

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. § 442, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available at the principal offices of MSTC. All submissions should refer to File No. SR-MSTC-94-13 and should be submitted by February 16, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35249; International Series Release No. 775 File No. SR-Amex-94-55]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change By the American Stock Exchange, Inc. Relating to the Listing of Warrants Based on the Deutscher Aktienindex (DAX)**

January 19, 1995.

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 December 5, 1994, the American Stock Exchange, Inc. ("Amex" 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 Amex. 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 approve for listing and trading under Section 106 of the Amex Company Guide ("Guide") warrants based on the Deutscher Aktienindex ("DAX Index" or "Index"), a capitalization-weighted index of 30 German stocks trading on the Frankfurt Stock Exchange ("FSE"). The text of the proposed rule change is available at the

Office of the Secretary, the Amex, 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 Amex 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 the Statutory Basis for, the Proposed Rule Change*

Under Section 106 (Currency and Index Warrants) of the Guide, the Exchange may approve for listing index warrants based on established foreign and domestic market indexes.<sup>1</sup> The Amex is currently trading a number of issues of index warrants pursuant to Section 106.<sup>2</sup>

The Amex is proposing to list index warrants based on the DAX Index, an internationally-recognized, capitalization-weighted<sup>3</sup> index of 30 highly capitalized German stocks trading on the FSE.<sup>4</sup> The DAX Index is

<sup>1</sup> The Commission notes that the Exchange has filed a proposed rule change that would, among other things, revise the criteria pursuant to Rule 106 for listing stock index and currency warrants. These new standards will apply to Index warrants issued following approval of that proposal rule change. See Securities Exchange Act Release No. 35086 (December 12, 1994), 59 FR 65561 (December 20, 1994) (notice of File No. SR-Amex-94-38).

<sup>2</sup> See Securities Exchange Act Release Nos. 33036 (October 8, 1993), 58 FR 53588 (October 15, 1993) (approval for index warrants on the Amex Hong Kong 30 Index), 31016 (August 11, 1992), 57 FR 37012 (August 17, 1992) (approval for index warrants on the Japan Index), and 30462 (March 11, 1992), 57 FR 9290 (March 17, 1992) (approval for index warrants and index options on FT-SE Eurotrack 200 Index).

<sup>3</sup> The capitalization of a particular stock in the DAX Index is calculated by multiplying the price of the stock by the "listed capital." Listed capital includes common and preferred shares and shares held in the corporate treasury. The Amex represents that this weighting method differs from the method used in calculating domestic capitalization-weighted indexes, which are calculated by multiplying the price of the stock only by the number of common shares.

<sup>4</sup> The components of the Index are as follows: Allianz AG Holdings; BASF AG; Bayer AG; Bayer Hypo/Wech; BMW; Bayer Vereinsbank AG; Commerzbank AG; Continental AG; Daimler-Benz AG; Deutsche Babcock AG; Deutsche Bank AG; Degussa AG; Dresdner Bank AG; Henkel KGAA-Pfd; Hoechst AG; Karstadt AG; Kaufhof Holdings AG; Lufthansa AG; Linde AG; Man AG; Metallgesellschaft; Mannesmann AG; Preussag AG; RWE AG; Schering

calculated by the FSE and is updated on a continuous basis. The stocks included in the Index are among the largest German corporations and their shares are among the most actively traded of German issuers. The DAX Index is composed of ten broad industry groups including chemicals, automobile manufacturers, banks, and insurance companies.

The median capitalization of the companies in the Index as of December 2, 1994, was US\$6.52 billion.<sup>5</sup> The average market capitalization of these companies was US\$8.78 billion as of that date. The market capitalizations of the individual companies in the Index ranged from US\$740.51 million to US\$32.02 billion as of December 2, 1994. The largest component, Allianz AG Holdings, accounted for 12.5% of the total weighting of the DAX Index, while the smallest, Deutsche Babcock AG, accounted for 0.28% of the weight of the Index. The five highest weighted components of the Index on that date accounted for 43.69% of the total weight of the Index. Average daily volume in the component securities for the period from June 1994, through November 1994, ranged from a low of approximately 59,408 shares to a high of 1.04 million shares, with an average trading volume for all components of the Index of approximately 338,449 shares per day. The Index had a closing value of 2,038.5 on December 2, 1994.

