The Commission has granted EMCC partial exemptions from Section 17A(b)(3)(B) of the Exchange Act to permit EMCC to limit the eligible categories of members and from Sections 17A(b)(3)(A) and 17A(b)(3)(F) of the Exchange Act to permit EMCC to use a portion of its clearing fund to collateralize a line of credit at Euroclear subject to the limitations discussed above. The Commission finds that granting the above exemptions is consistent with the public interest, the protection of investors, and the purposes of Section 17A, including the prompt and accurate clearance and settlement of securities transactions as well as the safeguarding of securities and funds. The Commission reserves the right to modify, by order (including such orders as the Commission may issue under Section 19(b) of the Exchange Act in connection with changes to EMCC's rules), the terms, scope, or conditions of the exemptions from the Exchange Act, if it determines such modification is appropriate for the protection of investors or in the public interest.

It is therefore ordered, pursuant to Section 19(a)(1) of the Exchange Act, that the applications for registration as a clearing agency filed by EMCC (File No. 600–30) be and hereby is approved until August 20, 1999 and that EMCC be granted the exemptions described above subject to the terms, exemptions, and other qualification contained in this order.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–4255 Filed 2–19–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39464; File No. SR–Amex–97–44]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Institutional Index Option Position Limits

February 11, 1998.

I. Introduction

On November 4, 1997, 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 and Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to increase both position and exercise limits, as well as the firm facilitation exemption, for its Institutional Index Options (''XII'').

The proposed rule change was published for comment in the **Federal Register** on November 17, 1997.[3] No comments were received on the proposal. This order approves the proposal, as amended.

II. Description

A. Increase XII Position and Exercise Limits

The Amex is proposing to increase XII position and exercise limits to 100,000 contracts on the same side of the market. Existing Exchange rules provide for XII position and exercise [4] limits of 45,000 contracts on the same side of the market of which no more than 25,000 contracts may be used for purposes of realizing any differential in price between XII and the securities underlying XII. In July of 1992, the Exchange increased position and exercise limits for XII to their current levels.[5] Since that time, options on XII continue to be traded primarily by institutional and professional investors and member firms, each often needing to hedge large asset quantities.

The Exchange believes that increasing the position and exercise limits for XII options to 100,000 contracts will allow increased institutional use of XII and allow it to be more competitive with alternative products. In addition, the Exchange believes that an increase in XII position and exercise limits will benefit not only the beneficiaries of assets managed by various institutions, but also the marketplace in general through increased liquidity.

These proposed changes are intended to result in little or no attendant risk to the marketplace as XII is composed of seventy-five of the most widely-held stocks in institutional portfolios that have a market value of more than one hundred million in investment funds.[6] Thus the component issues are extremely liquid and the overall index less volatile than individual stocks. Lastly, XII options are European-style and therefore can only be exercised at expiration.

To enhance its ability to monitor unhedged positions, the Amex will add a reporting requirement (new Commentary .03 to Exchange Rule 904(C) for accounts having a position in excess of 45,000 a.m.-settled, European-style XII option contracts on the same-side of the market. Specifically, new Commentary .03 to Exchange Rule 904C states that if a member or member organization, other than an Exchange Specialist or Registered Options Trader, maintains a position in excess of 45,000 a.m.-settled, European-style XII option contracts on the same-side of the market on behalf of its own account or for the account of a customer, it must report information as to whether those positions are hedged and provide documentation as to how such contracts are hedged, in the manner and form required by the Exchange. In addition, to address the Commission's concerns with respect to the ability of the Exchange to monitor customer accounts that maintain large unhedged positions, the Amex will add a margin and clearing firm requirement. Pursuant to new Commentary .04 to Exchange Rule 904C, whenever the Exchange determines that additional margin is warranted in light of the risks associated with an under-hedged option position in excess of 45,000 contracts, the Exchange may impose additional margin upon the account maintaining such under-hedged position, or assess capital charges upon the clearing firm carrying the account to the extent of any margin deficiency resulting from the higher margin requirement.

B. Increase XII Firm Facilitation Exemption

The Exchange is proposing to increase the XII firm facilitation exemption [7] from 100,000 contracts to 400,000 contracts in order to accommodate the needs of investors as well as market participants. The Exchange believes that this increase should not substantially increase concerns regarding the potential for manipulation and other trading abuses.[8] Furthermore, the Exchange believes that proposed rule change will further enhance the potential depth and liquidity of the options market as well as the underlying

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] Exchange Act Release No. 39313 (November 7, 1997), 62 FR 61418 (November 17, 1997).

[4] The exercise limit for XII, which is equal to XII's position limit, is determined under Exchange Rules 905C and 905.

[5] *See* Exchange Act Release No. 31330 (Oct. 16, 1992) 57 FR 30516 (Oct. 23, 1992).

