

trading volume in the non-U.S. security and other related non-U.S. securities;¹² (2) the average daily trading volume for the non-U.S. security in the U.S. market is at least 100,000 shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days.

The Commission believes that these requirements present a reasonable alternative to the 50% Test by limiting the actual listing of ELNs on non-U.S. securities to only those non-U.S. securities that have a significant amount of U.S. market trading volume. This will ensure that the U.S. market is sufficiently active to serve as a relevant pricing market for the non-U.S. security and that the underlying foreign security is readily available to meet the delivery requirements upon exercise of the ELN. Accordingly, the Commission believes that the 20% Test + Daily Trading Volume Standard should help to ensure that the U.S. markets serve a significant role in the price discovery of the applicable non-U.S. security and are generally deep, liquid markets.

Finally, the Exchange believes, for similar reasons, that it is appropriate to reduce the minimum U.S. trading volume requirements for ELNs issuances from 30% to 20%. As noted above, the Commission believes that the 20% Test + Daily Trading Volume Standard will ensure that an underlying non-U.S. security has deep and liquid markets to sustain an ELNs listing. The Commission believes that it is appropriate to adjust the limitations on the size of the ELNs issuance to correspond to this requirement. Accordingly, where the trading volume in the U.S. market for the underlying non-U.S. security is between 20% and 50% of the worldwide trading volume, the issuance will be limited to 2% of the total outstanding shares of the underlying security. The 20% minimum U.S. trading volume requirement should continue to ensure that the U.S. market is significant enough to accommodate ELNs trading. In this regard, the Commission believes that these restrictions will minimize the possibility that trading in such issuances will adversely impact the market for the security to which it is linked.

¹² The Commission notes that the 20% Test + Daily Trading Volume Standard does not include worldwide trading volume in the non-U.S. security that takes place in a foreign market regardless of the existence of a comprehensive surveillance sharing agreement with the listing exchange. The 20% Test is a minimum U.S. market share trading test intended to permit the listing of ELNs only on non-U.S. securities that have active and liquid markets in the U.S.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register in order to allow CBOE to implement these changes to its ELNs Listing Standards without delay. The proposal will provide the Exchange with increased flexibility in the listing of ELNs products on both U.S. and non-U.S. securities without compromising investor protection concerns. In addition, the CBOE proposal is substantially similar to, and is being approved concurrently with, two American Stock Exchange proposals relating to ELNs listing standards, both of which were subject to the full notice and comment period.¹³ The Commission notes that no comment letters were received on these Amex proposals. Accordingly, the Commission does not believe the CBOE proposal, as amended, raises any new or unique regulatory issues. For these reasons, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve the proposed rule change and Amendment No. 1 on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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 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, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 17, 1996.

¹³ See Securities Exchange Act Release Nos. 36538 (Nov. 30, 1995) (notice of filing of SR-Amex-95-44) and 36578 (Dec. 13, 1995) (notice of filing of SR-Amex-95-48).

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-CBOE-95-71) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-7396 Filed 3-26-96; 8:45 am]

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[Release No. 34-36994; International Release No. 953; File No. SR-NASD-96-01]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to Listing Criteria for Selected Equity Linked Debt Securities ("SEEDS")

March 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the NASD. On February 1, 1996, the NASD filed Amendment No. 1 ("Amendment No. 1") to the proposed rule change to revise the trading volume requirement for securities underlying an issuance of SEEDS and to clarify issues relating to the issuance of SEEDS on non-U.S. companies that trade in the U.S. market as sponsored American Depositary Receipts ("ADRs"), ordinary shares, or otherwise.¹ This Order approves the proposed rule change, as amended, on an accelerated basis and also solicits 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 NASD is proposing to amend the listing standards for Selected Equity-Linked Debt Securities ("SEEDS")² found in Section 2(f) of Part III to Schedule D to the NASD By-Laws

¹⁴ 15 U.S.C. 78s(b)(2) (1988).

¹⁵ 17 CFR § 200.30-3(a)(12) (1994).

¹ Letter from Joan C. Conley, Corporate Secretary, NASD, to Michael Walinskas, SEC, dated January 29, 1996.

² "SEEDS" and "Selected Equity-Linked Debt Securities" are service marks of The Nasdaq Stock Market, Inc.

