their parent companies from time to time through December 31, 2002 out of capital or earned surplus to the extent permitted under applicable corporate law. AEP and Resources request this authorization on behalf of: (i) Certain existing Project Parents formed in connection with AEP's 1997 acquisition of a 50% ownership interest in Yorkshire Electricity Group plc, a U.K. regional electricity company and a FUCO (''Yorkshire'');[1] (ii) those Project Parents formed in connection with AEP's 1996 acquisition of a 70% ownership interest in Nanyang General Light Electric Co., Ltd. (''Nanyang''), a cooperative joint venture company formed under the laws of the People's Republic of China, established to own, construct, finance and operate a coal-fired electric generating station in Nanyang, Henan Province, China; and (iii) other existing and all future Project Parents formed after the date of the issuance of an order authorizing this proposal (collectively, ''Applicable Project Parents''). Resources states that it would pay any such dividend only to the extent that the dividend is based upon: (i) A corresponding dividend or dividends our of capital or unearned surplus from an Applicable Project Parent that is a direct subsidiary of Resources or (ii) otherwise is based upon Resources' direct or indirect ownership of an Exempt Project.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–22292 Filed 8–21–97; 8:45 am]

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[1] Namely, Yorkshire Power Group Limited (''Yorkshire Power Group''), a U.K. company in which Resources and a subsidiary of Public Service Company of Colorado have respective 50% ownership interests, and Yorkshire Holdings plc, the actual owner of Yorkshire and a wholly owned subsidiary of Yorkshire Power Group.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38940; International Series Release No. 1097; File No. SR–Amex–97–20]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1, 2, and 3 to Proposed Rule Change by the American Exchange, Inc., Relating to the Listing and Trading of Indexed Term Notes

August 15, 1997.

I. Introduction

On April 30, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to approve for listing and trading under Section 107A of the Amex Company Guide market index target-term securities (''MITTS''),[3] the return of which is based in whole or in part on changes in the value of the Major 11 International Index (''the Major 11 International Index'').

The proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 38665 (May 21, 1997) 62 FR 28911 (May 28, 1997). No comment letters were received in response to the proposal. The Exchange subsequently filed Amendment Nos. 1, 2, and 3 to the proposed rule change on June 11, 1997,[4] June 30, 1997,[5] and July 17, 1997,[6] respectively. This order

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

[2] 17 CFR 240.19b–4.

[3] ''MITTS'' and ''Market Index Target-Term Securities'' are service marks of Merrill Lynch & Co., Inc. (''Merrill Lynch'').

[4] Amendment No. 1 states that the Exchange's equity trading rules will apply to the trading of indexed term notes linked to the Major 11 International Index, including Rule 411, which requires members to use due diligence to learn essential facts relative to every customer and to every order or account accepted, and Rule 462, which requires the application of equity margin rules to the trading of indexed term notes. Amendment No. 1 also states that the continued listing guidelines set forth in Sections 1001 through 1003 of the Amex Company Guide will apply to the proposed indexed term notes; that the exchange will, prior to trading the proposed indexed term notes, distribute an Information Circular to members providing guidance with regard to member firm compliance responsibilities, including suitability recommendations, when handling transactions in the indexed term notes, and highlighting their special risks and characteristics; that the Exchange will maintain the Index and it will be the Exchange's responsibility to determine, if necessary, whether to replace a sub-index with a substitute or successor index or undertake to publish the sub-index if it ceases to be published. *See* letter from Claire P. McGrath, Vice-President and Special Counsel, Amex, to Ivette Lopez, Assistant Director, Market Supervision, Commission, dated June 10, 1997 (''Amendment No. 1'').

