

An open meeting will be held on Wednesday, July 29, 1998, at 11:00 a.m. A closed meeting will be held on Friday, July 31, 1998, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, July 29, 1998, at 11:00 a.m., will be:

Consideration of whether to issue an interpretive release setting forth the Commission's views on how public companies, investment companies, investment advisers, and municipal securities issuers should meet their disclosure obligations regarding the Year 2000 issue and its consequences. For further information, contact Mauri Osheroff at (202) 942-2840.

The subject matter of the closed meeting scheduled for Friday, July 31, 1998, at 10:00 a.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: July 21, 1998.

**Jonathan G. Katz,**

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-40226; File Nos. SR-AMEX-98-21; SR-CBOE-98-29; SR-PCX-98-31; and SR-PHLX-98-26)

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Changes and Amendments by the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Pacific Exchange, Inc. and the Philadelphia Stock Exchange, Inc. Relating to Expansion and Permanent Approval of the 2½ Point Strike Price Program and Order Granting Accelerated Approval of Proposal to Extend the Current Pilot Program

July 17, 1998.

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> notice is hereby given that on June 17, 1998, the American Stock Exchange, Inc. ("AMEX"); on June 30, 1998, the Chicago Board Options Exchange, Inc. ("CBOE"); on June 19, 1998, the Pacific Exchange, Inc. ("PCX"); and on July 1, 1998, the Philadelphia Stock Exchange, Inc. ("PHLX") (referred to individually as "Exchange" and collectively as "Exchanges") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule changes as described in Items I and II below, which Items have been prepared by the Exchanges. The AMEX submitted to the Commission Amendment No. 1 to its proposed rule change on July 13, 1998.<sup>3</sup> The CBOE submitted to the Commission Amendment No. 1 to its proposal on July 15, 1998.<sup>4</sup> The PCX submitted to the Commission Amendment No. 1 to its proposed rule

<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, the AMEX: 1) requests an extension of the current pilot program for a period of up to six-months from July 17, 1998; 2) sets forth the allocation of the additional option issues among the Exchanges; and 3) represents that the AMEX has sufficient capacity to support the proposed expansion of the program. See Letter from Scott G. Van Hatten, Legal Counsel, AMEX, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), SEC, dated July 10, 1998 ("AMEX Amendment No. 1").

<sup>4</sup> In Amendment No. 1, the CBOE requests an extension of the 2½ Point Strike Price Pilot Program until January 15, 1999, or until the Commission approves the CBOE's proposal to make the program permanent, whichever occurs first. In addition, the CBOE amended its filing to request that the Commission expand the program and approve it permanently. See Letter from Timothy H. Thompson, Director—Regulatory Affairs, CBOE, to Deborah Flynn, Attorney, Division, SEC, dated July 14, 1998 ("CBOE Amendment No. 1").

change on July 7, 1998,<sup>5</sup> and Amendment No. 2 to its proposal on July 10, 1998.<sup>6</sup> The PHLX submitted to the Commission Amendment No. 1 to its proposed rule change on July 2, 1998,<sup>7</sup> and Amendment No. 2 to its proposal on July 8, 1998.<sup>8</sup> The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. As discussed below, the Commission also is granting accelerated approval to the portion of the proposal relating to the extension of the 2½ Point Strike Price Pilot Program until January 15, 1999.

### I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The Exchanges propose to extend the 2½ Point Strike Price Pilot Program for six-months ending on January 15, 1999, or until the Commission approves the program permanently, whichever occurs first. In addition, the Exchange propose to expand the 2½ Point Strike Price Pilot Program by adding 20 allowable classes to the program each quarter for the 5 calendar quarters immediately following the Commission's grant of permanent approval of the pilot program. The additional options classes will be allocated among the Exchanges according to an agreement to be entered into by the Exchanges. The text of the proposed rule changes is available at the Office of the Secretary, the Exchanges, and at the Commission.

<sup>5</sup> In Amendment No. 1, the PCX proposes to add an additional 100 issues to the 2½ Point Strike Price Pilot Program and sets forth the allocation of the additional issues among the Exchanges. In addition, the PCX represents that it has not suffered capacity problems in the past and has sufficient capacity to handle an expansion of the program. See Letter from Robert P. Pacileo, Staff Attorney, PCX, to Deborah L. Flynn, Attorney, Division, SEC, dated July 2, 1998 ("PCX Amendment No. 1").