("Schedule D"). Specifically, the NASD proposes to amend Section 2(f)(3)(A) of Part III to Schedule D to increase the number of securities eligible to underlie or be "linked" to SEEDS. The NASD also proposes to amend Schedule D to provide alternative criteria for the listing and trading of SEEDS linked to the performance of non-U.S. companies that trade in the U.S. market as ADRs, ordinary shares, or otherwise.

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 NASD 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 NASD 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

SEEDS are intermediate-term (*i.e.*, two to seven years), non-convertible hybrid securities, the value of which is based at least in part, on the value of another issuer's common stock, non-convertible preferred stock, or certain sponsored ADRs.³ SEEDS may pay periodic interest or may be issued as zero-coupon instruments with no payments to holders prior to maturity. SEEDS also may be subject to a "cap" on the maximum principal amount to be repaid to holders upon maturity, or, conversely, they may feature a "floor" on the minimum principal amount paid to holders upon maturity. A specific issue of SEEDS, for example, may provide holders with a fixed semi-annual interest payment, while capping the maximum amount to be repaid upon maturity at 135% of the issuance price, with no minimum floor guarantee on the principal to be repaid at maturity. Another issue of SEEDS might offer lower semi-annual payments based upon a floating interest rate with a minimum floor for the repayment of principal of 75% of the issuance price. The flexibility available to an issuer of SEEDS permits the creation of securities which offer issuers and investors the

opportunity to more precisely focus on a specific investment strategy.

There are four components to the NASD's listing standards for SEEDS: (1) Standards applicable to issuers of SEEDS;⁴ (2) standards applicable to the SEEDS offerings themselves;⁵ (3) standards applicable to the underlying linked security;⁶ and (4) limitations on the size of a particular SEEDS offering.⁷

The NASD's instant rule proposal would modify the listing standards applicable to the underlying linked security. First, the NASD proposes to amend the trading volume criteria for securities eligible to be linked to SEEDS found in Section 2(f)(3)(A) of Part III to Schedule D. Currently, in order for a security to be eligible to be linked to a SEEDS, the linked security must, among other things, meet one of the following criteria: (a) Have a market capitalization of at least \$3 billion and a trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the SEEDS; (b) have a market capitalization of at least \$1.5 billion and a trading volume in the United States of at least 20 million shares in the one-year period preceding the listing of the SEEDS; or (c) have a market capitalization of at least \$500 million and a trading volume in the United States of at least 80 million shares in the one-year period preceding the listing of the SEEDS.

⁴ An issuer of a SEEDS must be an entity that is listed on the Nasdaq National Market or the NYSE, or an affiliate of a company listed on the Nasdaq National Market or the NYSE. Each issuer of a SEEDS must also have a net worth of \$150 million. In addition, the market value of a SEEDS offering, when combined with the market value of all other SEEDS offerings previously completed by the issuer and traded on the Nasdaq National Market or a national securities exchange, may not be greater than 25 percent of the issuer's net worth at the time of issuance.

⁵ Each issuance of a SEEDS must have: (1) a minimum public distribution of one million SEEDS; (2) a minimum of 400 holders of the SEEDS, provided, however, that if the SEEDS is traded in \$1,000 denominations, there must be a minimum of 100 holders; (3) a minimum market value of \$4 million; and (4) a term of two to seven years (although a SEEDS on an ADR cannot have a term longer than three years).

⁶ The securities linked to SEEDS must: (1) meet certain market capitalization and trading volume requirements, as discussed below; (2) be a U.S. reporting company under the Securities Exchange Act of 1934 ("Act"); (3) be traded on Nasdaq or a national securities exchange; and (4) be subject to last sale reporting. In addition, as discussed below, SEEDS may also be linked to certain non-U.S. companies.

⁷ SEEDS linked to a U.S. security may not exceed five percent of the total shares outstanding of such underlying security, absent approval by the SEC. Depending on the percentage of world-wide trading volume in the U.S. market, a SEEDS linked to a non-U.S. security or sponsored ADR may not exceed two, three, or five percent of the total shares outstanding of the non-U.S. security, as discussed below.