[5] Amendment No. 2 further clarifies Amendment No. 1 by stating that Section 1003(b) of the *Company Guide* in particular will apply to the proposed indexed term notes. Amendment No. 2 also states that the shares of a sub-index will remain fixed, except in the case of a significant event, such as a split in the value of the sub-index, a change in the method of calculation, or if the sub-index ceases to be published. Amendment No. 2 gives an example of what would happen to the Index calculation if a sub-index were to split in value. Also, if the sub-index ceases to be published, Amex could choose to replace it with a substitute index (another index currently being published that correlates highly with the sub-index being replaced, such as Amex's Japan Index could substitute for the Nikkei 225), a successor index (an index intended by the publisher as a replacement to the original sub-index), or undertake to publish the sub-index using the same procedures last used to calculate the sub-index prior to its discontinuance. In addition, Amendment No. 2 states that if the marketplace for the securities underlying any one of the sub-indices that constitute the Major 11 International Index is closed on any given business day, due to natural disaster or holiday observed in the foreign country, Amex will use the previous closing value in the calculation. *See* letter from Claire P. McGrath, Vice-President and Special Counsel, Derivatives Securities, Amex, to Ivette Lopez, Assistant Director, Market Regulation, Commission, dated June 27, 1997 (''Amendment No. 2'').

[6] Amendment No. 3 states that Amex intends to include a heightened suitability standard in the Information Circular it will distribute to its membership prior to the commencement of trading in Major 11 International Index Notes. The circular will state that before a member, member organization, or employee of such member organization undertakes to recommend a transaction in the security, such member or member organization should make a determination that the security is suitable for such customer and the person making the recommendation should have a reasonable basis for believing at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that they may be capable of evaluating the risks and the special characteristics of the recommended transaction, including those highlighted, and is financially able to bear the risks of the

Continued

approves the proposed rule change, as amended.

II. Background and Description

Under Section 107A of the Amex Company Guide, the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[7] The Amex now proposes to list for trading under Section 107A of the Company Guide indexed term notes whose value in whole or in part will be based upon an index consisting of the major market indices of eight European countries, two Asian countries, and Australia (''Major 11 International Index Notes'' or ''Index Notes'').[8]

The Index Notes will be non-convertible debt securities and will conform to the initial listing guidelines under Section 107A of the Company Guide [9] and the continued listing guidelines under Sections 1001 to 1003 of the Company Guide.[10] Although a specific maturity date will not be established until the time of the offering, the Index Notes will provide for maturity within a period of not less than one nor more than ten years from the date of issue. Indexed term notes may provide for payments at maturity based in whole or in part on changes in the value of the index.[11] At maturity, holders of the Major 11 International Index Notes will receive not less than 90% of the initial issue price. The notes will not be callable or redeemable prior to maturity and will be cash settled in U.S. currency.

Consistent with other structured products, the Exchange will distribute a circular to its membership, prior to the commencement of trading, providing guidance with regard to member firm compliance responsibilities, including appropriate suitability criteria and/or guidelines, and highlighting the special risks and characteristics of the proposed Major 11 International Index Notes.[12] The Exchange's equity trading rules will apply to the trading of the indexed term notes linked to the Index, including Rules 411 and 462.[13] Specifically, Rule 411 will impose a duty of due diligence on Amex's members and member firms to learn the essential facts relating to every customer prior to trading Major 11 International Index Notes. In addition, for this particular MITTS product, the Exchange will require members and member firms to make a determination that the proposed index term note is suitable for the customer, and the person making the recommendation should have a reasonable basis for believing at the time of making the recommendation that the customer has the knowledge and experience in financial matters that they may be capable of evaluating the risks and the special characteristics of the recommended transaction, and is financially able to bear the risks of the recommended transaction.[14]

According to Amex, the eleven indices (''sub-indices'' or individually ''sub-index'') that form the Major 11 International Index are comprised of a total of 911 of the largest and most liquid securities from each of the eight European markets, two Asian markets, and the Australian market. Initial weightings will be assigned to each sub-index at the close of trading on the day immediately prior to the listing of the Index Notes and based upon the index's market capitalization. Based on market data as of April 3, 1997, the Nikkei 225 Index (''NKY'') would have an assigned weight of approximately 27.80%; the UK's Financial Times SE 100 Index (''FT–SE 100'') would have an assigned weight of approximately 23.44%; the Deutscher Aktienindex (''DAX'') would have an assigned weight of approximately 8.86%; the Compagnie des Agents de Change 40 Index (''CAC 40'') would have an assigned weight of approximately 7.22%; the Swiss Market Index (''SMI'') would have an assigned weight of approximately 6.29%; the Amsterdam European Options Exchange Index (''AEX'') would have an assigned weight of approximately 5.76%; the Hong Kong 30 Index (''HKX'') would have an assigned weight of approximately 5.15%; the Australian All Ordinaries Index (''AS 30'') would have an assigned weight of approximately 5.94%; the Milano Italia Borsa 30 Index (''MIB 30'') would have an assigned weight of approximately 3.63%; the Stockholm Options Market Index (''OMX'') would have an assigned weight of approximately 3.10%; and the IBEX 35 would have an assigned weight of approximately 2.81%. Amex represents that it has in place surveillance sharing agreements with the appropriate regulatory organizations in each country represented in the Major 11 International Index, except Sweden and Switzerland, which together represented 9.39% of the Major 11 International Index as of April 3, 1997.[15]

