

the matters underlying the Cooperation and Plea Agreement, in any capacity without first making further application to the Commission pursuant to section 9(c).

### Extension of Temporary Order

The Commission has determined that it requires additional time to consider the issuance of a permanent order under section 9(c) of the Act. Accordingly,

*It is ordered*, under section 9(c) of the Act, that the temporary conditional order is extended until the date on which the Commission takes final action on the application for a permanent order exempting applicants and all other Covered Entities from section 9(a) of the Act or, if earlier, November 8, 1999.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-12060 Filed 5-12-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41370; File No. SR-Amex-99-12]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the American Stock Exchange LLC, Decreasing Options Transaction Fees

May 5, 1999.

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 March 30, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On April 22, 1999, the Exchange filed Amendment No. 1<sup>3</sup> 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 reduce options transaction fees. The text of the proposed rule change is available at the Exchange, 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 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

##### I. Purpose

The Amex currently imposes a transaction charge on options trades executed on the Exchange. These charges vary depending on whether the transaction involves an equity or index option, and whether the transaction is executed for a specialist or market maker account, a member firm's proprietary account, or a customer account. The Amex also imposes a charge for clearance of options trades and an options floor brokerage charge, which also depend upon the type of account for which the trade is executed. In addition, all three types of charges (transaction, options clearance, and options floor brokerage) are subject to caps on the number of options contracts subject to the charges on a given day.<sup>4</sup>

Currently, a transaction fee in an amount equal to either \$.15, \$.20, \$.30, or \$.40 per contract side is assessed for each customer option transaction, depending on the size of the premium involved (greater than or equal to \$1, or less than \$1) and the type of option (equity or index).<sup>5</sup> For example, a charge is incurred in an amount equal to \$.30 for equity and \$.40 for index option customer transactions (per contract side) when the premium is

greater than or equal to \$1. When the premium is less than \$1, the transaction charge incurred is equal to \$.15 for equity and \$.20 for index option transactions (per contract side). These customer transaction charges also apply to both Long Term Equity Anticipation Securities ("LEAPS")<sup>6</sup> and FLEX<sup>7</sup> options.

Under the revised fee schedule, these transaction charges will be determined by the number of contracts in the order. As a result, for customer market and marketable limit orders of 30 or fewer contracts, no transaction charge will apply. For customer limit orders for 30 or fewer contracts, a charge of \$.10 per contract side will be assessed for both equity and index options. For all customer orders in excess of 30 contracts, a transaction charge equal to \$.10 per contract side will be assessed.

The Exchange believes this reduction in transaction charges will result in an overall 50% reduction of customer transaction charges during 1999. The Exchange believes that this will provide an actual cost savings to customers of approximately \$15-16 million (based on 1998 option contract volume) or approximately \$12-13 million (based on 1999 budget option contract volume). The Exchange also believes that the reductions are necessary to make the Exchange's options transaction charges more competitive with other options exchanges' fees and with the cost of trading other financial instruments, and to increase the number of options orders that are routed to the Exchange. While the Exchange anticipates that other options exchanges may also cut costs to customers, it believes that the proposed reductions will increase options usage among all investors and stimulate industry-wide growth in the options business.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>9</sup> in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

<sup>6</sup> LEAPS are long-term index option series that expire from 12 to 36 months from their date of issuance. See Amex Rule 903C.

<sup>7</sup> FLEX options are customized options with individually specified terms such as strike price, expiration date and exercise style. See Amex Rules 900G-909G.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

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

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

<sup>3</sup> Letter from Scott G. Van Hatten, Legal Counsel, Derivative Securities, Nasdaq-Amex, to Richard Strasser, Assistant Director, Division of Market Regulations, SEC, dated April 21, 1999. In Amendment No. 1, the Exchange corrected the statutory basis of the original filing to refer to Section 6(b)(4) of the Act.

<sup>4</sup> The current caps are set at 2000 contracts for customer trades, and 3000 contracts for member firm proprietary, specialist, and market maker trades.

<sup>5</sup> See Securities Exchange Act Release No. 38859 (July 22, 1997), 62 FR 40561 (July 29, 1997) (File No. SR-Amex-97-22).

### *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.

### *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**

Because the foregoing rule change establishes or changes a due, fee, or other change imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>11</sup> 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.<sup>12</sup>

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 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 number SR-Amex-99-12, and should be submitted by June 3, 1999.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-12062 Filed 5-12-99; 8:45 am]

BILLING CODE 8010-01-M

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-41368; File No. SR-CBOE-98-50]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Trading of Differential Index Options**

May 5, 1999.

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 November 21, 1998, the Chicago Board Options Exchange, Incorporated ("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 CBOE. The Exchange filed Amendment No. 1<sup>3</sup> to the proposed rule change on April 27, 1999. 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 trade Differential Index Options, a new type of standardized index option whose value at expiration is based on the relative performance of either a designated index versus a benchmark index, a designated stock versus a benchmark index, or a designated stock versus a benchmark stock. The text of the proposed rule change is available at the Office of the Secretary, the CBOE and at the Commission.

<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.

<sup>3</sup> See Letter to Michael A. Walinskas, Division of Market Regulation, Commission, from Timothy Thompson, CBOE, dated April 26, 1999 ("Amendment No. 1"). Amendment No. 1 makes certain technical changes to the proposed rule change.

### **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 CBOE 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 CBOE 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 is proposing to trade a new type of standardized index option, the Differential Index Option, which will offer new investment and hedging opportunities. Differential Index Options will have a value at expiration based on an index, called the "differential index," of the relative performance of a designated index versus a benchmark index over a specific time period ("Index Differential Option"); of a designated stock versus a benchmark index over a specific time period ("Equity Differential Option"); or of a designated stock versus a benchmark stock over a specific time period ("Paired Stock Differential Option"). If the percent gain in the level of the designated index or stock during the period is greater than the percent gain in the underlying benchmark index or stock, then a Differential Call Option originally struck at the money will have a positive value at expiration and a Differential Put Option originally struck at the money will expire worthless. If the percentage gain in the level of the designated index or stock during the period is less than the percent gain in the underlying benchmark, then a Differential Put Option originally struck at the money will have a positive value at expiration and a Differential Call Option originally struck at the money will expire worthless. Thus, a Differential Index Option affords an investor the opportunity, through a single investment, to participate in the relative outperformance of a designated index or stock versus a benchmark index or stock (a Differential Call Option) or the relative underperformance of a designated index or stock versus a benchmark index or stock (a Differential Put Option) over the life of the option, regardless of the

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).