2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act[7] in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 either solicited or received.

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

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organizations consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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, NW, Washington, DC 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 USC § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–AMEX–97–15 and should be submitted by May 15, 1997.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–10616 Filed 4–23–97; 8:45 am]

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[7] 15 U.S.C. § 78f(b).

[8] 17 C.F.R. 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38525; File No. SR–CBOE–97–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., to Increase OEX Position and Exercise Limits, to Increase OEX Firm Facilitation Exemption, and to Increase OEX Index Hedge Exemption

April 18, 1997.

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 26, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 self-regulatory organization. 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 CBOE is proposing to amend Exchange Rule 24.4 to increase the position and exercise limits for options on the Standard & Poor's (''S&P'') 100 Stock Index (''OEX''), to increase the OEX firm facilitation exemption, and to increase the OEX index hedge exemption.

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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The CBOE is proposing a number of revisions to Exchange Rule 24.4, the position limit rule for broad-based index options. Member firms have expressed to the CBOE their need for relief from the current OEX position and exercise limits, which have not increased since 1987.[3] At that time, position limits were increased to 25,000 contracts with no more than 15,000 contracts in the near term series. For the reasons discussed below, the Exchange is now proposing that the OEX position limits be raised to 75,000 contracts with no more than 50,000 contracts in the near term series.

Although OEX volume is less now than it was in 1987, OEX still enjoys larger average daily trading volume than any other index option and open interest has remained consistently high.[4] In addition, the Exchange believes that a significant reason why volume has declined in OEX in the last couple of years is because large customers and member firms have been unable to complete large volume transactions in OEX due to position limit constraints.

Month/Year	OEX (Volume/open interest)
September 1992	377,554 contracts/1 million.
September 1993	332,467 contracts/1 million.
September 1994	423,589 contracts/1.3 million.
March 1995	521,891 contracts/1.4 million.
December 1995	301,118 contracts/1.23 million.
July 1996	479,577 contracts/1.08 million.
December 1996	314,949 contracts/1.2 million.

Institutions often use index-related derivative products to hedge the risks associated with holding diversified equity portfolios. Because of position limit concerns, many of these customers and firms use financially-equivalent

[3] *See* Securities Exchange Act Release No. 24556 (June 5, 1987), 52 FR 22695 (June 15, 1987) (approval order increasing the position and exercise limits on the OEX from 15,000 contracts to 25,000 contracts) (File Nos. SR–CBOE–85–25 and SR–CBOE–87–26).

[4] Average Daily Volume During Expiration Week and Open Interest on Expiration Friday.

index futures products to the competitive disadvantage of the options exchanges.[5] The shift in the volume can be seen by looking at the following table (*see* Table 1). The Exchange believes that the restrictive position limits have hampered the ability of customers to utilize these options to their potential. The Exchange also believes the increase will afford the investing public as well as CBOE members and member firms a greater opportunity and more flexibility to use OEX options for their hedging needs.

TABLE 1.—AVERAGE DAILY VOLUME BY FISCAL YEAR

Fiscal year	OEX (Open interest at year end)	S&P futures options	S&P futures
1992	239,408 (664,527)	39,036	242,251
1993	260,635 (805,661)	51,367	254,386
1994	278,986 (817,447)	78,063	311,783
1995	320,619 (617,825)	92,890	383,915
1996	222,579 (422,220)	111,556	361,892

At the same time, the CBOE does not believe that the higher limit will increase any potential for market disruption. Even with the increase, the at limit position as a percentage of the capitalization of the OEX will remain small (*see* Table 2).

TABLE 2.—PERCENTAGE OF CAPITALIZATION REPRESENTED BY AN AT LIMIT POSITION

Position limit (number of contracts)	Market value (650 index level)	OEX capitalization (as of July 1996)	At limit position as a percentage of capitalization
15,000	$975,000,000	2.1 trillion	0.046
25,000	$1,625,000,000	2.1 trillion	0.077
50,000	$3,250,000,000	2.1 trillion	0.15
75,000	$4,875,000,000	2.1 trillion	0.23

In addition, the Exchange notes that a number of equity options have a position limit of 25,000 contracts but have significantly less average trading volume than the OEX.

As a result of changing the base limit, the OEX firm facilitation exemption amount will change as well.[6] Currently, according to Interpretation .06 of Exchange Rule 4.11, the firm facilitation exemption for a broad-based index (other than SPX) is two times the standard limit. Therefore, the OEX firm facilitation exemption will be 150,000 contracts if the OEX base limit proposal is approved.

The Exchange is also proposing that the OEX index hedge exemption be increased from 75,000 contracts to 150,000 contracts. The index hedge exemption is in addition to the standard limit and other exemptions available under Exchange rules, interpretations, and policies. The index hedge exemption is applicable to the unhedged value of the qualified portfolio as determined by the calculation set forth in Interpretation .01 of Exchange Rule 24.4. The Exchange believes that, as with the increase in the base limit, the increase in the index hedge exemption will make OEX a more valuable tool for investors to hedge their portfolios.[7]

Because the increased OEX index option standard limit and OEX exemptions will enhance the depth and liquidity of the market for both members and investors in general, the Exchange believes that this rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act in that it would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

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

The self-regulatory organization does not believe that the proposed rule change will impose any inappropriate 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.