The DAX Index is maintained by the FSE in conjunction with the Borsen-Zeitung (an industry newspaper). The value of the Index is calculated every minute by the FSE from 10:30 a.m. to 1:30 p.m. Frankfurt time (4:30 a.m. to 7:30 a.m. New York time)<sup>6</sup> and is disseminated over Reuters News Service, among others. In addition, the composition of the DAX Index is reviewed periodically by the FSE. The FSE will not alter the composition of the DAX Index unless a stock fails to meet certain criteria, e.g., market capitalization and trading volume. Replacement stocks are usually selected from a list of substitute stocks. If possible, a replacement stock will be selected by the FSE from the same industry as the stock that it is replacing.

The Exchange represents that warrant issues on the DAX Index will conform

AG; Siemens AG; Thyssen AG; Veba AG; Viag AG; and Volkswagen AG.

<sup>5</sup> Based on the exchange rate of DM 1 = US\$1.58 prevailing on December 2, 1994.

<sup>6</sup> Telephone conversation between Claire McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, and Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, on January 5, 1995.

<sup>7</sup> 17 CFR 200.30-3(a)(12) (1994).

to the listing guidelines under Section 106 of the Guide, which provide, among other things, that: (1) the issuer shall have tangible net worth of at least US\$150 million and otherwise substantially exceed size and earnings requirements in Section 101(A) of the Guide; (2) the term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be one million warrants, together with a minimum of 400 public holders, and an aggregate market value of at least US\$4 million.

DAX Index warrants will be direct obligations of their issuer subject to cash-settlement during their term. Index warrants will either be exercisable throughout their life (*i.e.*, American-style) or exercisable only during a specified period immediately prior to the expiration date (*i.e.*, European-style). Upon exercise, the holder of a warrant structured as a "put" will receive payment in U.S. dollars to the extent that the DAX Index has declined below a cash settlement value specified at the time of issuance. Conversely, upon exercise, holders of an Index warrant structured as a "call" will receive payment in U.S. dollars to the extent that the DAX Index has increased above a cash settlement value specified at the time of issuance. Index warrants that are "out-of-the-money" at the time of expiration will expire worthless.

The Amex has adopted suitability standards applicable to recommendations to purchasers of Index warrants and transactions in customer accounts. Amex Rule 411, Commentary .02 applies the options suitability standard in Amex Rule 923 to recommendations regarding Index warrants; and the Amex requires that Index warrants be sold only to accounts approved for the trading of options. Amex Rule 421, Commentary .02 requires a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in Index warrants on the day the order is entered. In addition, the Amex, prior to the commencement of trading of Index warrants, will distribute a circular to its membership calling attention to specific risks associated with warrants on the DAX Index.<sup>7</sup>

In its order approving listing standards for foreign currency and index warrants, the Commission noted that, with respect to foreign index

warrants, there should be an adequate mechanism for sharing surveillance information with respect to an index's component securities.<sup>8</sup> In this regard, the Amex represents that it has entered into discussions with representatives of the FSE and has reached preliminary agreement with respect to establishing an appropriate means to accomplish such information sharing.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objections of Section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Amex 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.

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

Within 35 days of the date of 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 such 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, 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 Amex. All submissions should refer to File No. SR-Amex-94-55 and should be submitted by February 16, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

[AC No. 00-1.1]

**Proposed Advisory Circular on Government Aircraft Operations**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Request for comments on proposed advisory circular.

**SUMMARY:** Proposed Advisory Circular (AC) 00-1.1, Government Aircraft Operations, provides guidance on whether particular government aircraft operations are public aircraft operations of civil aircraft operations under the new statutory definition of "public aircraft." This AC contains the FAA's intended application of key terms in the new statutory definition. For operations that have lost public aircraft status under the new law, this AC provides information on bringing those operations into compliance with FAA safety regulations for civil aircraft. It also provides information on applying for an exemption.

**DATES:** Comments must be received on or before February 27, 1995.

**ADDRESSES:** Written comments are invited on all aspects of the proposed AC. Commenters must identify file number AC 00-1.1, Government Aircraft Operations. Send all comments on the proposed AC to the following location: Federal Aviation Administration, Flight

<sup>7</sup> The Commission notes that the Amex will be required to submit a draft of the circular to the Commission staff for approval prior to distribution to members.

<sup>8</sup> See Securities Exchange Act Release No. 26152 (October 3, 1988), 53 FR 39832 (October 12, 1988).

<sup>9</sup> 17 CFR 200.30-3(a)(12) (1994).