The Major 11 International Index will be calculated using a ''capitalization-weighted'' methodology. As noted

recommended transaction. *See* letter from Claire McGrath, Vice-President and Special Counsel, Amex, to Ivette Lopez, Assistant Director, Market Regulation, Commission, dated July 16, 1997 (''Amendment No. 3'').

[7] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990).

[8] The Commission has previously approved the listing and trading of MITTS or hybrid securities similar to MITTS based upon portfolios of securities. See e.g., Securities Exchange Act Release Nos. 32840 (September 2, 1993), 58 FR 47485 (September 9, 1993); 33368 (December 22, 1993), 58 FR 68975 (December 29, 1993); 33495 (January 19, 1994), 59 FR 3883 (January 27, 1994); 34692 (September 20, 1994), 59 FR 49267 (September 27, 1994); 37533 (August 7, 1996), 61 FR 42075 (August 13, 1996); and 37744 (September 27, 1996), 61 FR 52480 (October 7, 1996) (''Term Notes Approval Orders''). MITTS on the Major 11 International Index Notes differ from these other MITTS products in that the Major 11 International Index is an index of several indices rather than a portfolio of individual securities. See, e.g., Securities Exchange Act Release No. 38819 (July 7, 1997), 62 FR 37320 (July 11, 1997).

[9] Specifically, the notes must have: (1) A minimum distribution of one million trading units; (2) a minimum of 400 holders; (3) an aggregate market value of at least $4 million; and (4) a term of at least one year. Additionally, the issuer of the notes must have assets of at least $100 million, stockholders' equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in tow of the three prior fiscal years. As an alternative to these financial criteria, the issue must have either: (1) Assets in excess of $200 million and stockholders' equity in excess of $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

[10] The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of the Exchange's Company Guide. Section 1002(b) states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to the continued listing guidelines for distribution of the indexed term notes on the Major 11 International Index, the Exchange will rely, in part, on the guidelines in Section 1003(b), which discuss suspensions and delistings with respect to limited distribution and reduced market value. See Amendment No. 2, supra note 5.

[11] The Commission notes that the terms of the final payout for the Notes have not yet been finalized. However, Amex has stated that it expects an investor to receive the appreciation, if any, of the ending Index value over the starting Index value, plus an additional amount that would be between 10% and 20% of the appreciation amount. In addition, the Commission notes that previously approved MITTS products have had terms that include a cap on the amount of appreciation an investor could receive, while other MITTS products previously approved have been structured so that the investor can receive (in addition to the percentage of principal guaranteed) appreciation, if any, of the ending index value over the starting index value only if the ending index value is more than a certain percentage above the starting index value.

[12] See Amendment Nos. 1 and 2, supra notes 4 and 5.

[13] Rule 411 requires the Exchange's members to use due diligence to learn the essential facts relative to every customer and to every order or account accepted. Rule 462 requires the application of equity margin rules to the trading of indexed term notes. See Amendment No. 1, supra note 4.

[14] See Amendment No. 3, supra note 6.

[15] A description of each of the sub-indices is set forth in detail in the notice release. See Securities Exchange Act Release No. 38665 (May 21, 1997), 62 FR 28911 (May 28, 1997).

above, each sub-index will be given its assigned weighting at the close of trading on the day immediately prior to the listing of the Index Note. The number of shares in each sub-index will be fixed on that day and will equal its weighting in the Major 11 International Index times 100 divided by the sub-index level. There will be no periodic rebalancing of the Major 11 International Index to reflect changes in relative market capitalizations among the sub-indices. The initial sub-index value used in the Major 11 International Index calculation will equal the product of the number of shares in the sub-index times its representative sub-index level. The Major 11 International Index will initially be set to provide a benchmark value of 100.00 at the close of trading on the day preceding the listing of the proposed Index Note. The Exchange will calculate the Major 11 International Index and, similar to other stock index values published by the Exchange, the value of the Major 11 International Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B each trading day until the last individual sub-index ceases updating in its home market. The Exchange will then disseminate the Major 11 International Index based on the closing values for each sub-index.

