

19(b)(3)(A) of the Act⁷ and subparagraph (f)(5) of Rule 19b-4 under the Act.⁸

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.⁹

IV. 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-99-41 and should be submitted December 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margart H. McFarland,
Deputy Secretary.

[FR Doc. 99-30320 Filed 11-19-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42132; File Nos SR-Amex-98-39; SR-Phlx-98-39]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Philadelphia Stock Exchange; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amex Amendment No. 1 and Phlx Amendment No. 2 Thereto Relating to an Increase in Position and Exercise Limits for Narrow-Based Index Options

November 12, 1999.

I. Introduction

On October 13, 1998, and on September 3, 1998, the American Stock Exchange, Inc. ("Amex") and the Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, the "Exchanges") respectively submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")¹ and Rule 19b-4 thereunder,² proposed rule changes to increase position and exercise limits for narrow-based index options.

The proposed rule changes were published for comment in the **Federal Register** on December 14, 1998, and December 17, 1998, respectively.³ No comments were received on the proposal. Amex and Phlx filed amendments to the proposed rule changes on September 2, 1999, and July 16, 1999, respectively.⁴ This order approves the proposals, as amended.

II. Description

The Exchanges propose to increase position and exercise limits for narrow-based index options traded on each

Exchange.⁵ Specifically, the Exchanges' rules provide three different position limits depending on index components' relative weightings in the index.⁶ The current limits for narrow-based index options are 9,000, 12,000 and 15,000 contracts on the same side of the market. Under the proposed changes, the new limits will be 18,000, 24,000, and 31,500.

III. Discussion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.⁷ Specifically, the Commission believes the proposed rule changes are 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 to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Position limits serve as a regulatory tool designed to address potential manipulative schemes and adverse market impact surrounding the use of options. In the past, the Commission has stated that:

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market

⁵ Amex trades options on the following narrow-based indices: Airline, Biotechnology, Computer Hardware, Computer Technology, de Jager Year 2000, Disk Drive, Inter@ctive Week Internet, Morgan Stanley Commodity Related, Morgan Stanley High-Technology 35, Natural Gas, Networking, North American Telecommunications, Oil, Pharmaceutical, Securities Broker/Dealer, CSFB Technology Index, Deutsche Bank Energy Index, TheStreet.com E-Commerce Index, and TheStreet.com E-Finance Index.

Phlx trades options on the following narrow-based indices: Gold/Silver Index ("XAU"); Utility Index ("UTY"); Phlx/KBW Bank Index ("BKX"); Semiconductor Index ("SOX"); Forest and Paper ("FPP"); Box Maker Index ("BMX"); OTC Prime Index ("OTX"); Oil Service Index ("OSC"); and TheStreet.com Internet Index ("DOT").

⁶ See Amex Rule 904C. Amex Rule 905C establishes exercise limits for the corresponding options at the same levels. See Phlx Rule 1001A. Phlx Rule 1002A establishes exercise limits for the corresponding option at the same levels.

⁷ See 15 U.S.C. 78f(b). In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. *Id.* at 78c(f).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 24.19b-4(f)(5).

⁹ In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Act Release Nos. 40756 (December 7, 1998), 63 FR 68809 (December 14, 1998); 40757 (December 7, 1998), 63 FR 69704 (December 17, 1998). Phlx Amendment No. 1 was published for comment in the Notice. See Letter to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, from Nandita Yagnik, Attorney, Phlx, dated September 25, 1998.

⁴ See Letter from Scott G. VanHatten, Legal Counsel, Amex, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated September 2, 1999 ("Amex Amendment No. 1"); and Letter from Nandita Yagnik, Phlx, to Michael Walinskas, Associate Director, Division of Market Regulation, Commission, dated July 15, 1999 ("Phlx Amendment No. 2"). These amendments propose to set the position and exercise limits at 18,000, 24,000, and 31,500 contracts, rather than the originally proposed tripled limits.

so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for manipulations and for corners or squeezes of the underlying market. In addition such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.⁸

In general, the Commission has taken a gradual, evolutionary approach toward the expansion of position and exercise limits.⁹ The Commission has been careful to balance two competing concerns when considering the appropriate level at which to set option position and exercise limits. The Commission has recognized that the limits must be sufficient to prevent investors from disrupting the market in the component securities comprising the indexes. At the same time, the Commission has determined that limits must be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market.¹⁰

In this regard, the Exchanges have represented that the current position and exercise limits impede their members' ability to execute investment strategies. Given the Commission's traditional, gradual approach to position and exercise limits, and that three years have passed since these limits have been raised, the Commission believes that it is reasonable to allow for an increase in the limits for narrow-based index options to accommodate the needs of market participants.