<sup>6</sup> In Amendment No. 2, the PCX requests an extension of the 2½ Point Strike Price Pilot Program until January 15, 1999, or until the Commission approves the PCX's proposal to make the program permanent, whichever occurs first. See Letter from Robert P. Pacileo, Staff Attorney, PCX, to Deborah L. Flynn, Attorney, Division, SEC, dated July 8, 1998 ("PCX Amendment No. 2").

<sup>7</sup> In Amendment No. 1, the PHLX clarifies that the allocation of the proposed 100 new options classes is to be made in accordance with an agreement to be reached by the Exchanges. See Letter from Linda S. Christie, Counsel, PHLX, to Michael Walinsakas, Deputy Associate Director, Division, SEC, dated July 1, 1998 ("PHLX Amendment No. 1").

<sup>8</sup> In Amendment No. 2, the PHLX requests an extension of the 2½ Point Strike Price Pilot Program for six-months or until the Commission approves the PHLX's proposal to make the program permanent. See Letter from Linda S. Christie, Counsel, PHLX, to Michael Walinsakas, Deputy Associate Director, Division, SEC, dated July 7, 1998 ("PHLX Amendment No. 2").

## II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the Exchanges included statements concerning the purpose of, and basis for, the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The Exchanges have prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

#### 1. Purpose

The Commission previously approved a pilot program proposed by the Exchanges and the New York Stock Exchange ("NYSE") to list selected options trading at a strike price greater than \$25 but less than \$50 at 2½ point intervals (i.e., 27½, 32½, 37½, 42½ and 47½).<sup>9</sup> Since its original adoption in 1995, the pilot program has been extended twice, once in July of 1996<sup>10</sup> and again in July of 1997.<sup>11</sup> Currently, the program expires July 17, 1998.<sup>12</sup> Pursuant to the original pilot program, the Exchanges, including the NYSE, were permitted to use 2½ point strike price intervals for a joint total of up to 100 option issues. Each of the Exchanges received an allocation of 10 options plus a percentage of the remaining 50 options equal to each Exchange's *pro rata* share of the total number of equity options listed by the Exchanges.<sup>13</sup> The allocation was subsequently changed to account for the sale of NYSE's option business to CBOE.<sup>14</sup> At the time of the sale of

NYSE's option business, the NYSE had 11 option classes in the 2½ Point Strike Price Pilot Program.<sup>15</sup>

Currently, each Exchange is allocated a whole number of classes based on the sum of the following: 1) one quarter of the first 50 issues; and 2) a percentage of the remaining 50 classes determined by each Exchange's *pro rata* share of the total number of equity option listings as of July 1, 1997.<sup>16</sup> In addition, the options originally selected by the NYSE, which have not been subsequently decertified or delisted, continue to be eligible for the pilot program, but are not counted against any Exchange's allotment.<sup>17</sup> However, these classes may not be replaced by another selection in the event a class becomes ineligible or is decertified.

As has been the case since the inception of the 2½ Point Strike Price Pilot Program, when more than one Exchange selects a multiply-traded option for its allotment, the Options Clearing Corporation ("OCC") will determine which will be deemed to have selected the option according to the procedures agreed upon by the Exchanges. The Exchanges have agreed that an Exchange ("Selecting Exchange") intending to list 2½ point strikes on an option will inform OCC of its selection by submitting a notice ("Selection Notice") to OCC between 8:30 a.m. and 12:00 Noon (Central Time). If more than one Exchange submits a Selection Notice to the OCC for the same multiply-traded option, then the Exchange that first submits a Selection Notice to the OCC will be deemed to be the Selecting Exchange for that option. Such option will count toward the allotment of the Selecting Exchange, but not toward the allotment of any other Exchange submitting a Selection Notice under the terms of the pilot program.

In addition, each of the Exchanges has submitted a report to the Commission that includes data and written analysis regarding the operation of the pilot program during the previous year, as required in the 2½ Strike Price Extension Order.<sup>18</sup> The Exchanges

(File No. SR-NYSE-97-05) (order approving the transfer of the NYSE's options business to the CBOE).