Under the proposal, the trading volume criteria for SEEDS-linked securities would be lowered such that a security could underlie a SEEDS if it: (a) had a market capitalization of at least \$3 billion and a trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the SEEDS; (b) had a market capitalization of at least \$1.5 billion and a trading volume in the United States of at least 10 million shares in the one-year period preceding the listing of the SEEDS; or (c) had a market capitalization of at least \$500 million and a trading volume in the United States of at least 15 million shares in the one-year period preceding the listing of the SEEDS.

The NASD believes this proposed trading volume criteria for SEEDS-linked securities will provide qualified issuers greater flexibility to list SEEDS on the Nasdaq National Market. The NASD also notes that its proposal would delete a provision in the SEEDS listing standards that permits the NASD, with the concurrence of the staff of the Division of Market Regulation of the Commission, to list a particular SEEDS issue notwithstanding the fact that the underlying linked security does not meet the market capitalization and trading volume requirements noted above. With the increased flexibility that the proposed trading volume criteria will provide issuers, the NASD believes it no longer will be necessary to retain this provision of the SEEDS listing standards.

Second, the NASD proposes to modify the SEEDS listing standard governing which non-U.S. companies are eligible to be linked to SEEDS. Presently, under Section 2(f)(3)(C) of Part III to Schedule D, SEEDS may be linked to actively traded non-U.S. companies which are traded in the U.S. market as sponsored ADRs, ordinary shares, or otherwise, provided that: (1) the NASD has a comprehensive surveillance sharing agreement in place with the primary foreign exchange on which the non-U.S. security trades; or (2) the trading volume of the non-U.S. security in the U.S. market represents at least 50% of the world-wide trading volume in the non-U.S. security ("50% Test"). Under the proposal, the manner in which the applicable percentage of world-wide trading volume is calculated under the 50% Test would be modified and a new criteria for the listing of SEEDS on non-U.S. securities would be added. Specifically, the NASD proposes to revise the 50% Test so that trading in non-U.S. securities and other related non-U.S. securities in any market with which the NASD has a comprehensive

³ See Securities Exchange Act Release No. 34758 (September 30, 1994), 59 FR 50943 (October 6, 1994).

surveillance sharing agreement in place will be added to U.S. market volume for the purpose of determining whether the 50% Test has been met. Currently, only trading in the U.S. market counts toward satisfying the 50% Test.

The NASD also proposes to add an alternative set of criteria to Section 2(f)(3)(C) to expand the number of non-U.S. securities upon which Nasdaq may list SEEDS. This new standard will be referred to as the 20% Test + Daily Trading Volume Standard ("20% Test + Daily Trading Volume Standard") and will permit Nasdaq to list SEEDS on non-U.S. securities if all of the following conditions are satisfied: (1) The combined world-wide trading volume for the non-U.S. security in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and in other related non-U.S. securities over the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing;⁸ (2) the average daily trading volume for the non-U.S. security in the U.S. market over the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing is 100,000 or more shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days for the six-month period preceding the date of selection of the non-U.S. security for a SEEDS listing.

The NASD also proposes to amend Section 2(f)(4) in order to clarify the limitation on the number of SEEDS that may be linked to a particular security. Specifically, the issuance of SEEDS relating to any underlying non-U.S. security or sponsored ADR may not exceed 2% of the total shares outstanding worldwide if at least 20% of the worldwide trading volume occurs in the U.S. market during the six-month period preceding the date of designation.⁹ The NASD notes that this change is consistent with the 20% Test + Daily Trading Volume Standard requirement contained in Section

2(f)(3)(C) that requires at least 20% of the combined worldwide trading volume in the non-U.S. security to occur in U.S. markets.¹⁰

The NASD believes that the alternate criteria for non-U.S. securities is appropriate because it will ensure that non-U.S. securities linked to SEEDS will have a significant amount of U.S. market trading volume and a substantial volume of trading covered by a comprehensive surveillance sharing agreement, which gives the NASD the ability to inquire into potential trading problems or irregularities in a marketplace that serves as a significant price discovery market for the non-U.S. security. Thus, the proposed requirement of observable, high trading volume should ameliorate any regulatory concern regarding investor protection and, at the same time, allow investors to trade SEEDS linked to more non-U.S. securities.

The NASD also believes that the proposal will benefit investors by expanding the number of non-U.S. securities that may be linked to SEEDS, thereby providing investors with enhanced investment flexibility. The NASD believes that it is appropriate to now include additional non-U.S. securities within the existing regulatory framework for SEEDS because of the significant level of U.S. investor interest in non-U.S. companies that are highly capitalized and actively traded.

