proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to permit applicants to consummate the Reorganization. Applicants submit that the Reorganization satisfied the standards of section 17(b) of the Act. Applicants states that the Boards, including a majority of the Disinterested Trustees, have found that participation in the Reorganization is in the best interests of each Fund, and that the interests of the existing shareholders will not be diluted as a result of the Reorganization. In addition, applicants state that the Reorganization will be on the basis of net asset value.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland, Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42605; File No. SR–Amex–98–33]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 to the Proposed Rule Change by the American Stock Exchange LLC Relating to Margin Requirements


I. Introduction

On September 18, 1998, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),1 and Rule 19b–4 thereunder,2 to allow specified Portfolio Depositary Receipts (“PDRs”)3 or Index Fund Shares4 to serve as cover for short positions in options on specified indexes. On March 5, 1999, the Amex filed Amendment Nos. 1 and 2 to the proposal.5 The proposed rule change and Amendment Nos. 1 and 2 were published for comment in the Federal Register on October 20, 1999.6 On September 24, 1999, the Amex provided data regarding the correlation between several PDRs or Index Fund Shares and indexes.7 On December 15, 1999, the Amex filed Amendment No. 3 to the proposal.8 The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

II. Background and Description of the Proposal

In a letter dated February 1, 1993, the staff of the Board of Governors of the Federal Reserve System (“Federal Reserve Board”) indicated that it was compatible with Regulation T9 for the Amex to treat positions in Standard & Poor’s Depositary Receipts (“SPDRs”)10 as “cover” for an Options Clearing Corporation (“OCC”)—issued option on a broad-based stock index with at least 99% correlation with the S&P 500 Index.11 Specifically, the 1993 Letter stated that the Amex may require no additional margin where one leg of a position consisted of SPDRs and the other leg was an OCC-issued index option on a broad-based stock index with at least 99% correlation with the S&P 500 Index.12 According to the Amex, the Federal Reserve Board staff also indicated that MidCap SPDRs13 could serve as cover for S&P MidCap 400 Index options.14 Federal Reserve Board amendments to Regulation T that became effective on June 1, 1997, modified or deleted certain margin requirements regarding options transactions in favor of rules to be adopted by the options exchanges, subject to approval by the Commission.15 Because exchange rules, as approved by the Commission, rather than Regulation T, now govern matters such as permitted offsets and cover for short options positions, the Amex proposes to revise Amex Rule 20386 (permitting the adoption of margin requirements for offsets and cover for short options positions as approved by the Commission, rather than Regulation T) to incorporate into Amex Rule 462 the Federal Reserve Board staff positions regarding SPDRs and MidCap SPDRs. In addition, the Amex proposes to amend Amex Rule

3 PDRs are shares in a unit investment trust registered under the Investment Company Act of 1940, as amended, whose assets are a securities portfolio.
4 Index Fund Shares are shares in an open-end management investment company registered under

9 12 CFR 220. The Federal Reserve Board issued Regulation T pursuant to Section 7(c) of the Act.

12 See Letter, supra note 11.
14 According to the Amex, the Federal Reserve Board staff confirmed this position in a telephone conversation between Michael Cavalier, Associate General Counsel, Legal and Regulatory Policy, Amex, and Yvonne Fraticelli, Special Counsel, Division, Commission, on February 24, 2000.
15 See Board of Governors of the Federal Reserve System Docket No. R–977 (April 24, 1996), 61 FR 20386 (permitting the adoption of margin requirements “deemed appropriate by the exchange that trades the option, subject to the approval of the Securities and Exchange Commission”).
462 to allow DIAMONDS \(^\text{18}\) to serve as cover for DJX options and to allow Nasdaq-100 Shares \(^\text{17}\) to serve as cover for Nasdaq-100 Index options.

Specifically, the proposal amends Amex Rule 462(d)(2)(H) to provide that no margin need be required in respect of a call index option or a put index option carried in a short position where the same account carries a long position in the PDRs or Index Fund Shares specified in Commentary .10 to the rule, and the PDRs or Index Fund Shares serving as cover have a market value at least equal to the aggregate current index value \(^\text{16}\) of the stocks underlying the index option contracts to be covered. Commentary .10 provides that: (1) Position in S&P 500 Index options; (2) positions in MidCap SPDRs shall be cover for positions in S&P MidCap 400 Index options; (3) positions in DIAMONDS shall be cover for positions in DJX options; and (4) positions in Nasdaq-100 Shares shall be cover for positions in Nasdaq-100 Index options.

