

Pursuant to Rule 9b-1(a)(4), the Commission may, by order, designate as "standardized options" securities that do not otherwise meet the definition of "standardized options" but which "the Commission believes should be included within the [options] disclosure framework."¹⁹ The Commission has used this authority in the past, for example, in connection with the listing and trading of Index Participations,²⁰ FLEX options,²¹ credit default options,²² and credit default basket options.²³ CBOE has requested that the Commission designate DSOs as standardized options so that the ODD may be used for DSOs.²⁴

The Commission hereby designates DSOs, as separately defined in the Options Clearing Corporation's ("OCC") proposal,²⁵ as standardized options for purposes of Rule 9b-1 under the Act. DSOs do not meet the definition of standardized options because they do not have a specific exercise price. Whereas the exercise price of a

on behalf of the issuer of the underlying security or securities, an affiliate of the issuer, or an underwriter, will constitute an offer or sale of the underlying security or securities as defined in Section 2(a)(3) of the Securities Act, 15 U.S.C. 77b(a)(3). See also Securities Act Release No. 8171 (December 23, 2002), 68 FR 188 (January 2, 2003) (Exemption for Standardized Options From Provisions of the Securities Act of 1933 and From Registration Requirements of the Exchange Act of 1934).

¹⁹ See Securities Exchange Act Release No. 19055 (September 16, 1982), 47 FR 41950, 41954 (September 23, 1982).

²⁰ See Securities Exchange Act Release No. 26709 (April 11, 1989), 54 FR 15280 (April 17, 1989) (SR-Phlx-88-07; SR-Amex-88-10; SR-CBOE-88-09).

²¹ See Securities Exchange Act Nos. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993) (SR-CBOE-92-17; SR-OCC-92-33; ODD 93-1) (order designating FLEX index options as standardized options under Rule 9b-1); and 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996) (SR-CBOE-95-43 and SR-PSE-95-24) and 37336 (June 19, 1996), 61 FR 33558 (June 27, 1996) (SR-Amex-95-57) (orders approving the listing and trading of FLEX equity options, and designating them as standardized options pursuant to Rule 9b-1 under the Act).

²² See Securities Exchange Act Release No. 55871 (June 6, 2007), 72 FR 32372 (June 12, 2007) (SR-CBOE-2006-84).

²³ See Securities Exchange Act Release No. 56275 (August 17, 2007), 72 FR 47097 (August 22, 2007) (SR-CBOE-2007-26).

²⁴ See Notice, *supra* note 3, at 52947.

²⁵ The OCC has filed with the Commission a proposed rule change to enable it to clear and settle DSOs proposed to be listed by CBOE (the "OCC Proposal"). See Securities Exchange Act Release No. 56856 (November 28, 2007) (SR-OCC-2007-13) (order noticing and granting accelerated approval). The OCC Proposal defines the term "delayed start option" to mean "an option that at the commencement of trading does not have an exercise price but instead has an exercise price setting formula pursuant to which the exercise price will be fixed on the exercise price setting date for the series of delayed start option." This definition of DSOs is being added to Article 1, Section 1 of the OCC's By-Laws.

conventional standardized option is determined when the option series is first listed for trading, the exercise price for a DSO would not be determined until the strike setting date. Instead, prior to the listing of the particular DSO series, the Exchange will specify a formula to determine the strike price of the DSO on the pre-determined strike setting date according to the terms of the formula.²⁶ No changes to any terms of existing DSO series could be made once the series begins trading.