For the foregoing reasons, the NASD believes the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be 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 regulating, clearing, settling, processing information with respect to, and facilitating 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. In sum, the NASD believes the proposal strikes an appropriate balance between the NASD's need to adapt and respond to innovations in the securities markets and the NASD's concomitant need to ensure the protection of investors and the maintenance of fair and orderly markets.

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

The NASD believes that the proposed rule change will not result in any burden on competition that is 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

Comments were neither solicited nor received.

III. Findings and Conclusions

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 association, and, in particular, the requirements of Section 15A(b)(6).¹¹ In particular, the Commission believes the proposal is consistent with the Section 15A(b)(6) requirements that the rules of a registered securities association be designed to promote just and equitable principles of trade and not to permit unfair discrimination among issuers.

The Commission finds that the proposal to reduce the trading volume requirement for eligible linked securities will expand the number of securities that can be linked to SEEDS while maintaining the requirement that the linked security be an actively traded, highly capitalized common stock, non-convertible preferred stock or ADR. While the proposal reduces the trading volume criteria for securities with market capitalizations in the \$1.5 billion and \$500 million tiers to 10 million and 15 million shares, respectively (from 20 and 80 million shares, respectively), the Commission nevertheless believes that, together, the applicable capitalization and new trading volume requirements will continue to help ensure that SEEDS are only issued on highly liquid securities of broadly capitalized companies. Accordingly, the Commission believes that the market capitalization and trading volume requirements will continue to help reduce the likelihood of any adverse market impact on the securities underlying SEEDS.

The Commission notes that the NASD has deleted the provision that allows it to list SEEDS on securities not meeting these criteria if the Division of Market Regulation of the SEC concurs. The revised criteria will expand the number of securities eligible for SEEDS trading. The increased flexibility in the SEEDS listing criteria should effectively reduce

⁸ See Amendment No. 1. The calculation for the 20% Test + Daily Trading Volume Standard does not include foreign markets with which the NASD has in place a comprehensive surveillance sharing agreement.

⁹ The other size limitations in the NASD's rule remains unchanged. Accordingly, the size of SEEDS issuances linked to non-U.S. securities will be limited to 3% of the total shares of the underlying security outstanding provided, however, at least 50% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market, or 5% of the total shares of the underlying security outstanding provided at least 70% of the worldwide trading volume for the security for the six-months prior to listing occurred in the U.S. market.

¹⁰ As with the 20% Test + Daily Trading Volume Standard, foreign markets with which the NASD has in place a comprehensive surveillance sharing agreement are not included in the calculation for purposes of determining the size of eligible SEEDS issuances.

¹¹ 15 U.S.C. 78o-3(b)(6) (1988).

or eliminate the need for additional discretion in this area, in addition to providing issuers and the NASD with specific and clear guidance on the applicable listing criteria for a security to underlie a SEEDS.

The Commission also believes that the additional proposed amendments to the listing standards for SEEDS on non-U.S. securities will benefit investors by effectively increasing the number of available SEEDS-eligible non-U.S. securities. At the same time, as described below, the proposal provides safeguards designed to reduce the potential for manipulation and other abusive trading strategies in connection with the trading of non-U.S. security SEEDS and their underlying securities. Accordingly, the Commission believes that the proposal will extend the benefits associated with SEEDS on non-U.S. securities without compromising the effectiveness of the NASD's listing standards for such securities.

Currently, the 50% Test allows the NASD to list SEEDS on a non-U.S. security in the absence of a comprehensive/effective surveillance sharing agreement with the primary exchange where the non-U.S. security trades if the combined trading volume of the non-U.S. security and other related non-U.S. securities occurring in the U.S. market during the six month period preceding the selection of the non-U.S. security for SEEDS listing represents (on a share equivalent basis) at least 50% of the combined world-wide trading volume in such securities.