The Commission believes that an increase in position and exercise limits for narrow-based index options is appropriate for several reasons. First, the Commission believes that increasing position and exercise limits for narrow-based index options may bring additional depth and liquidity, in terms of both volume and open interest, to these index options classes without significantly increasing concerns regarding intermarket manipulations or disruptions of the index options or the underlying component securities.

Second, increasing position and exercise limits for narrow-based index options should better serve the hedging needs of institutions that engage in trading strategies different from those covered under the index hedge exemption policy.

Third, the Commission notes that the proposals, while increasing the position limits for narrow-based index options, continue to reflect the unique characteristic of each index option and to maintain the structure of the current three-tiered system. Specifically, the lowest proposed limit, 18,000 contract will apply to narrow-based index options in which a single underlying stock accounts for 30% or more of the index value during the 30-day period immediately preceding the Exchanges' semi-annual review of industry index option position limits. A position limit of 24,000 contracts will apply if any single underlying stock accounts, on average for 20% or more of the index value or any five underlying stocks account, on average for more than 50% of the index value, but no single value in the group account, on average, for 30% or more of the index value during the 30-day period immediately preceding the Exchange's semi-annual review of industry index option position limits. The 31,500 contract limit will apply only if the Exchanges respectively determine that the conditions requiring either the 18,000 contract limit or the 24,000 contract limit have not occurred.¹¹

Fourth, the Commission believes that financial requirements imposed by the Exchanges and by the Commission adequately address concerns that an Amex or Phlx member or their customer may try to maintain a large unhedged position in a narrow-based index option. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer.¹² The Exchanges also have the authority under its rules to impose a higher margin requirement upon the member or member organization when it determines a higher requirement is

warranted.¹³ Monitoring accounts maintaining large positions should provide the Exchanges with the information necessary to determine whether to impose additional margin and/or whether to assess capital charges upon a member organization carrying the account. In addition, the Commission's net capital rule, Rule 15c3-1 under the Exchange Act, imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement. The significant increases in unhedged options capital charges resulting from the September 1997 adoption of risk-based haircuts and the Exchanges' margin requirements applicable to these products under Exchange rules serves as an additional form of protection.¹⁴ The Commission also notes that The Options Clearing Corporation ("OCC") will serve as the counter-party guarantor in every exchange-traded transaction.

Fifth, the Commission notes that the index options and other types of index-based derivatives (e.g., forwards and swaps) are not subject to position and exercise limits in the OTC market. The Commission believes that increasing position and exercise limits for narrow-based index options will better allow the Exchanges to compete with the OTC market.

Sixth, the Commission notes that it recently approved rule filings increasing position and exercise limits for standardized equity options.¹⁵ The Commission also approved rule filings eliminating position and exercise limits for certain broad-based index options.¹⁶ Given these recent changes to the various exchanges' position limit rules, the Commission believes it is reasonable to allow for corresponding changes to the position and exercise limits for narrow-based index options.¹⁷

¹³ See Amex Rule 462(d)(2)(K); and Phlx Rule 722(i)(8).

¹⁴ See Exchange Act Release No. 38248 (February 6, 1997), 62 FR 6474 (February 12, 1997) (adopting Risk Based Haircuts); Phlx Rule 722; and Amex Rule 462.

¹⁵ See Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (File Nos. SR-CBOE-98-25; Amex-98-22; PCX-98-33; and Phlx-98-36) (increasing position limits for standardized equity options to 13,500, 22,500, 31,500, 60,000, and 75,000).

¹⁶ See Exchange Act Release Nos. 40969 (January 22, 1999), 64 FR 4911 (February 1, 1999) (File No. SR-CBOE-28-23); 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999) (File No. SR-Amex-98-38).