In addition, the proposal states that in computing the margin on an existing position in PDRs or Index Fund Shares that covers a short index put or call, the market value of the PDRs or Index Fund Shares to be used shall not be greater than the exercise price, in the case of a call, or less than the market value of the PDRs or Index Fund Shares, in the case of a put, and the required margin shall be increased by any unrealized loss on the short put security position.\(^\text{20}\)

III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. In particular, the Commission finds that the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.\(^\text{21}\) As noted above, the proposal will amend Amex Rule 462 to provide that no margin need be required for short call or put positions in specified index options when the account carrying the short index option position also holds a long position in specified corresponding PDRs or Index Fund Shares that have a market value at least equal to the aggregate current index value of the stocks underlying the index option contracts to be covered. Specifically, the proposal will allow positions in SPDRs to serve as cover for positions in S&P 500 Index options; positions in MidCap SPDRs to serve as cover for positions in MidCap 400 Index options; positions in DIAMONDS to serve as cover for positions in DJX options; and positions in Nasdaq-100 Shares to serve as cover for positions in Nasdaq-100 Index options.\(^\text{22}\)

Thus, the proposal will allow long positions in specified PDRs or Index Fund Shares to cover short positions in options on the indexes they are designed to replicate. The values of the PDR or Index Fund Share and the index that the PDR or Index Fund Share is designed to replicate should move in tandem. In addition, the PDR or Index Fund Share serving as cover for an index option position must have a market value at least equal to the aggregate current index value of the stocks underlying the index option contracts to be covered.\(^\text{23}\)

Accordingly, the long PDR or Index Fund Share position service as cover for the short index option position should ensure that the index option writer would be able to deliver upon exercise the difference between the current index value and the exercise price of the option. Specifically, in an account that meets the requirements of the proposal, the amount earned from closing out the long PDR or Index Fund Share position would adequately cover the option writer’s obligation upon exercise.

Accordingly, the Commission believes that it is reasonable for the Amex to allow SPDRs, MidCap SPDRs, DIAMONDS, and Nasdaq-100 Shares to serve as cover for short positions in options on the indexes they are designed to replicate.

In addition, the Commission notes that the proposal incorporates into the Amex’s rules the Federal Reserve Board staff’s positions regarding SPDRs and MidCap SPDRs.\(^\text{24}\) For the reasons discussed above, the Commission believes that it is reasonable for the Amex to incorporate the Federal Reserve Board staff’s positions into its rules and to provide the same treatment for DIAMONDS serving as cover for DJX options and for Nasdaq-100 Shares serving as cover for Nasdaq-100 Index options.

The Commission also believes that it is reasonable for the proposal to provide that in computing the margin on an existing position in PDRs or Index Fund Shares to be used shall not be greater than the exercise price, in the case of a call, or less than the market value of the PDRs or Index Fund Shares, in the case of a put, and that the required margin shall be increased by any unrealized loss on the short put security position. The Commission believes that these requirements will help to ensure that the writer of an index put or call option that is covered by a long position in PDRs or Index Fund Shares would be able to meet its obligation upon exercise of the option. In addition, the Commission notes that the proposed margin requirement for PDRs or Index Fund Shares serving as cover for short index option positions is consistent with current Amex Rule 462(d)(2)(H)(iv),\(^\text{25}\) which establishes the margin requirement for an existing security position carried against a short put or call.\(^\text{26}\)