Because index term notes are generally meant to be a one time issuance, providing investors with a percentage of the appreciation in the index as measured over a specified period of time, and are essentially a passive investment, the Major 11 International Index will not be actively maintained like other derivatively based index products, except as discussed below. The shares for each sub-index will remain fixed during the life of the note, except in the event of a significant action taken by the publisher of the sub-index such as a split of the value of the sub-index or a change in the method of calculation. For example, if the publisher of one of the sub-indices were to split that index, Amex would double the shares represented by that sub-index in the Major 11 International Index.[16] Further, if a sub-index ceases to be published, the Exchange may determine to replace it with a substitute index (another index currently being published that correlates highly with the sub-index being replaced),[17] a successor index (an index intended by the publisher as a replacement to the original sub-index), or may undertake to publish the sub-index using the same procedures last used to calculate the sub-index prior to its discontinuance.[18] For example, Amex states that if the CAC–40 should cease to be published by SBF-Paris Bourse, Amex may undertake to publish a capitalization-weighted index of 40 of the most liquid and highly capitalized stocks traded on the Paris Bourse.[19] Finally, the Commission notes that Amex has sole authority to determine whether to replace a sub-index that has ceased to be published and, if so, the choice of replacement. The issuer of the Major 11 International Index Notes has no role in these determinations.

If the marketplace for the securities underlying any of the sub-indices that constitute the Major 11 International Index is closed on any given business day in the U.S., such as in the event of a market disruption due to a natural disaster or in the more likely event that the marketplace is closed for a holiday celebrated in the foreign country, Amex will use the previous closing value in the calculation of the Major 11 International Index.[20]

III. 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, with the requirements of Section 6(b)(5).[21] Specifically, the Commission believes providing for exchange-trading of Major 11 International Index Notes will offer a new and innovative means of participating in the market for foreign securities. In particular, the Commission believes that the proposed Index Notes will permit investors to gain equity exposure in the component foreign markets while at the same time limiting the downside risk of the original investment as a result of the principal guarantee. Accordingly, for the same reasons discussed below as well as the same reasons as discussed in the Term Notes Approval Orders,[22] the Commission finds that the rule proposal is consistent with the requirements of Section 6(b)(5) of the Act that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to facilitate transactions in securities, and to protect investors and the public interest.[23]

The Commission notes that the Major 11 International Index Notes are not leveraged instruments; however, their price will still be derived from and based upon the securities in eleven different markets, as reflected by the underlying sub-indices. As noted in the Term Notes Approval Orders, the level of risk involved in the purchase and sale of a MITTS is generally similar to the risk involved in the purchase or sale of traditional common stock, except for the fact that the products are derivatively priced from a portfolio of securities. MITTS on the Major 11 International Index, however, raise an additional level of risk because the final rate of return of the Index Notes is derivatively priced, based upon the performance of a portfolio of eleven different sub-indices, whose performance is also derivatively priced based upon the performance of a portfolio of securities trading in each of these eleven market centers. Accordingly, the Commission has specific concerns regarding this type of product. For the reasons discussed below, the Commission believes Amex's proposal adequately addresses these concerns.

First, the Commission notes that Amex's rules and procedures addressing the special concerns attendant to the trading of hybrid securities will be applicable to the proposed Index Notes. In particular, by imposing the hybrid listing standards, heightened suitability for recommendations in Index Notes, disclosure, and compliance requirements noted above, the Commission believes that the Exchange has adequately addressed the potential problems that could arise from the hybrid nature of the proposed Index Notes. In addition, Amex will distribute a circular to its membership calling attention to the specific risks associated with the Major 11 International Index Notes.[24]

Second, the Major 11 International Index Notes remain a non-leveraged product with the issuer guaranteeing no

[16] See Amendment No. 2, supra note 5.