[6] To qualify for inclusion in XII, stocks must be held by a minimum of 200 of the reporting institutions filing Section 13(f) reports and must have traded at least 7 million shares in each of the two preceding calendar quarters.

[7] The Amex defines a facilitation order as an order which is only executed in whole or in part, in a cross transaction with an order for a public customer of the member organization. *See* Amex Rule 950 (e)(iv).

[8] The Exchange notes that the XII firm facilitation exemption is in addition to the standard limit and other exemptions under Exchange rules, commentaries and policies.

markets by providing Exchange members greater flexibility in executing large customer orders, which the Exchange's existing safeguards applicable to current facilitation exemptions continue to serve to minimize any potential disruption or manipulation concerns.

III. 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, with the requirements of Section 6(b)(5).[9] Specifically, the Commission believes that the proposed increase in the XII position and exercise limits, as well as the firm facilitation exemption, will enhance the depth and liquidity of the market for both members and investors. Accordingly, the Commission believes that these changes are consistent with, and further the objectives of, Section 6(b)(5)[10] of the Act in that they would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.[11]

A. Increase XII Position and Exercise Limits

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulation [12] and for corners or squeezes of the underlying market. In addition, they serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.

The Commission has been careful to balance two competing concerns when considering an SRO's position and exercise limits. First, the Commission has recognized that the limits must be sufficient to prevent investors from disrupting the market for the underlying security by acquiring and exercising a number of options contracts disproportionate to the deliverable supply and average trading volume of the underlying security. At the same time, the Commission has realized that 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.[13]

The Commission believes that the proposed increase in XII position and exercise limits to 100,000 contracts will expand the depth and liquidity of the XII market without significantly increasing concerns regarding intermarket manipulations or disruptions of the options or the underlying securities.[14] As previously noted by the Commission, markets with active and deep trading interest, as well as with broad public ownership, are more difficult to manipulate or disrupt than less active and deep markets with smaller public floats. In this regard, the XII market is composed of seventy-five of the most widely-held stocks in institutional portfolios that have a market value of more than one hundred million in investment funds.

Moreover, the Amex has adopted important safeguards that will allow it to monitor large unhedged positions (those in excess of 45,000 contracts) in order to identify instances of potential risk [15] and to assess additional margin or capital charges against the clearing firm, if necessary.[16]

Accordingly, given the size and breadth of the XII, along with the new XII reporting requirement set forth in Commentary .03 to Exchange Rule 904C and the new margin and clearing firm requirements set forth in Commentary .04 to Exchange Rule 904C, the Commission believes that increasing the XII position and exercise limits to 100,000 contracts should not increase any manipulative concerns. Finally, the Exchange's surveillance program will continue to detect and deter trading abuses arising from the increased position and exercise limits.[17]

B. Increase XII Firm Facilitation Exemption

The Commission believes that the proposed increase of the XII firm facilitation exemption from 100,000 contracts to 400,000 contracts will accommodate the needs of investors as well as market participants without substantially increasing concerns regarding the potential for manipulation and other trading abuses.[18] The Commission also believes that the proposed rule change will further enhance the potential depth and liquidity of the options market as well as the underlying market by providing Exchange members greater flexibility in executing large customer orders.[19]

The Amex's existing safeguards that apply to the current facilitation exemption will continue to serve to minimize any potential disruption or manipulation concerns. First, the facilitation firm must receive approval from the Exchange prior to executing facilitating trades. Second, a facilitation firm must, within five business days after the execution of a facilitation exemption order, hedge all exempt options positions that have not previously been liquidated, and furnish to the Exchange documentation reflecting the resulting hedged

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(5).

[11] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[12] Mini-manipulation is an attempt to influence, over a relatively small range, the price movement in a stock to benefit a previously established derivatives position.

[13] *See* H.R. Rep. No. IFC–3, 96th Cong., 1st Sess. at 189–91 (Comm. Print 1978) (''Options Study'').

[14] *See* Amex Rule 904C(a).

[15] Under new Commentary .03 to Exchange Rule 904C, each member or member organization, other than an Exchange Specialist or Registered Options Trader, that maintains a position in excess of 45,000 A.M.-settled, European-style XII option contracts on the same side of the market on behalf of its own account or for the account of a customer will report information as to whether those positions are hedged and provide documentation as to how such contracts are hedged, in the manner and form required by the Exchange.

[16] Under new Commentary .04 Exchange Rule 904C, whenever the Exchange determines that additional margin is warranted in light of the risks associated with an under-hedged XII option position in excess of 45,000 contracts, the Exchange may impose additional margin upon the account maintaining such under-hedged position, or assess capital charges upon the clearing firm carrying the account to the extent of any margin deficiency resulting from the higher margin requirement.

