

through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: January 13, 2005.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51043; File No. SR-Amex-2005-06]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change Relating to Position Limits and Exercise Limits for Options on Standard and Poor's Depository Receipts

January 14, 2005.

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 January 13, 2005, 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 Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. In addition, the Commission is granting accelerated approval of the proposed rule change.

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

The Exchange proposes to amend Amex Rule 904 to increase position limits and exercise limits for options on Standard & Poor's Depository Receipts® ("SPDRs®"). The text of the proposed rule change is available on the Amex's Web site ([www.amex.com](http://www.amex.com)), at the Amex's Office of the Secretary, and at the Commission's Public Reference Room.

#### 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 had 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

The Exchange commenced trading options on SPDRs on January 10, 2005. The Exchange proposes to amend Commentary .07 to Amex Rule 904 to increase position limits and exercise limits for options on SPDRs from 75,000 to 300,000 contracts on the same side of the market.

Given the expected institutional demand for options on SPDRs, the Amex believes the current equity position limit of 75,000 contracts to be too low and a limitation to the successful trading of the product. SPDR options are 1/10th the size of options on the Standard and Poor's 500 Index (SPX). Therefore, a position limit of 75,000 contracts in SPDR options is equivalent to a 7,500 contract position limit in SPX options. Traders who trade SPDR options to hedge positions in SPX options are likely to find a position limit of 75,000 contracts in SPDR options too restrictive, which may adversely affect the Exchange's ability to provide liquidity in this product.

Comparable products, such as options on the Nasdaq-100 Index Tracking Stock ("QQQQ") and the DIAMONDS Trust ("DIA"), are subject to a 300,000 contract limit. The Exchange proposes that options on SPDRs similarly be subject to position limits and exercise limits of 300,000 contracts.<sup>3</sup> The Exchange believes that increasing position limits and exercise limits for SPDR options would lead to a more liquid and competitive market environment for SPDR options that would benefit customers interested in this product.

<sup>3</sup> Pursuant to Amex Rule 905(a)(i), the exercise limit for SPDR options under Amex Rule 905 would be equivalent to the position limit established in Amex Rule 904, Commentary .07.

Consistent with the reporting requirement for QQQQ options, the Exchange would require that each member or member organization that maintains a position on the same side of the market in excess of 10,000 contracts in the SPDR option class, for its own account or for the account of a customer report certain information.<sup>4</sup> This data would include, but would not be limited to, the option position, whether such position is hedged and if so, a description of the hedge and if applicable, the collateral used to carry the position. Exchange market makers would continue to be exempt from this reporting requirement as market maker information can be accessed through the Exchange's market surveillance systems. In addition, the general reporting requirement for customer accounts that maintain a position in excess of 200 contracts would remain at this level for SPDR options.<sup>5</sup>

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanisms of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

##### 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. 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. Comments may be submitted by any of the following methods:

<sup>4</sup> See Amex Rule 906(b).

<sup>5</sup> See Amex Rule 906(a).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2005-06 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2005-06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-Amex-2005-06 and should be submitted on or before February 14, 2005.

#### IV. Commission's Findings and Order Granting Accelerated Approval of 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 exchange,<sup>8</sup> and, in particular, the requirements of Section 6(b)(5) of the Act.<sup>9</sup> Specifically, the Commission finds that the proposed rule change

should ensure that the Exchange's position limits and exercise limits on SPDR options provide its members with sufficient flexibility to participate in the market for such options in a manner that should provide greater depth and liquidity for all market participants.

The Commission finds good cause for approving this proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. Specifically, the Commission believes that granting accelerated approval to the proposed rule change should permit greater depth and liquidity in the SPDR options market that should benefit all market participants, including retail investors. Because the higher position limits and exercise limits mirror those that the Commission has previously approved for like products, the Commission believes it is consistent with Sections 6(b)(5)<sup>10</sup> and 19(b)(2)<sup>11</sup> of the Act to approve the Amex's proposed rule change on an accelerated basis.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-Amex-2005-06) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 51031; File No. SR-BSE-2004-46]

#### Self-Regulatory Organizations; Boston Stock Exchange; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Its Instant Liquidity Access Rules

January 12, 2005.

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 December 20, 2004, the Boston Stock Exchange ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule as

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

described in Items I and II below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the Exchange as a non-controversial filing pursuant to Rule 19b-4(f)(6) under the Act.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange proposes to amend its rules regarding Instant Liquidity Access.

#### 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 purpose of the proposed rule change is to amend a section of the Rules of the Board of Governors of the Boston Stock Exchange ("BSE Rules") relating to Instant Liquidity Access ("ILA"). In Chapter XXXIII, Section 8, the Exchange sets forth rules related to the facilitation of orders through ILA. The Exchange is proposing that ILA orders for any account in which the same person is directly or indirectly interested may be entered without any time delay between the entry of orders in the book. Presently, there is a thirty-second restriction between the entry of orders for the same account.

When the ILA rules were originally drafted, the intention behind the thirty-second interval was to provide a measure of protection for Exchange specialists by preventing orders from being entered in a rapid fire manner. The Exchange has now had several months of experience with ILA, and both Exchange customers and specialists have requested that the thirty-second restriction be removed, so that ILA can be utilized for a larger percentage of orders. The concern about

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(5).