Aside from the determination of the exercise price, DSOs resemble standardized options in other significant respects. DSOs have an underlying security index and a specific expiration date. Like other standardized options, they also have standardized terms pertaining to the rights and obligations of holders and writers. The fact that DSOs lack a specified exercise price at the commencement of trading does not detract from their character as options. Compared with FLEX options, which the Commission has also declared to be "standardized options,"²⁷ the terms of DSOs would be even more standardized in that a strike price formula, settlement, expiration date, and exercise style would be fixed by the Exchange for each DSO series. In addition, similar to DSOs, credit default options and credit default basket options, which were recently designated by the Commission as "standardized options," also have many characteristics of standardized options, except for exercise price.²⁸ The Commission also believes that the fact that the OCC, the clearing agency for standardized options, is willing to serve as issuer of DSOs supports the view that adding DSOs to the standardized option disclosure framework is reasonable.²⁹

Therefore, the Commission herein designates DSOs, such as those proposed by CBOE, as standardized options for purposes of Rule 9b-1 under the Act.³⁰

²⁶ Prior to the opening of the particular DSO series, the Exchange will announce the strike setting date as well as the expiration date of the DSO.

²⁷ See *supra* note 21 (citing the applicable orders regarding FLEX equity and index options).

²⁸ See *supra* notes 22 and 23 (citing the approval orders for credit default options and credit default basket options, respectively).

²⁹ The Commission notes that CBOE presently intends to offer DSOs in early 2008, and has represented that they will not introduce DSOs before the supplement to the ODD has been submitted to the Commission pursuant to Rule 9b-1 under the Act. Telephone conversation between Richard Holley III, Senior Special Counsel, Division of Trading and Markets, Commission, and Jennifer M. Lamie, Assistant General Counsel, CBOE, on November 16, 2007.

³⁰ 17 CFR 240.9b-1.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,³¹ that the proposed rule change (SR-CBOE-2006-90) as modified by Amendment No. 1 thereto, be, and hereby is, approved.

It is further ordered, pursuant to Rule 9b-1(a)(4) under the Act,³² that DSOs, as defined in proposed rule change SR-OCC-2007-13, are hereby designated as standardized options.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7-23533 Filed 12-4-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56854; File No. SR-NYSE-2007-53]

Self-Regulatory Organizations; The New York Stock Exchange LLC; Order Approving Proposed Rule Change, as Modified by Amendments Nos. 1 and 2 Thereto, To Amend NYSE Rule 342.13 ("Acceptability of Supervisors")

November 28, 2007.

I. Introduction

On June 20, 2007, The New York Stock Exchange LLC ("NYSE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NYSE Rule 342.13 ("Acceptability of Supervisors") to eliminate the current requirement in the rule that the General Securities Principal Examination ("Series 24 Examination") be passed after July 1, 2001 in order to be recognized by the Exchange as an acceptable alternative to the General Securities Sales Supervisor Qualification Examination ("Series 9/10 Examination").

On September 27, 2007, NYSE filed Amendment No. 1 to the proposed rule change. On October 15, 2007, NYSE filed Amendment No. 2 to the proposed rule change. The proposed rule change, as modified by Amendments Nos. 1 and 2, was published for comment in the

³¹ 15 U.S.C. 78s(b)(2).

³² 17 CFR 240.9b-1(a)(4).

³³ 17 CFR 200.30-3(a)(12) and 17 CFR 200.30-3(a)(51).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Federal Register on October 29, 2007.³ The Commission received one comment letter, which expressed support for the proposed rule change.⁴ This order approves the proposed rule change, as amended.

II. Description of the Proposal

Rule 342 (“Offices—Approval, Supervision and Control”) prescribes the Exchange’s general supervisory requirements for member organizations. Among the requirements, Rule 342.13 (“Acceptability of Supervisors”) sets forth the Exchange’s qualification standards for personnel delegated supervisory responsibility. Before 2001, this provision provided, in part, that a person delegated supervisory responsibility must pass the General Securities Sales Supervisor Qualification Examination (“Series 9/10 Examination”) or an historical equivalent (*i.e.*, the Series 8 Examination).