[17] For example, Amex's Japan Index could be a substitute for the Nikkei 225. See Amendment No. 2, supra note 5.

[18] See Amendment Nos. 1 and 2, supra notes 4 and 5.

[19] See Amendment No. 2, supra note 5. The Commission notes that this replacement process is slightly different from the approach used in other MITTS-like products. For example, under the terms of other previously approved MITTS, when portfolio securities cease to exist during the term of the note due to a merger, acquisition, or similar type corporate transaction, a value equal to the security's final value is assigned to the stock. Further, if a market price is no longer available for an index stock due to circumstances including, but not limited to, liquidation, bankruptcy, insolvency, or any other similar proceeding, then the security is assigned a value of zero for index calculation purposes, rather than replaced.

[20] *See* Amendment No. 2, supra note 5.

[21] 15 U.S.C. 78f(b)(5).

[22] See Term Notes Approval Orders, supra note 7.

[23] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[24] See Amendment No. 1, supra note 4.

less than 90% of principal return. The Commission realizes that the final payout on the Major 11 International Index Notes are dependent in part upon the individual credit of the issuer. To some extent this credit risk is minimized by the Exchange's listing standards in Section 107A of the Company Guide which provide that only issuers satisfying substantial asset and equity requirements may issue securities such as MITTS. In addition, the Exchange's hydrid listing standards further require that the proposed indexed term notes have at least $4 million in market value.[25] In any event, financial information regarding the issuer, in addition to information on the underlying sub-indices, will be publically available to investors.

Third, each of the sub-indices represent securities from eleven major markets. Both the history and performance of these indices, as well as current pricing trends, should be readily available through a variety of public sources. Further, the Commission notes that although the value of each sub-index should be available, Amex has committed to disseminating the value of the Major 11 International Index on a real time basis at least once every 15 seconds throughout the trading day. As noted above, current values for each individual sub-index will be used, including the value of the Major 11 International Index, for as long as they are available during Amex's trading hours. The Commission believes that this information will be extremely useful and beneficial for investors in the Index Notes.

Fourth, the Commission also has a systematic concern, however, that a broker-dealer or a subsidiary providing a hedge for the issuer will incur position exposure. As discussed in the Term Notes Approval Orders, the Commission believes this concern is minimal given the size of the proposed Index Notes issuance in relation to the net worth of the issuer.[26]

Finally, the Commission also believes that the listing and trading of the proposed Index Notes should not unduly impact the market for the securities underlying the sub-indices or raise manipulative concerns. The Commission notes that all of the sub-indices that make up the Index are established indices.[27] The Commission has previously reviewed or approved nine of the eleven sub-indices, representing 87.95% of the value of the Major 11 International Index as of April 3, 1997,[28] in the context of either warrant trading, options trading, or while issuing non-objection letters to the Commodity Futures Trading Commission (''CFTC'').[29] In these previous reviews, the Commission evaluated each of the individual sub-indices noted above and found that they were broad-based indices comprised of highly capitalized stocks with high trading volumes that were not readily susceptible to manipulation.[30]

Specifically, in the letters to the CFTC, the Commission found that certain of the sub-indices are not readily susceptible to manipulation because of the representative nature of the various industry segments included in the individual index, the relative weighted value of the index's component stocks, and the substantial capitalization and trading volume of the component stocks. In Commission orders previously approving the FT–SE 100 for warrant and reduced-value options trading, the CAC 40 for warrant trading, the DAX for warrant trading, the Nikkei 225 for warrant trading, and the HKO for warrant trading, the Commission made similar findings that the index was a broad-based index of actively traded, well capitalized stocks.[31] Additionally, Amex's surveillance procedures will serve to deter as well as detect any potential manipulation.[32]

The Commission finds good cause to approve Amendment Nos. 1, 2, and 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. As noted above, Amendment No. 1 states that the Exchange's equity rules, including the equity margin rule and the suitability rule, will apply to the trading of the proposed Index Notes. Amendment No. 3 adopts heightened suitability standards, as described above, for this particular MITTS product. In addition, Amendment No. 1 clarifies that the Exchange will distribute to its membership, prior to trading the proposed Index Notes, a circular providing guidance with regard to member and member firm compliance responsibilities, including suitability recommendations, when handling transactions in the proposed Index Notes and highlighting their special risks and characteristics.