The Commission has previously concluded that the 50% Test helps to ensure that the relevant pricing market for non-U.S. securities underlying SEEDS (or other similar equity linked debt securities) occurs in the U.S. market.¹² In such cases, the Commission has previously found that the U.S. market is the instrumental market for purposes of deterring and detecting potential manipulations or other abusive trading strategies in conjunction with transactions in the overlying non-U.S. security equity-linked market. Because the U.S. self-regulatory organizations which comprise the U.S. market for non-U.S. securities are members of the Intermarket

Surveillance Group,¹³ the Commission has concluded that there exists an effective surveillance sharing agreement to permit the NASD to adequately investigate any potential manipulations of the non-U.S. security SEEDS or their underlying securities.

The NASD proposes to modify the 50% Test to include in the U.S. market volume calculation the trading volume in non-U.S. securities and other related non-U.S. securities that occurs in any market with which the NASD has in place a comprehensive/effective surveillance sharing agreement. The Commission believes that this proposed modification of the 50% Test is consistent with the Act and with the Commission's approach in the ELN Approval Orders because it will continue to ensure that the majority of world-wide trading volume in the non-U.S. security and other related non-U.S. securities occurs in trading markets with which the NASD has in place a comprehensive/effective surveillance sharing agreement. The existence of such agreements should deter as well as detect manipulations or other abusive trading strategies and also provide an adequate mechanism for obtaining market and trading information from the non-U.S. markets that the list the non-U.S. security underlying the NASD's SEEDS in order to adequately investigate any potential abuse or manipulation.

Additionally, the Commission finds that the proposed 20% Test + Daily Trading Volume Standard is consistent with the Act and with the ELN Approval Orders. As noted above, the 20% Test + Daily Trading Volume Standard will allow the NASD to list SEEDS on a non-U.S. security if, over the six month period preceding the date of selection of the non-U.S. security for

SEEDS trading (1) the combined world-wide trading volume for the non-U.S. security in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and other related non-U.S. securities;¹⁴ (2) the average daily trading volume for the non-U.S. security in the U.S. market is at least 100,000 shares; and (3) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days.

The Commission believes that these requirements present a reasonable alternative to the 50% Test by limiting the actual listing of SEEDS on non-U.S. securities to only those non-U.S. securities that have a significant amount of U.S. market trading volume. This will ensure that the U.S. market is sufficiently active to serve as a relevant pricing market for the non-U.S. security and that the underlying foreign security is readily available to meet the delivery requirements upon exercise of the SEEDS. Accordingly, the Commission believes that the 20% Test + Daily Trading Volume Standard should help to ensure that the U.S. markets serve a significant role in the price discovery of the applicable non-U.S. security and are generally deep, liquid markets.

Finally, the NASD believes, for similar reasons, that it is appropriate to reduce the minimum U.S. trading volume requirements for SEEDS issuances from 30% to 20%. As noted above, the Commission believes that the 20% Test + Daily Trading Volume Standard will ensure that an underlying non-U.S. security has deep and liquid markets to sustain a SEEDS listing. The Commission believes that it is appropriate to adjust the limitations on the size of the SEEDS issuance to correspond to this requirement.

Accordingly, where the trading volume in the U.S. market for the underlying non-U.S. security is between 20% and 50% of the worldwide trading volume, the issuance will be limited to 2% of the total outstanding shares of the underlying security. The 20% minimum U.S. trading volume requirement should continue to ensure that the U.S. market is significant enough to accommodate SEEDS trading. In this regard, the Commission believes that these

¹² See Securities Exchange Act Release Nos. 34549 (August 18, 1994), 59 FR 43873 (August 25, 1994) (SR-Amex-93-46); 34759 (September 30, 1994), 59 FR 50939 (October 6, 1994) (SR-CBOE-94-04); 34758 (September 30, 1994), 59 FR 50943 (October 6, 1994) (SR-NASD-94-49); 34985 (November 18, 1994), 59 FR 60860 (November 28, 1994) (SR-NYSE-94-37); and 35479 (March 13, 1995), 60 FR 14993 (March 21, 1995) (SR-Phlx-95-09) ("ELN Approval Orders").

¹³ The Intermarket Surveillance Group ("ISG") was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the American Stock Exchange, Inc.; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the NASD; the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information and for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members of 1980.

