

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.

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[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

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).

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).

The Commission finds that the proposal to reduce the trading volume requirement for eligible linked securities will expand the number of securities that ELDs can be linked to while maintaining the requirement that the linked security be an actively traded, highly capitalized common 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 ELDs are only issued on highly liquid securities of broadly capitalized companies. Accordingly, the Commission believes that these requirements will continue to help reduce the likelihood of any adverse market impact on the securities underlying ELDs.

Finally, the Commission notes that the Exchange has deleted the provision that allows it to list ELDs on securities not meeting the market capitalization and trading volume criteria if the Division of Market Regulation of the SEC concurs. The revised criteria will expand the number of securities eligible for ELDs trading. The increased flexibility in the listing criteria should effectively reduce or eliminate the need for additional discretion in this area, in addition to providing issuers and the Exchange with specific and clear guidance on the applicable listing criteria for a security to be eligible to underlie an ELD.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-NYSE-95-39) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority:⁸

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36988; File No. SR-OCC-95-18]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Clarifying Rules Regarding the Unavailability of Current Index Values

March 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 24, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-OCC-95-18) as described in Items I, II, and III below, which items have been prepared primarily by OCC. On March 19, 1996, OCC amended the proposed rule change to make a technical correction and to incorporate changes made to its rules in a recently approved proposed rule change.² 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 purpose of the proposed rule change is to clarify the respective rights and responsibilities of OCC and the options exchanges³ ("exchanges") in the event that the primary market for securities representing a substantial part of the value of an underlying index is not trading at the time when the current index value would ordinarily be determined or in the event that the current index value is unreported or otherwise unavailable for purposes of calculating the exercise settlement amount. The proposed rule change also makes certain technical changes in OCC's by-laws and rules governing index options and Flexibly Structured Index Options Denominated in a Foreign Currency ("FX Index Options").⁴

¹ 15 U.S.C. 78s(b)(1) (1988).

² Letter from James C. Yong, First Vice President and General Counsel, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (March 19, 1996).

³ The exchanges include the American Stock Exchange, the Chicago Board Options Exchange, the New York Stock Exchange, the Pacific Stock Exchange, and the Philadelphia Stock Exchange.

⁴ For a complete description of FX Index Options, refer to Securities Exchange Act Release No. 35149 (January 3, 1995), 60 FR 158 [File No. SR-OCC-94-08] (order approving 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, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.⁵

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

On July 15, 1994, technical difficulties delayed the opening of the National Association of Securities Dealers Automated Quote System ("NASDAQ") until 11:55 a.m., Eastern Time, which was nearly 2½ hours after the time trading normally begins. However, prior to the delayed opening, transactions in NASDAQ listed securities occurred through the telephone and the Instinet on-line trading system. Prices reported in connection with those transactions ("preopening prices") were transmitted to certain designated reporting authorities, and some or all of those reporting authorities used those prices in calculating values for certain stock index options settling at the opening.

An issue arose that day as to whether the exchanges would be able to provide OCC with settlement values for those index options settling on the opening of the market whose component securities included NASDAQ listed issues. The exchanges were concerned that they would be unable to provide OCC with settlement values prior to OCC's exercise processing cut-off time.⁶

While the NASDAQ incident was resolved without significant impact, the incident prompted OCC to take a closer look at its rules respecting the unavailability of current index values and to consider more fully what steps should be taken in such a situation. OCC determined that certain technical

⁵ The Commission has modified the text of the summaries submitted by OCC.

⁶ The designated reporting authorities were able to calculate and report the settlement values for the affected series to the exchanges, and the exchanges reported those settlement values to OCC in time for OCC to conduct its normal expiration processing. Although the exchanges reported the settlement values somewhat later than usual, OCC clearing member reports were not delayed, and there were no significant impact on OCC's processing.

⁷ 15 U.S.C. 78s(b)(2) (1988).

⁸ 17 CFR 200.30-3(a)(12) (1994).