<sup>15</sup> See 2½ Point Strike Price Extension Order, *supra* note 11.

<sup>16</sup> The actual allotment of options issues for each Exchange as of July 1997 is: CBOE (31), AMEX (25), PHLX (23), and PCX (21).

<sup>17</sup> See 2½ point Strike Price Extension Order, *supra* note 11.

<sup>18</sup> In the 2½ Point Strike Price Extension Order, *supra* note 11, the Commission required that each Exchange submit a report in conjunction with any proposal to extend, expand or make permanent the pilot program.

generally believe that the pilot program has provided customers greater opportunities and flexibility to tailor their options positions, while enhancing the depth and liquidity of the markets in the selected options classes. Generally, the Exchanges believe that permanent approval of the pilot program is now appropriate given the length of time the program has been in place and its past success.

In addition, the Exchanges are requesting an expansion of the pilot program from 100 to 200 eligible classes. Generally, to provide for the orderly introduction of the new classes and insure that the Exchanges' systems capacity remains sufficient throughout the expansion, the Exchanges propose to add only 20 classes each calendar quarter for the 5 quarters following the Commission's grant of permanent approval of the program. The additional options classes shall be allocated among the Exchanges in accordance with an agreement to be entered into by the Exchanges.<sup>19</sup> The Exchanges<sup>20</sup> and the Options Price Reporting Authority ("OPRA")<sup>21</sup> represent that sufficient computer processing capacity is available to accommodate the expansion of the 2½ Point Strike Price Pilot Program on a permanent basis. The Exchanges propose to extend the current pilot program for an additional six-months to allow the Commission to consider the Exchanges' request seeking expansion and permanent approval of the 2½ Point Strike Price Pilot Program.

#### 2. Statutory Basis

The Exchanges believe the proposed rule change is consistent with Section 6(b) of the Act<sup>22</sup> in general and furthers the objectives of Section 6(b)(5)<sup>23</sup> in particular in that the joint proposal is designed to prevent fraudulent and manipulative acts and practices, to

<sup>19</sup> The Exchanges have agreed to notify the Commission of the specific allocation of the additional options classes among the Exchanges prior to the actual allocation. Telephone conversation between Richard Strasser, Assistant Director, Division, SEC; Michael D. Pierson, Senior Attorney, PCX; Claire P. McGrath, Managing Director and Special Counsel, AMEX; Jonathan Kallman, Acting General Counsel, PHLX; and Timothy H. Thompson, Director-Regulatory Affairs, CBOE, on July 6, 1998.

<sup>20</sup> See PCX Amendment No. 1, AMEX Amendment No. 1, and File Nos. SR-CBOE-98-29 and SR-PHLX-98-26 (collectively "Exchange Capacity Representations").

<sup>21</sup> See Memorandum from Timothy H. Thompson, Senior Attorney, CBOE, to Joseph P. Corrigan, Executive Director, OPRA, dated June 12, 1998, and Letter from Joseph P. Corrigan, Executive Director, OPRA, to Timothy H. Thompson, Director-Regulatory Affairs, CBOE, dated June 12, 1998 ("OPRA Capacity Statement").

<sup>22</sup> 15 U.S.C. 78f.

<sup>23</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See Securities Exchange Act Release No. 35993 (July 19, 1995) 60 FR 38073 (July 25, 1995) (order approving File Nos. SR-PHLX-95-08; SR-AMEX-95-12; SR-PSE-95-07; SR-CBOE-95-19; and SR-NYSE-95-12).

<sup>10</sup> See Securities Exchange Act Release No. 37441 (July 15, 1996) 61 FR 38234 (July 23, 1996) (order approving File Nos. SR-AMEX-96-24; SR-CBOE-96-41; SR-NYSE-96-19; SR-PSE-96-18; AND SR-PHLX-96-22).

<sup>11</sup> See Securities Exchange Act Release No. 38856 (July 21, 1997) 62 FR 40391 (July 28, 1997) (order approving File Nos. SR-AMEX-97-24; SR-CBOE-97-31; SR-PCX-97-30; and SR-PHLX-97-33) ("2½ Point Strike Price Extension Order").