Amendment No. 1 also states that the continued listing standards set forth in Sections 1001–1003 of the Amex Company Guide will apply to the trading of the proposed Index Notes, and Amendment No. 2 further clarifies this by stating that Section 1003(b), in particular, will apply. Finally, Amendment Nos. 1 and 2, collectively, state that the shares for each sub-index will remain fixed, except in the event of a significant action taken by the publisher, such as a split in the sub-index value, a change in the calculation of the sub-index, or if the sub-index ceases to be published. Amendment No. 2 also provides additional detail on potential changes that can be made to the Index upon certain events, as well as describes how Amex would calculate the Index if a sub-index was closed on any given business day in the U.S., such

[25] See Amex Company Guide § 107A.

[26] *See* Term Notes Approval Orders, supra note 7.

[27] The Commission notes that the Major 11 International Index Notes are not quite equivalent to other MITTS in that the Major 11 International Index is based upon a group of sub-indices, all of which have not been approved by the Commission for trading. The Commission notes that by approving this proposed rule change the Commission is not approving either the Major 11 International Index or the underlying sub-indices for options, warrants, and/or futures trading. The Commission further notes that if the sub-indices that have not been approved were to equal more than 20% of the Major 11 International Index value, the Commission would find it necessary to evaluate those sub-indices like other index products before approving the MITT. The decision to allow a MITTS to be priced partly off of non-approved indices is related to the fact that the Index Notes are a limited issuance, at least 90% principal guaranteed, non-leveraged investment, and that the non-approved indices comprise only 12.05% of the Major 11 International Index value. Any changes in these factors would alter the Commission's determination.

[28] The sub-indices that have been previously reviewed or approved in one of these contexts are the NKY, FT–SE 100, DAX, CAC 40, HKX, AS 30, MIB 30, OMX, and the IBEX 35. The other two sub-indices in the Major 11 International Index are SMI and AEX.

[29] The Commission has issued these non-objection letters relating to the offer and sale to U.S. citizens of futures and/or options on futures on the FT–SE 100, the DAX, the CAC 40, the MIB 30, the OMX, and the IBEX 35. The Commission has issued a non-objection letter relating to the application of the Chicago Mercantile Exchange for designation as a contract market to trade futures on the Nikkei 225 Index.

[30] The Commission notes that in its non-objection letter to the CFTC regarding the Nikkei 225, it found that the Nikkei 225 was not susceptible to manipulation because of the large number of stocks in the index and the representative nature of various industry segments included in the index.

[31] See Securities Exchange Act Release Nos. 27565 (January 4, 1990), 55 FR 376 (Nikkei 225 Warrants); 27769 (March 6, 1990), 55 FR 9380 (March 13, 1990) (FT–SE 100 Warrants); 28544 (October 17, 1990), 55 FR 42792 (October 23, 1990) (CAC 40 Warrants); 28587 (October 30, 1990), 55 FR 46595 (November 5, 1990) (CAC 40 Warrants); 29722 (September 23, 1991), 56 FR 49807 (October 1, 1991) (FT–SE 100 Reduced-Value Index Options); 33036 (October 8, 1993), 58 FR 53588 (October 15, 1993) (HKO Warrants); and 36070 (August 9, 1995), 60 FR 42205 (August 15, 1995) (DAX Warrants).

[32] As noted above, Amex represents that it has in place surveillance sharing agreements with the appropriate regulatory organizations in each country in the Major 11 International Index, except Sweden and Switzerland. These two countries together represented only 9.39% of the Major 11 International Index as of April 3, 1997.

as if a market disruption occurred due to a natural disaster or a foreign holiday.

The Commission believes that Amendment Nos. 1, 2, and 3, as described herein, clarify and strengthen the Exchange's proposal by, among other things, providing the specific continued listing standards that will apply, which should help ensure a minimal level of depth and liquidity for continued trading of the product on Amex, identifying which trading rules will apply to the trading of the Index Notes, and adopting a heightened suitability standard for recommendations covering the Index Notes. Amendment Nos. 1 and 2 also refine the original proposal by specifying in further detail how the Exchange will be responsible for determining any changes in the sub-indices due to a significant event, and Amendment No. 1 clarifies the terms of the Information Circular. Additionally, the Exchange's proposal to list and trade the proposed Index Notes was noticed for the full comment period and no comment letters were received. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment Nos. 1, 2, and 3 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1, 2, and 3 to the rule proposal. 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 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–97–20 and should be submitted by September 12, 1997.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[33] that the proposed rule change (SR–Amex–97–20), including Amendment Nos. 1, 2, and 3 is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–22291 Filed 8–21–97; 8:45 am]

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[33] 15 U.S.C. 78s(b)2.