¹⁷ The Commission notes that the trend toward increasing position and exercise limits for standardized equity options and eliminating them for certain broad-based index options, while a factor in considering increases for narrow-based index options, does not automatically dictate the need for or appropriateness of an increase in position and exercise limits for narrow-based index options. The

⁸ Exchange Act Release Nos. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-97-11) (order approving an increase in OEX position and exercise limits); 31330 (October 16, 1992), 57 FR 48408 (October 23, 1992) (SR-Amex-92-13) (order approving an increase in Institutional Index Options position and exercise limits).

⁹ The Commission approved increases in position limits in 1983, 1993, 1995, and 1996. See, e.g., Exchange Act Release No. 37863 (October 24, 1996), 61 FR 56599 (November 1, 1996) (SR-Phlx-96-33).

¹⁰ See H.R. Rep. No. IFC-3, 96th Cong., 1st Sess. at 189-91 (Comm. Print 1978).

¹¹ See Amex Rule 904C(c); Phlx Rule 1001A(b).

¹² Exchange Act Rule 15c3-1 requires a capital charge equal to the maximum potential loss on a broke-dealer's aggregate index position over a + (-) 10% market move. Exchange margin rules require margin on naked index options, which are in, or at-the-money equal to a 15% move in the underlying index; and a minimum 10% charge for naked out-of-the-money contracts. At an index value of 9,000 this approximates of a \$90,000 to \$135,000 requirement per each unhedged contract.

Finally, the absence of any discernable manipulative problems for narrow-based index options at existing levels leads the Commission to conclude that the proposed increases are reasonable and that they can be safely implemented. The Commission believes that the Exchanges' surveillance programs are adequate to detect and deter violations of position and exercise limits, as well as to detect and deter attempted manipulation and other trading abuses through the use of such illegal positions by market participants.¹⁸

The Commission finds good cause to approve Amex Amendment No. 1 and Phlx Amendment No. 2 to the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. These amendments set the new position and exercise limits at 18,000, 24,000, and 31,500 contracts. In light of the Commission's traditional, gradual approach to position limits, the Commission believes that these limits are more appropriate than those initially proposed. The Commission also notes that the limits being approved reflect percent increases that more closely correspond to previous increases. Finally, the Commission notes that the higher limits were noticed for comment and no comments were received. Given that no regulatory issues were raised with the higher limits, the Commission believes approving the lower limits on an accelerated basis is appropriate under the Act. Accordingly, the Commission finds that, consistent with Sections 6(b) and 19(b)(2) of the Act, there is good cause to approve Amex Amendment No. 1 and Phlx Amendment No. 2 to the proposed rule changes on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amex Amendment No. 1 and Phlx Amendment No. 2, including whether the amendments are consistent with the Exchange 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, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR-Amex-98-39 or SR-Phlx-98-39 and should be submitted by December 13, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁹ that the proposed rule changes (SR-Amex-98-39; SR-Phlx-98-39) are approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁰

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before December 22, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for

review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: Applications for Business Loans.

Form No's: 4, 4-SCHA, 4I, 4L and 4Short.

Frequency: On Occasion.

Description of Respondents:

Applicants applying for a SBA Business Loan.

Annual Responses: 60,000.

Annual Burden: 1,187,000.

Jacqueline White,

Chief, Administrative Information Branch.

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BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Applicant No. 99000356]

EDF Ventures, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that EDF Ventures, L.P. ("EDF"), 425 North Main Street, Ann Arbor, MI 48104, an applicant for a Federal License under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the completed financing of a small concern is seeking an exemption under section 312 of the Act and section 107.730, Financialings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (1998)). An exemption may not be granted by SBA until Notices of this transaction have been published. EDF Ventures, LP plans to provide equity financing to InterLase Corporation, 2217 Vinewood Boulevard, Ann Arbor, MI 48104. The financing will be used for research, development, and working capital purposes.

The financing is brought within the purview of 107.730(a)(1) of the Regulations because EDF II, L.P., an associate of EDF Ventures, L.P., owns greater than 10 percent of InterLase Corporation, and therefore InterLase

fact that many narrow-based index options include non-options eligible components requires that the Exchanges and the Commission give additional consideration to manipulation and other regulatory concerns prior to any increase. The Commission has considered these issues and believes that the proposed increases are appropriate at this time.

¹⁸ The Commission emphasizes that the Exchanges must closely monitor compliance with position and exercise limits and impose appropriate sanctions for failures to comply with the Exchanges' position and exercise limit rules.

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ 17 CFR 200.30-3(a)(12).