In 2002, the Exchange amended Rule 342.13⁵ to recognize the National Association of Securities Dealers, Inc. (“NASD”)’s⁶ General Securities Principal Examination (“Series 24 Examination”), if taken and passed after July 1, 2001, as an alternative to the Series 9/10 Examination requirement for persons whose duties did not include supervision of options or municipal securities sales activities.⁷ At that time, the Exchange represented that NASD, as of July 2, 2001, had enhanced the Series 24 Examination by including test questions sufficient to provide appropriate coverage of the NYSE Rules. The Commission approved the proposed rule change on October 17, 2002.⁸ The Exchange is now proposing to amend Rule 342.13 to eliminate the requirement that the Series 24 Examination be passed after July 1, 2001 in order for it to be an acceptable alternative to the Series 9/10 Examination.⁹

³ See Securities Exchange Act Release No. 56686 (October 23, 2007), 72 FR 61193 (October 29, 2007) (the “Notice”).

⁴ See letter from Marian H. Desilets, President, Association of Registration Management, Inc. to Nancy M. Morris, Secretary, Commission, dated November 15, 2007.

⁵ See Securities Exchange Act Release No. 46425 (August 28, 2002), 67 FR 56863 (September 5, 2002) (SR-NYSE-2002-24).

⁶ NASD is now known as the Financial Industry Regulatory Authority, Inc. (“FINRA”).

⁷ The Series 24 Examination does not address these activities.

⁸ See Securities Exchange Act Release No. 46631 (October 9, 2002), 67 FR 64187 (October 17, 2002) (order approving SR-NYSE-2002-24). See also NYSE Information Memo 02-51 (November 12, 2002).

⁹ Prospectively, persons may continue to qualify to supervise options or municipal securities sales

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,¹¹ which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that the proposed amendment to NYSE’s rules to eliminate the requirement that the Series 24 Examination be passed after July 1, 2001 in order for it to be recognized as an acceptable alternative to the Series 9/10 Examination is consistent with the Act. The Commission notes that the NYSE and the NASD rulebooks have converged significantly in the last six years. Thus, the persons who took the Series 24 before July 1, 2001 have been subject to regulatory standards that have, to a large degree, been harmonized.¹² Further, persons who took the Series 24 Examination before July 1, 2001 have been subject to regulatory and firm element continuing education,¹³ which provides ongoing training with respect to current regulatory requirements, including NYSE Rules, applicable to duties and responsibilities of those persons.

In addition, the Commission believes that the proposed amendment furthers the goals of the Exchange’s and FINRA’s continuing Rule Harmonization Initiative¹⁴ in that it should result in

activity by taking and passing the Series 24 Examination and also taking and passing the Registered Options Principal (Series 4) and/or Municipal Securities Principal (Series 53) examinations.

¹⁰ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

¹² Convergence between the NYSE Rules and FINRA Rules has included, in part, standards relating to anti-money laundering, supervision, research and internal controls, etc.

¹³ See NYSE Rule 345A.

¹⁴ The purpose of the Rule Harmonization Initiative is to achieve, to the extent practicable, substantive harmonization of the two regulatory

more closely aligned requirements under Rule 342.13 and the corresponding supervisory requirements under FINRA’s regulatory scheme.¹⁵

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁶ that the proposed rule change, as amended (SR-NYSE-2007-53), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon,

Deputy Secretary.

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department’s Office of Foreign Assets Control (“OFAC”) is publishing the names of additional persons whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908, 8 U.S.C. 1182). In addition, OFAC is publishing a change to the listing of one individual previously designated pursuant to the Foreign Narcotics Kingpin Designation Act.

DATES: The designation by the Secretary of the Treasury of the nine individuals and thirteen entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on November 27, 2007. In addition, the change to the listing of one individual previously designated pursuant to section 804(b) of the Kingpin Act is effective on November 27, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622-2490.

SUPPLEMENTARY INFORMATION:

schemes in an effort to reduce regulatory duplication and streamline the rules of self-regulatory organizations.

¹⁵ See FINRA Rule 1022(a).

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).