[34] 17 CFR 200.30.3(a)12.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38939; File No. SR–CBOE–97–16]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change, and Amendment No. 1 Thereto, Relating to the Trading of FLEX Index Options

August 15, 1997.

On March 13, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 amend its rules governing the trading of FLEX Index options. On May 13, 1997, the CBOE submitted an amendment to the Commission regarding the proposal.[3] Notice of the proposed rule change, and Amendment No. 1 thereto, appeared in the **Federal Register** on May 22, 1997.[4] No comments were received on the proposal. This order approves the proposal, as amended.

I. Description of the Proposal

The purpose of the proposed rule change is to make certain changes to the Exchange's rules governing the trading of FLEX Index options. Specifically, those changes involve a reduction in the percentage of a trade to which a Submitting Member indicating an intent to cross is entitled, and the establishment of bid-offer spreads for certain FLEX Index trades.

Since their inception,[5] FLEX Index options have relied on Appointed Market-Makers (''AMMs'') to provide liquidity for FLEX requests for quotes (''RFQs''). AMMs are required, pursuant to CBOE Rule 24A.9(b), to enter a FLEX Quote in response to any RFQ on any FLEX option of the class to which the AMM is appointed.

As an inducement to attract volume that would otherwise be transacted in the over-the-counter market, the Exchange established percentage entitlements for the Exchange member that initiates FLEX bidding and offering by submitting a RFQ (''Submitting Member'') where the Submitting Member has indicated an intention to cross or to act as principal on the trade and has matched or improved the best bid or offer (''BBO''). Generally, with some qualifications, pursuant to CBOE Rule 24A.5, the Submitting Member in a FLEX Index option is entitled to 50% (½) of the trade in the case where the Submitting Member matches the BBO and 66.67% (⅔) of the trade where the Submitting Member improves the BBO.

To the extent Submitting Members accept their entire entitlement on a FLEX Index option trade, half of the trade or less would remain for the other market-makers to share. The Exchange believes, however, that these entitlements have discouraged participation by market-makers in the FLEX Index product. Accordingly, the Exchange has proposed to amend its rules so that the entitlement for Submitting Members would be reduced to the greater of 25% or a proportional share of the trade.[6] This means, for example, that if there are four market-makers participating on the trade in addition to the Submitting Member, then the Submitting Member would be entitled to 25% of the trade because it is greater than the proportional share (⅕) of the trade. However, if there were two market-makers participating on a trade along with a Submitting Member, the Submitting Member would be entitled to a proportional share of the trade, or ⅓. This is different from the current entitlement for Submitting Members in Flex Equity options, under CBOE Rule 24A.5, who are entitled only to 25% of the trade regardless of the number of participants to the trade.[7]

[1] 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

[2] 17 CFR 240.19b–4.

[3] See letter from Timothy H. Thompson, Senior Attorney, CBOE, to Steve Youhn, Division of Market Regulation, Commission, dated May 13, 1997 (''Amendment No. 1'').

[4] See Securities Exchange Act Release No. 38637 (May 14, 1997), 62 FR 28084 (May 22, 1997).

[5] See Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993).

[6] The rule currently provides that the Submitting Member is entitled to the largest of the percentage of the trade (½ or ⅔), $1 million Underlying Equivalent Value, or the remaining Underlying Equivalent Value on a closing transaction valued at less than $1 million. These qualifications ($1 million Underlying Equivalent Value or the remaining Underlying Equivalent Value) remain in the proposed rule.

[7] Because the percentage entitlements for Submitting Members for both FLEX Equity and FLEX Index options are currently contained in one paragraph in CBOE Rule 24A.5, the Exchange's proposal will separate the treatment of Flex Equity and Flex Index options into different paragraphs.