[17] The Exchange has represented that it intends to implement increased surveillance and reporting procedures to ensure a thorough understanding of the uses and risks of the underlying strategies supported by the increased position limits. The Exchange also has represented that it intends to provide reports regarding position limits to the Commission's Division of Market Regulation on a periodic basis and at appropriate thresholds of activity.

[18] The Commission notes that the XII firm facilitation exemption is in addition to the Standard limit and other exemptions under Exchange rules, commentaries and policies.

[19] When initially approving the firm facilitation exemption for XII options, the Commission stated that providing member organizations with an exemption for the purpose of facilitating large customer orders would better serve the needs of the investing public. At that time, the Commission also noted that safeguards were built into the exemption to minimize any potential disruption or manipulation concerns. The Commission currently believes that these same benefits and assurances are also applicable with respect to the increased firm facilitation exemption. *See* Exchange Act Release No. 31330 (October 16, 1992), 57 FR 48408 (October 23, 1992).

positions.[20] Third, the facilitation exemption member is required to provide the Exchange with any information or document requested concerning the exempted options positions and the positions hedging them. Fourth, a facilitation exemption member is not permitted to use the facilitation exemption for the purpose of engaging in index arbitrage. Fifth, neither the member's nor the customer's order may be contingent upon ''all or none'' or ''fill or kill'' instructions and the orders may not be executed until the XII specialist has announced the orders to the entire crowd and crowd members have been given a reasonable time to participate in the trade. Finally, once liquidated or reduced, the member organization may not increase the exempted option positions without receiving approval from the Exchange again. The Commission believes that these requirements will help to ensure that the facilitation exemption will not have an undue market impact on the options or on any underlying stock positions.

In summary, the Commission continues to believe that the safeguards built into the facilitation exemptive process will serve to minimize the potential for disruption and manipulation concerns, while at the same time benefiting market participants by allowing member firms greater flexibility to facilitate large customer orders. The Commission also believes that the Amex has adequate surveillance procedures to surveil for compliance with the rule's requirements. Based on these reasons, the Commission believes that it is appropriate to increase the XII firm facilitation exemption to 400,000 contracts.

IV. Conclusion

Based on the above, the Commission believes that the proposed rule change will serve to provide market participants with greater flexibility without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–Amex97–44) is approved.

[20] In meeting this requirement, the facilitation firm must liquidate and establish its customer's and its own options and stock positions or their equivalent in an orderly fashion, and not in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes.

[21] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–4257 Filed 2–19–98; 8:45 am]

BILLING CODE 8010–01–M

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39657; International Series Release No. 1116; File No. SR–DTC–97–22]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to Establishing an Omnibus Account at the Canadian Depository for Securities

February 12, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 30, 1997, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–97–22) as described in Items I, II, and III below, which items have been prepared primarily by DTC. 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 purpose of the proposed rule change is to establish a DTC omnibus account at the Canadian Depository for Securities (''CDS'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, DTC maintains a link with CDS that allows a CDS participant to establish an account at DTC or use CDS's omnibus account at DTC. The link permits CDS's participants to process book-entry transactions with other DTC participant. In addition, the link permits CDS and its participants to use DTC's custody, clearance, and settlement services for transactions involving securities eligible in both systems. However, the current link limits book-entry deliveries from a CDS participant to a DTC counterparty by requiring that the securities be physically held at DTC. As a result, a CDS participant is unable to deliver securities in its CDS account by book-entry movement.[3]

Occasionally, a CDS participant attempting to settle a trade with a DTC counterparty has sufficient inventory in its account at CDS to settle a transaction but does not have sufficient inventory in its DTC account. When this occurs, the CDS participant must physically withdraw the securities fro CDS to make a physical deposit a DTC.[4] The costs and risks associated with withdrawing and physically transporting certificates for purpose of redepositing them at DTC, which involves reregistration and forwarding of certificates to the U.S., can be significant. In addition, due to overlapping processing deadlines between CDS withdrawals and DTC deposits, a CDS participant may not be able to obtain same-day credit at DTC so that it can avoid a failure to deliver. As a result, a participant may incur certain expenses associated with its failure to deliver. Similarly, CDS participants face the same difficulties when on occasion they need to physically withdraw Canadian securities from DTC in order to redeposit them at CDS for reasons other than trade settlement (*e.g.,* to repatriate their holdings of Canadian securities for inventory management purposes).

Under the proposed rule change, DTC will establish an omnibus account at CDS thereby creating a two-way interface between CDS and DTC. As a

[3] CDS participants sometimes represent U.S. investors or U.S. intermediaries who are in turn also adversely affected.

[4] As of October 1, 1997, new deposit procedures provide CDS participants same-day credit at DTC for securities deposited through DTC's deposit facilities in CDS offices in Vancouver, Toronto, Montreal, and Calgary. CDS, on behalf of DTC, arranges for the reregistration of Canadian securities into the name of Cede & Co. prior to sending them to DTC.