¹⁴ The U.S. notes that the 20% Test + Daily Trading Volume standard does not include worldwide trading volume in the non-U.S. security that takes place in a foreign market regardless of the existence of a comprehensive surveillance sharing agreement with the listing exchange. The 20% Test is a minimum U.S. market share trading test intended to permit the listing of SEEDS only on non-U.S. securities that have active and liquid markets in the U.S.

restrictions will minimize the possibility that trading in such issuances will adversely impact the market for the security to which it is linked.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register in order to allow the NASD to implement these changes to its SEEDS Listing Standards without delay. The proposal will provide the NASD with increased flexibility in the listing of SEEDS products on both U.S. and non-U.S. securities without compromising investor protection concerns. In addition, the NASD proposal is substantially similar to, and is being approved concurrently with, two American Stock Exchange proposals relating to equity linked notes listing standards, both of which were subject to the full notice and comment period.¹⁵ The Commission notes that no comment letters were received on these Amex proposals. Accordingly, the Commission does not believe the NASD proposal, as amended, raises any new or unique regulatory issues. For these reasons, the Commission believes there is good cause, consistent with Sections 15A(b)(6)¹⁶ and 19(b)(2)¹⁷ of the Act, to approve the proposed rule change and Amendment No. 1 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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 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, N.W., Washington, D.C. Copies of such filing will also be available for inspection and

copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number of the caption above and should be submitted by April 17, 1996.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-NASD-96-01) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-7397 Filed 3-26-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36993; File No. SR-NYSE-95-39]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Revised Listing Standards for Equity Linked Derivative Securities ("ELDs")

March 20, 1996.

On November 29, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the trading volume requirements for linked securities underlying ELDs issuances.

Notice of the proposed rule change was published for comment and appeared in the Federal Register on December 20, 1995.³ No comments were received on the proposal. This order approves the proposal.

I. Description of the Proposal

ELDs are non-convertible debt securities of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or non-convertible preferred stock.⁴ The purpose of the proposed rule change is to amend the trading volume criteria for the linked security, that is, the security on which the value of the ELDs is based. Currently, under

Section 703.21 of the Listed Company Manual, in order to list an ELDs product, the linked security must meet one of the following criteria:

Market Capitalization and Annual Trading Volume

\$3 billion and 2.5 million shares.

\$1.5 billion and 20 million shares.

\$500 million and 80 million shares.

The NYSE now proposes to amend Section 703.21 to provide for greater flexibility in the listing criteria for ELDs. The proposed rule change will lower the trading volume requirements criteria for underlying linked stocks meeting the capitalization requirements of \$1.5 billion and \$500 million. Under the revised criteria, a linked stock with market capitalization of \$1.5 billion would now need an annual trading volume of 10 million shares, as opposed to the current trading volume requirement of 20 million shares. Securities with a market capitalization in excess of \$500 million also would be eligible for ELDs listing if they have annual trading volume of 15 million shares, as opposed to the 80 million shares under the current rule.⁵

The Exchange believes the new criteria will provide it with greater flexibility to list these types of securities. The rule change will also delete the current provision of the rule that allows the Exchange to list ELDs that do not meet these criteria if the Division of Market Regulation of the SEC concurs. With the increased flexibility that the new numerical listing criteria will supply, it will no longer be necessary to conduct such a case-by-case review of ELDs listing.

II. Discussion

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, and, in particular, the requirements of Section 6(b)(5).⁶ In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, and dealers.

⁵ Under the rule, as amended by this proposal, ELDs could be listed where the linked security met any of the following criteria:

Market Capitalization and Annual Trading Volume

\$3 billion and 2.5 million shares.

\$1.5 billion and 10 million shares.

\$500 million and 15 million shares.

⁶ 15 U.S.C. 78f(b)(5) (1982).

¹⁵ See Securities Exchange Act Release Nos. 36538 (Nov. 30, 1995) (notice of filing of SR-Amex-95-44) and 36578 (Dec. 13, 1995) (notice of filing of SR-Amex-95-48).

¹⁶ 15 U.S.C. 78o-3(b)(6) (1988).

¹⁷ 15 U.S.C. 78s(b)(2) (1988).

¹⁸ 15 U.S.C. 78s(b)(2) (1988).

¹⁹ 17 CFR § 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

² 17 CFR 240.19b-4 (1994).

³ See Securities Exchange Act Release No. 36581 (Dec. 13, 1995).

⁴ See Securities Exchange Act Release No. 33468 (Jan. 13, 1994). These listing standards were subsequently revised in Securities Exchange Act Release Nos. 33841 (March 31, 1994) and 34985 (Nov. 18, 1995).