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[5] According to the Exchange, due to delta-based position limits, customers and institutions are able to offset much larger equity positions in the futures markets than they currently are able to using index options.

[6] Under the firm facilitation exemption, a member firm may apply to the CBOE to receive and maintain for its proprietary account an exemption from the applicable standard position limit in non-multiply-listed Exchange options for the purpose of facilitating, pursuant to the provisions of Exchange Rule 6.74(b), (a) orders for its own customer (one that will have the resulting position carried with the firm) or (b) orders received from or on behalf of a customer for execution only against the member firm's proprietary account.

[7] While not proposed in the current filing, the CBOE continues to have discussions with member firms as well as the Commission to consider a delta-based methodology for calculating all option position limits. In addition, the Exchange believes that it is necessary and appropriate to explore with the Commission whether there remains a continuing need for position limits as an anti-manipulation tool.

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

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

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, NW., Washington, DC 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 USC § 552, will be available for inspection and copying at 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 CBOE. All submissions should refer to File No. SR–CBOE–97–11 and should be submitted by May 15, 1997.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38519; File No. SR–Phlx–96–38]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 1 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Respecting FLEX Equity and Index Options

April 17, 1997.

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 March 6, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') Amendment No. 1 to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The proposed rule change, as originally filed, was published in the **Federal Register** on September 24, 1996.[1] 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 Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend its proposal[2] to adopt Rule 1079, Index and Equity FLEX[3] Options, which would govern the trading of customized or flexible (''FLEX'') index and equity options on the Exchange, as follows: (1) Customization of equity FLEX option strike prices for calls will not be permitted; (2) regardless of the specific parity/priority provisions for assigned Registered Options Traders (''ROTs'')/Specialists, all FLEX transactions must be in compliance with Section 11(a) of the Act; (3) clarify that once a FLEX option is quoted, the Request-for-Quote (''RFQ'') remains open that day unless a trade occurs, replacing the concept of ''markets remaining open;'' (4) the provision that the executing member has priority over other members seeking to trade with a booked order would be deleted; (5) FLEX trading hours, although currently established as 10 a.m. to 4:10/4:15 p.m., could be changed to any time within regular non-FLEX trading hours; (6) increase the industry (narrow-based) index options position and exercise limits; (7) add an introductory paragraph and reference to Rule 1079 to Floor Procedure Advice (''Advice'') F–28; (8) exclude solicited orders and broker-dealer crosses from the 25% minimum guaranteed right of participation for crossing transactions; (9) utilize the current reporting authority for calculating FLEX index values; (10) designate all Phlx index options as eligible for FLEX options, subject to Options Committee approval; (11) determine the best market at the end of the response time based on price; and (12) adopt a $1,000,000 net capital requirement for index FLEX specialists. This amendment also restates the original proposal. In the original proposal, the Exchange had proposed to trade FLEX options on specific Phlx index options. At this time, the Exchange proposes to designate all Phlx index options as eligible for FLEX options trading, subject to Options Committee approval.[4] Thus, the Phlx is proposing to trade FLEX options on industry (narrow-based) index options pursuant to the proposed rule, in addition to market (broad-based) index options. Further, the Phlx is proposing to trade equity FLEX options on securities which are options-eligible pursuant to Rule 1009, with the Options Committee designating the specific issues.

Proposed rule 1079 contains the characteristics, trading procedure and other provisions applicable to trading FLEX™[3] options. All FLEX options must be quoted and traded in the trading crowd of the corresponding non-FLEX option. The Exchange notes that the Automated Options Market (''AUTOM'') system will not be available for FLEX options. Proposed Rule 1079 also states that although FLEX options are generally subject to the rules in the options section,[5] to the extent that the provisions of Rule 1079 are inconsistent with other applicable Exchange rules, Rule 1079 takes

[1] *See* Securities Exchange Act Release No. 37691 (September 17, 1996), 61 FR 50060.

[2] The original proposal was published for comment in Securities Exchange Act Release No. 37691 (September 17, 1996) (File No. SR–Phlx–96–38).

[3] The term ''FLEX'' is a trademark of the Chicago Board Options Exchange, Inc. (''CBOE'').

[4] The following are the current Phlx market index options: Value Line Composite Index (''VLE''), National Over-the-Counter Index (''XOC''), and U.S. Top 100 Index (''TPX''). The following are the current Phlx industry index options: OTC Industrial Average Index (''OTZ''), Bank Index (''BKK''), Gold/Silver Index (''XAU''), Semiconductor Index (''SOX'') and Utility Index (''UTY''), Forest and Paper (''FPP''), Plane (''PLN''), Phone (''PNX''), and Oil Service (''OSX''). Because the Super Cap Index (''HFX'') is neither a market or and industry index, the Exchange applies a position limit of 5,500 contracts for the non-FLEX overlying option. This position limit is lower than the position limit tiers for standardized non-FLEX industry index options.

[5] *See* Phlx Rules 1000, et. seq.