

controlled by, or is under common control with a Portfolio Manager.

8. Within 90 days of the hiring of any new Portfolio Manager, the Manager will furnish the shareholders of the applicable Portfolio all the information about the new Portfolio Manager that would be included in a proxy statement. This information will include any changes in such disclosure caused by the addition of a new Portfolio Manager. To meet this obligation, the Manager will provide the shareholders of the applicable Portfolio with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 ("the 1934 Act"), as well as the requirements of Item 22 of Schedule 14A under the 1934 Act.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46379; File No. SR-Amex-2002-69]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Correct an Improperly Numbered Rule

August 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 14, 2002, the American Stock Exchange LLC ("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 Exchange. The Amex has designated this proposal as one concerned solely with the administration of the Amex pursuant to section 19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(3)⁴ thereunder,⁵ which

renders the proposal effective upon filing 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 Amex proposes to change the rule number originally assigned to Amex Rule 431 (Anti-Money Laundering Compliance Program) to Amex Rule 432. The text of the proposed rule change is available at 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 its proposal and discussed any comments it received regarding the proposal. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to replace the rule number originally assigned to Amex Rule 431 (Anti-Money Laundering Compliance Program), and replace it with Amex Rule 432. The Amex chose the wrong rule number inadvertently when it filed SR-Amex-2002-52.⁶ At that time, there already existed an Amex Rule 431. The Amex proposes to make no other changes to the rule at this time.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act⁷ in general and furthers the objectives of section 6(b)(1) of the Act⁸ in particular in that it is designed to enforce compliance by its members and persons associated with its members, with the rules of the Exchange.

Assistant General Counsel, Amex, and Joseph Morra, Special Counsel, Division of Market Regulation, Commission.

⁶ See Securities Exchange Act Release No. 46258 (July 25, 2002), 67 FR 49715 (July 31, 2002) (approval order).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(1).

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act⁹ and subparagraph (f)(3) of Rule 19b-4 thereunder,¹⁰ because it is concerned solely with the administration of the Amex. 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.

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, 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 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-2002-69 and should be submitted by September 18, 2002.

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(3).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(3).

⁵ Despite inconsistencies in the proposed rule change, the Amex confirmed that the proposed rule change is filed pursuant to section 19(b)(3)(A)(iii) and Rule 19b-4(f)(3) thereunder, because it makes no substantive changes, and is concerned solely with the administration of the Amex. 15 U.S.C. 78s(b)(3)(A)(iii), 17 CFR 240.19b-4(f)(3). August 19, 2002 telephone conversation between Ivonne Natal,

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46393; File No. SR-Amex-2002-31]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the American Stock Exchange LLC Requesting Permanent Approval of Pilot Program Eliminating Position and Exercise Limits for XMI and XII Index Options and Related Flex Options

August 21, 2002.

On April 12, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 request permanent approval of the pilot program that provides for the elimination of position and exercise limits for the Major Market ("XMI") and Institutional ("XII") broad-based index options, as well as FLEX Options on these indexes.³

The proposed rule change was published for comment in the **Federal Register** on May 30, 2002.⁴ The Commission received no comments on the proposal.

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 exchange⁵ and, in particular, the

requirements of section 6 of the Act⁶ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act⁷ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that it is appropriate to eliminate position and exercise limits for XMI and XII options, as well as related FLEX options, on a permanent basis based on the Amex's experience administering the Pilot Program. The Commission's original order approving the elimination of position and exercise limits for the XMI and XII index options (as well as FLEX options on these indexes) on a two-year basis required the Exchange to submit a report to the Commission regarding the status of the Pilot Program so that the Commission could use this information to evaluate any effects of the program.⁸

The Exchange's report indicated that from February 1, 1999 through March 30, 2001, no customer and/or firm accounts reached a level of 100,000 or more options contracts in XMI or XII options. During this review period, the Amex did not discover any instances where an account maintained an unusually large unhedged position. In addition, during the period from April 2, 2001 through February 28, 2002, the Amex did not experience accounts establishing positions in excess of the standard limit applicable to each index at the time the Pilot Program was approved.⁹

In addition to no identifiable problems during the pilot program, the Commission also believes that the factors for approval of the pilot program continue to be met. For example, in approving the pilot, the Commission stated, among other things, that the enormous capitalization of and deep, liquid markets for the underlying securities contained the XMI and XII indexes significantly reduces concerns

regarding market manipulation or disruption in the underlying market.

The Commission also continues to believe that the financial requirements imposed by the Amex and the Commission help to address concerns that a member or its customer may try to maintain an inordinately large unhedged position in a broad-based index option. The Amex has the authority to impose additional margin and/or assess capital charges and should be able to monitor accounts to determine when such action is warranted.

In addition, the Commission notes that the Amex has adopted surveillance¹⁰ and reporting safeguards that will allow it to detect and deter trading abuses arising from the elimination of position and exercise limits for XMI and XII, and FLEX options on these indexes.¹¹ The Commission continues to believe that these enhanced procedures are critical in our determination to permanently approve the pilot. While the pilot report did not note any aberrations or concerns about large unhedged positions, the Commission continues to believe that these procedures will enable the Amex to adequately assess and respond to market concerns at an early stage. In this regard, the Commission continues to expect the Amex to take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹² that the proposed rule change (File No. SR-Amex-2002-31) be, and it hereby is, approved.

¹⁰ Disclosure of specific surveillance procedures could provide market participants with information that could aid potential attempts at avoiding regulatory detection of inappropriate trading activity.

¹¹ The Amex's reporting requirements subject XMI and XII, and FLEX options on those indexes to a 100,000 contract hedge reporting requirement. Each member or member organization that maintains a position on the same side of the market in excess of these contract thresholds for its own account or for the account of a customer must file a report that includes, but is not limited to, data related to the option position, whether such position is hedged and if so, a description of the hedge. If applicable, the report must contain information concerning collateral used to carry the position.

¹² 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On February 1, 1999, the Commission approved the elimination of position and exercise limits for the XMI and XII index options, as well as FLEX options on these indexes on a two-year basis (the "Pilot Program"). See Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999). The Pilot Program originally ended on February 1, 2001, with extensions for an additional six-month period approved on July 3, 2001 and January 3, 2002, respectively. See Securities Exchange Act Release No. 44507 (July 3, 2001), 66 FR 36348 (July 11, 2001); and Securities Exchange Act Release No. 45234 (January 3, 2002), 67 FR 1377 (January 10, 2002).

⁴ See Securities Exchange Act Release No. 45975 (May 23, 2002), 67 FR 37882 (May 30, 2002).

⁵ In approving this proposed rule change, the Commission notes that it has considered the

proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

⁸ See Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999).

⁹ Telephone call between Jeffrey P. Burns, Assistant General Counsel, Amex, and Susie Cho, Special Counsel, Division of Market Regulation, Commission, August 21, 2002. At the time the Commission approved the Pilot Program, the position limits for XMI and XII were 34,000 and 200,000, respectively.