<sup>12</sup> *Id.*

<sup>13</sup> The original allotment of option issues for each Exchange was: CBOE (28), AMEX (22), PHLX (18), PSE (18), and NYSE (14).

<sup>14</sup> See Securities Exchange Act Release Nos. 38541 (April 23, 1997) 62 FR 23516 (April 30, 1997) (File No. SR-CBOE-97-14) (order approving the issuance of trading permits in connection with the purchase of the NYSE's options business) and 38542 (April 23, 1997) 62 FR 23521 (April 30, 1997)

promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

*B. Self-Regulatory Organizations' Statement on Burden on Competition*

The Exchanges believe that the proposed rule changes will impose no burden on competition.

*C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule changes.

**III. Date of Effectiveness of the Proposed Rule Changes 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 such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchanges have also requested that the Commission find good cause, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> for approving the extension of the 2½ Point Strike Price Pilot Program for a six-month period ending on January 15, 1999, or until the Commission approves the request to expand the program and approve it permanently, whichever occurs first, on an accelerated basis prior to the thirtieth day after publication in the **Federal Register**.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes, as amended, are consistent with the Act. 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 submissions, 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 Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal offices of the Exchanges. All submissions should refer to File Nos. SR-AMEX-98-21, SR-CBOE-98-29, SR-PCX-98-31, and SR-PHLX-98-26 and should be submitted by August 14, 1998.

**V. Commission Findings and Order Granting Partial Accelerated Approval of the Proposed Rule Changes**

The Commission finds that the proposed rule changes, as amended, relating to the extension of the 2½ Point Strike Price Pilot Program for six-months or until the Commission approves the Exchanges' proposal to make the program permanent, whichever occurs first, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,<sup>25</sup> and, in particular, Section 6(b)(5) of the Act.<sup>26</sup> Specifically, the Commission believes that the proposed six-month extension of the pilot program providing for the listing of 2½ point strike price intervals in selected equity options will continue to provide investors with more flexibility in the trading of equity options with a strike price greater than \$25 but less than \$50, while allowing the Commission adequate time to consider the Exchanges' proposal seeking expansion and permanent approval of the program.

The Commission finds good cause for granting the Exchanges' request for a six-month extension of the 2½ Point Strike Price Pilot Program prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. As mentioned above, the Exchanges submitted separate reports to the Commission that include data and written analysis regarding the operation of the pilot program as required in the 2½ Strike Price Extension Order. The Commission notes that the Exchanges have not reported any significant problems with the pilot program since its inception and that the Exchanges will continue to monitor the pilot program to ensure that

no problems arise. In particular, the Exchanges will continue to monitor the impact of the program on their systems capacity. The Commission believes extending the pilot program on an accelerated basis will provide the investing public with the added flexibility provided by 2½ point strike prices on an uninterrupted basis. Finally, although the pilot has been in place since 1995, the Commission has received no adverse comments concerning the operation of the pilot program. Therefore, the Commission believes good cause exists to approve the extension of the pilot program until January 15, 1999, or until the Commission approves the Exchanges' proposal seeking to expand the program and to have it approved permanently, on an accelerated basis. Accordingly, the Commission believes that granting accelerated approval of the requested extension is appropriate and consistent with Sections 6(b)(5) and 19(b)(2) of the Act.<sup>27</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>28</sup> that the extension of the 2½ Point Strike Price Pilot Program proposed by the Exchanges (File Nos. SR-AMEX-98-21, SR-CBOE-98-29, SR-PCX-98-31, and SR-PHLX-98-26), as amended, is approved until January 15, 1999, or until the Commission approves the proposal seeking to expand the program and have it approved permanently, whichever occurs first, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>29</sup>

**Jonathan G. Katz,**  
*Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-40219; File No. SR-DTC-98-02]

**Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change to Implement the HUB Mailbox Service**

July 16, 1998.

On February 10, 1998, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-98-02) pursuant to

<sup>25</sup> In granting partial approval of the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> 15 U.S.C. 78f(b)(5) and 78s(b)(2).

<sup>28</sup> 15 U.S.C. 78s(b)(2).

<sup>29</sup> 17 CFR 200.30-3(a)(12).

<sup>24</sup> 15 U.S.C. 78s(b)(2).