange, Inc., Relating to an Increase in Narrow-Based Index Option Position and Exercise Limits

January 23, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 1, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Amex subsequently filed Amendment No. 1 to the proposed rule change on November 15, 1996³ and Amendment No. 2 to the proposed rule change on January 16, 1997.⁴ The Exchange has requested accelerated approval for the proposal. This order approves the Amex's proposal, as amended, on an accelerated basis and solicits comments from interested persons.

⁶ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4.

³ See letter from Claudia Crowley, Special Counsel, Legal and Regulatory Policy, Amex, to Matthew Morris, Division of Market Regulation ("Division"), Commission, dated November 15, 1996 ("Amendment No. 1"). In Amendment No. 1, the Amex amended its rule filing to restate Item 3(a) in order to correct various errors contained in the original filing and withdrew its request that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

⁴ See letter from Claudia Crowley, Special Counsel, Legal and Regulatory Policy, Amex, to Matthew Morris, Division, Commission, dated January 16, 1997 ("Amendment No. 2"). In Amendment No. 2, the Amex withdrew its request that the Computer Technology Index be given preferential treatment with respect to position and exercise limits and renewed its request that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

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

The Amex is proposing to amend Exchange Rule 904C to increase position and exercise limits for narrow-based index options from 6,000, 9,000, or 12,000 contracts to 9,000, 12,000, or 15,000 contracts.⁵

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 Amex 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 III below. The Amex 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

Exchange Rules 904C and 905C provide that position and exercise limits for narrow-based index options be set at one of three levels depending upon the weightings of the component securities in such narrow-based index. Currently, a narrow-based index option will have a 6,000 contract limit if a single component security accounts for more than 30% of the index value; a 9,000 contract limit if a single component security accounts for more than 20% (but less than 30%) of the index value or any five component securities together account for more than 50% of the index value; and a 12,000 contract limit for those narrow-based indexes that do not fall within any one of the other categories.

According to the Exchange, stringent position limits create difficulties for investors in narrow-based index options, especially for those institutional investors who own large portfolios of the component securities and who generally use the options markets to hedge those portfolios. Therefore, the Exchange proposes an

⁵ Position limits impose a ceiling on the number of option contracts which an investor or group of investors acting in concert may hold or write in each class of options on the same side of the market (i.e., aggregating long calls and short puts or long puts and short calls). Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

increase in the position and exercise limits to 9,000 for the lowest level; 12,000 for the middle level; and 15,000 for the highest level.

The Exchange believes that this increase in position and exercise limits is appropriate in that the current limits have been in place since November 30, 1995,⁶ and the proposed increases are consistent with the Commission's gradual approach to increase position and exercise limits. According to the Exchange, in the past year, there has been a notable increase in narrow-based index option trading. For example, through September 1996, narrow-based index option volume has increased 42% over all of 1995. As discussed above, the Exchange believes that these increases are needed by investors and will thus increase the depth and liquidity of the market for narrow-based index options without causing any market disruption. In addition, the Exchange will continue to monitor and surveil for manipulation and violations of the position and exercise limits through the use of the monitoring systems currently in place.

2. Statutory Basis

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

Comments were neither solicited nor received with respect to the proposed rule change.

III. 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.,

⁶ See Securities Exchange Act Release No. 36537 (November 30, 1995), 60 FR 62916 (December 7, 1995) (order establishing position and exercise limits for narrow-based index options at 6,000, 9,000 or 12,000 contracts) (Amex-95-45).

Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 filings also will be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Ames-96-41 and should be submitted by February 20, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) thereunder.

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of option contracts that a member or customer can hold or exercise. These rules are intended to prevent the establishment of large options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. At the same time, the Commission has recognized that option position and exercise limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.

In this regard, the Amex has stated that the current position limits discourage market participation by certain large investors and the institutions that compete to facilitate their trading. In addition, the Amex notes that index option trading volume has increased significantly since 1995, when the current industry index option position limits were established. In light of the increased volume of narrow-based index option trading and the needs of investors and market makers, the Commission believes that the Amex's proposal is a reasonable effort to

accommodate the needs of market participants.

In addition, the Commission notes that the proposal, while increasing the positions limits for narrow-based index options, continues to reflect the unique characteristics of each index option and maintains the structure of the current three-tiered system. Specifically, the lowest proposed limit, 9,000 contracts, will apply to narrow-based index options in which a single underlying stock accounts for 30% or more of the index value during the 30-day period immediately preceding the Exchange's review of industry index option position limits. A position limit of 12,000 contracts will apply if any single underlying stock accounts, on average, for 20% or more of the index value or any five underlying stocks account, on average for more than 50% of the index value, but no single stock in the group accounts, on average, for 30% or more of the index value during the 30-day period immediately preceding the Exchange's review of industry index option position limits. The 15,000 contract limit will apply only if the Exchange determines that the conditions requiring either the 9,000 contract limit or the 12,000 contract limit have not occurred.

The Commission believes that the proposed increases for the three tiers of 25%, 33%, and 50%, for highest to lowest, respectively, appear to be appropriate and consistent with the Commission's evolutionary approach to position and exercise limits. In this regard, the absence of discernible manipulative problems under the current three-tiered position and exercise limit system for narrow-based index options leads the Commission to conclude that the increases proposed by the Exchange are warranted. The Commission recognizes that there are no ideal limits in the sense that options positions of any given size can be stated conclusively to be free of any manipulative concerns. Based upon the absence of discernible manipulation or disruption problems under current limits, however, the Commission believes that the proposed limits can be safely considered. Accordingly, the Commission believes that the Amex's proposed increases of existing position and exercise limits for narrow-based index options is appropriate.⁷

⁷ The Commission continues to believe that proposals to increase position limits and exercise limits must be justified and evaluated separately. After reviewing the proposed exercise limits, along with the eligibility criteria for each tier, the Commission has concluded that the proposed exercise limit increases for the three-tiered framework do not raise manipulation problems or

The Commission notes that the Exchange has had considerable experience monitoring the current three-tiered framework in narrow-based index options. The Commission has not found that differing position and exercise limit requirements based on the particular options product to have created programming or monitoring problems for securities firms, or to have led to significant customer confusion. Based on the current experience in handling position and exercise limits, the Commission believes that the proposed increase in position and exercise limits for narrow-based index options will not cause significant problems.

Finally, the Commission believes that the Exchange's surveillance programs are adequate to detect and to deter violations of position and exercise limits as well as to detect and deter attempted manipulative activity and other trading abuses through the use of such illegal positions by market participants.

The Commission finds good cause to approve the proposal, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. On October 24, 1996, the Commission approved an identical proposal for the Philadelphia Stock Exchange, Inc. ("Phlx").⁸ The Phlx's proposal was subject to the full comment period and generated no responses. Amendments Nos. 1 and 2 conformed the Amex's rule filing to the Phlx's proposal. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2)⁹ of the Act, that the proposed rule change (File No. SR-Amex-96-41), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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increase concerns over market disruption in the underlying securities.

⁸ See Securities Exchange Act Release No. 37863 (October 24, 1996), 61 FR 56599 (November 1, 1996) (order establishing position and exercise limits for narrow-based index options at 9,000, 12,000, or 15,000 contracts) (Phlx-96-33).

⁹ 15 U.S.C. 78s(b)(2) (1988).

¹⁰ 17 CFR 200.30-3(a)(12).