

Applicants estimate that the current cost of the funds available under the Receivables program is 1.545% in the case of Met-Ed and Penelec and 1.645% in the case of Penn Power, as compared to the estimated costs to the Applicants of bank financing (2.75%) and a one-year floating rate note (approximately 2%).

Proceeds of the Receivables sale program will be used by the Applicants for general corporate purposes.

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. 34-49217; File No. SR-Amex-2004-10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Application of a Fee Cap for Member Firm Options Transactions

February 10, 2004.

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 February 2, 2004, the American Stock Exchange LLC ("Amex" 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 Exchange. The proposed rule change has been filed by the Amex as establishing or changing a due, fee, or other charge, pursuant to section 19(b)(3)(A)(ii)³ of the Act and Rule 19b-4(f)(2)⁴ thereunder, which renders the proposal effective upon filing with the Commission. 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 Exchange proposes to adopt an options fee cap of \$75,000 per month in connection with "firm" trades of member organizations for all equity and

index options transaction charges, options comparison charges, and options floor brokerage charges.

The text of the proposed rule change is available at the Amex 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 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 IV 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt an options fee cap, exclusive of any options licensing fee, of \$75,000 per month in connection with "firm" trades of member organizations on all equity and index options transaction charges, options comparison charges, and options floor brokerage charges. The "firm" designation identifies a clearing member's account that handles only transactions cleared and positions carried on behalf of non-customers that are not specialists, registered options traders or away market makers. Under this proposal, firm-related charges for equity and index options, in the aggregate for one month, would not exceed \$75,000 per month per member firm.

The Amex believes that member firms that are substantial order flow providers should be rewarded through the proposed fee cap. The Exchange believes that this proposal provides an incentive for member firms to attract and transact more volume on the floor of the Exchange. In addition, an increase in firm orders should also provide more trading opportunities for floor members, thereby increasing revenue potential to the membership and the Exchange.

2. Statutory Basis

The Exchange believes the proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b)(4) of the Act,⁵ regarding the equitable allocation of reasonable dues, fees, and other charges among exchange

members and other persons using exchange facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act⁶ and Rule 19b-4(f)(2)⁷ thereunder, because it changes a fee imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-Amex-2004-10. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ 17 CFR 240.19b-4(f)(2).

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2004-10 and should be submitted by March 11, 2004.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-3543 Filed 2-18-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49214; File No. SR-Amex-2003-101]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change Relating to Amex Membership's Duty To Report Fraudulent or Manipulative Conduct

February 9, 2004.

On November 21, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("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 amend Rule 3 of the Amex's *General and Floor Rules* to require Amex members or member organizations to report to the Exchange fraudulent or manipulative conduct in connection with the trading of securities on the Floor.³

The proposed rule change was published for comment in the **Federal Register** on January 6, 2004.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change.

After careful review, 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 exchange⁵ and, in particular,

the requirements of section 6 of the Act⁶ and the rules and regulations thereunder. Specifically, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act⁷ which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. In addition, the Commission believes that the proposal is consistent with section 6(b)(1) of the Act,⁸ which requires that the Exchange have the capacity to enforce its members' compliance with the Act, the rules and regulations thereunder, and the rules of the Exchange. The Commission believes that by requiring Amex members or member organizations to immediately report fraudulent or manipulative conduct in connection with the trading of securities on the Exchange floor to the Exchange, the proposal should enhance the Exchange's ability to prevent and sanction fraud and manipulation and to enforce its members' compliance with the Federal securities laws and with the Exchange's rules.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-Amex-2003-101) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-3579 Filed 2-18-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49213; File No. SR-CBOE-2003-35]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment Nos. 1, 2, and 3 Thereto, by the Chicago Board Options Exchange, Inc. Relating to Its Position and Exercise Limits

February 9, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,²

proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(1).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

notice is hereby given that on August 26, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to 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 CBOE. On September 29, 2003, the CBOE submitted Amendment No. 1 to the proposed rule change. On January 29, 2004, the CBOE submitted Amendment No. 2 to the proposed rule change. On February 9, 2004, the CBOE submitted Amendment No. 3 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to issue a regulatory circular that contains additional guidance for member firms seeking non-aggregation treatment for the accounts of certain trading units of the member for purposes of the Exchange's position and exercise limit rules.

The text of the proposed regulatory circular is below. Proposed additions are in *italics*.

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Regulatory Circular RG04-XX³

Date: 2004

To: Members and Member Firms

From: Regulatory Services Division

Re: Aggregation of Accounts for Position and Exercise Limit Purposes

Aggregation of Accounts

The purpose of this memorandum is to summarize the provisions of Exchange rules with respect to the aggregation of accounts for position and exercise limit purposes. Exchange Rules 4.11 and 4.12 require that positions maintained in accounts directly or indirectly controlled by the same individual or entity be aggregated for position and exercise limit purposes. Pursuant to Rule 4.11, control exists when an individual or entity makes investment decisions for an account or accounts, or materially influences directly or indirectly the actions of any person who makes investment decisions. Control is also presumed in the following circumstances: (a) among all participants of a joint account who have authority to act on behalf of the

³ This regulatory circular was filed with the SEC in connection with SR-CBOE-2003-35.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposed rule change also changes the title of Rule 3 from "Excessive Dealings" to "General Prohibitions and Duty to Report."

⁴ See Securities Exchange Act Release No. 48998 (December 29, 2003), 69 FR 708.

⁵ In approving this proposed rule change, the Commission notes that it has considered the