\(^{16}\) DIAMONDS are units of beneficial interest in the DIAMONDS Trust, which holds a portfolio of stocks replicating the Dow Jones Industrial Average. See Securities Exchange Act Release No. 39525 (January 8, 1998), 63 FR 2438 (order approving File No. SR-Amex-97-29). In connection with the commencement of trading in DIAMONDS, the Amex requested confirmation from the Federal Reserve Board staff that margin treatment of DIAMONDS would be comparable to that for SPDRs under Regulation T. See letter from James M. McNeil, Chief Examiner, Amex, to Scott Holz, Senior Attorney, Legal Division, The Federal Reserve Board, dated December 3, 1997. In response, the Federal Reserve Board staff noted, among other things, that the amendments to Regulation T that became effective on June 1, 1997, provide that the margin requirement for listed options is the amount specified by the national securities exchange that trades the option. Thus, the Federal Reserve Board staff indicated that DIAMONDS could serve as cover for a short position in index options if the rules of the appropriate self-regulatory organization specified that DIAMONDS qualify for such treatment. See letter from Scott Holz, Senior Attorney, the Federal Reserve Board, to James M. McNeil, Chief Examiner, Amex, dated January 8, 1998.\(^\text{17}\)

Nasdaq 100 shares are units of beneficial interest in the Nasdaq-100 Trust, a portfolio of stocks replicating the Nasdaq 100 Index. See Securities Exchange Act Release No. 41119 (February 26, 1999, 64 FR 11510 (order approving File No. SR-Amex-98-34)).\(^\text{18}\)

Under Amex Rule 900C, the “aggregate current index value” is the current index group value (i.e., the current numerical index value of a stock index group multiplied by $1.00) multiplied by the index multiplies (i.e., the number specified in a stock index option contract by which the market closing index group value is to be multiplied to arrive at the value required to be delivered upon valid exercise of the contract).\(^\text{19}\)

See Amex Rule No. 3, supra note 8.

\(^{20}\) See Amended Rule No. 3, supra note 8.


\(^{22}\) In approving this rule, the Commission has considered the proposal’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

\(^{23}\) See Amended Rule No. 3, supra note 8.

\(^{24}\) See 1993 Letter, supra note 11, and note 14, supra.

\(^{25}\) The proposal will renumeral current Amex Rule 462(d)(2)(H)(iv) as Amex Rule 462(d)(2)(H)(v).

\(^{26}\) Specially, current Amex Rule 462(d)(2)(H)(iv) provides that in computing margin on an existing net security position carried against a short put or short call, the current market price to be used shall
The Commission notes that the current proposal applies solely to the PDRs or Index Fund Shares and the corresponding index options specified in the proposal. If the Amex intends to allow additional PDRs or Index Fund Shares to serve as cover for short positions in options on other indexes, the Amex must file a proposed rule change pursuant to Section 19(b)(1) of the Act and Rule 19b−4 thereunder to adopt the additional offsets.

The commission finds good cause for approving Amendment No. 3 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. 3 strengthens the case of a put and the required margin shall be not be greater than the exercise price in the case of a call or less than the current market price in the case of a put and the required margin shall be increased by an unrealized loss on the short security positions.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR−Amex−98−33), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.29

Margaret H. McFarland,
Deputy Secretary.
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SEcurities And EXchange COMMISSION

[Release No. 34−42596; File No. SR−CBOE−00−09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Extending for Six Months the Rapid Opening System ("ROS") Pilot Program


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 March 22, 2000, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change.

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

The Exchange requests an extension through September 30, 2000, of a pilot program established in Exchange Rule 6.2A, which governs the operation of, and the eligibility to participate in, the Exchange's Rapid Opening System.3 The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange 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 Exchange 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 proposes to extend for six months the Rapid Opening System ("ROS") pilot program.4 Before the implementation of ROS, a trading crowd on CBOE arrived at the opening price by manually progressing through series after series of an options class. Open trading for any of the class’ series could not commence until all series in the class had undergone the process.5 ROS allows the Exchange to automate the opening of its various option classes, thereby avoiding the lengthier opening rotations that can occur under circumstances when there is a large influx of orders entered before or during the opening rotation. As the opening occurs, fill reports on all participating orders are generated automatically, opening market quotes and last sales will be disseminated, and market-makers will receive notification of assigned trades. In addition, as part of the pilot, the Exchange has developed a manual procedure for incorporating orders currently not included on CBOE’s Electronic Book, known as non-bookable orders,6 into the opening process.7

The CBOE represents that its experience with ROS over the past year has been positive. Member firms have

2917 CFR 240.30−3(a)(12).
3The pilot program was first approved by the Commission effective February 9, 1999 through March 31, 2000. See Securities Exchange Act Release No. 41033 (February 9, 1999), 64 FR 8156 (February 18, 1999.)