

Bylaws as a result of GSCC management's review of its nomination and election process.⁹ GSCC states that these changes are designed to make its nomination and election process more efficient and flexible while enhancing the degree of fair representation provided. GSCC anticipates distributing these changes to its shareholders for their approval and making the requisite rule filings with the Commission later this year. Therefore, the Commission will defer its decision on whether GSCC meets the fair representation requirement of Section 17A and should be granted permanent registration until GSCC submits its new selection procedures and the Commission has had an opportunity to evaluate them.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with section 19(a)(1) of the Act.¹⁰ Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the amended application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All submissions should refer to File No. 600-23 and should be submitted by June 26, 1997.

It is Therefore Ordered that GSCC's registration as a clearing agency (File No. 600-23) be and hereby is temporarily approved through February 28, 1998.

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. 34-38700; File Nos. SR-AMEX-97-07, SR-BSE-96-11, SR-CBOE-97-12, SR-CHX-96-34, SR-CSE-97-03, SR-NASD-97-09, SR-NYSE-97-03, and SR-PSE-97-05]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Changes by the American Stock Exchange, Inc., Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., and the Pacific Stock Exchange, Inc., and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the National Association of Securities Dealers, Inc., to Amend Each Participant's Rules Concerning the Pre-Opening Application of the Intermarket Trading System

May 30, 1997.

I. Introduction

On December 10, 1996, December 19, 1996, January 29, 1997, January 31, 1997, February 10, 1997, February 11, 1997, and February 26, 1997, respectively, the Boston Stock Exchange Incorporated ("BSE"), the Chicago Stock Exchange, Incorporated ("CHX"), the Cincinnati Stock Exchange, Incorporated ("CSE"), the New York Stock Exchange, Incorporated ("NYSE"), the Americal Stock Exchange, Incorporated ("AMEX"), the Pacific Stock Exchange, Incorporated ("PSE"), the National Association of Securities Dealers, Incorporated ("NASD"), and the Chicago Board Options Exchange, Incorporated ("CBOE") (each individually referred to herein as a "Participant" and two or more collectively referred to as "Participants") 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 proposed rule changes to enhance the operation of their respective Pre-Opening Applications³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Participants filed substantially similar proposed rule changes to amend their respective Intermarket Trading System ("ITS") Rules regarding the ITS Pre-Opening Application. The Commission notes that some of the proposed rule changes by the ITS Participants contain additional technical changes. In addition, the NASD is proposing to incorporate language into NASD Rule 5240 from the model Pre-Opening Application Rule contained as

by effectively including circuit breakers as a trading halt situation that will trigger the Pre-Opening Application.⁴

The proposed rule changes, together with the substance of the proposal, were published for comment in Securities Exchange Act Release No. 38285 (February 13, 1997) 62 FR 8065 (February 21, 1997). CBOE's proposed rule change was separately published for comment in Securities Exchange Act Release No. 38393 (March 12, 1997) 62 FR 13201 (March 19, 1997).⁵ No comment letters were received in response to the proposals. The NASD subsequently filed Amendment No. 1 to the proposed rule change on February 14, 1997.⁶

II. Background and Description

The purpose of the proposed rule changes is to enhance the operation of each Participant's Pre-Opening Application by effectively including circuit breakers as a trading halt situation that will trigger the Pre-Opening Application. The Participants' Intermarket Trading System ("ITS") Pre-Opening Application rules contain basic definitions pertaining to ITS, prescribe the types of transactions that may be

Exhibit A to the ITS Plan that was previously inadvertently omitted. The PSE and CHX are proposing amendments to their respective Pre-Opening Application rules to add a footnote from the model Pre-Opening Application Rule regarding the definition of when a market in a security is considered opened or re-opened, for purposes of pre-opening responses. The language of each proposed rule change is on file at the Commission and at the principal offices of the various Participants. The file numbers for the rule filings are as follows: SR-AMEX-97-07; SR-BSE-96-11; SR-CBOE-97-12, SR-CHX-96-34; SR-CSE-97-03, SR-NASD-97-09; SR-NYSE-97-03; and SR-PSE-97-05.

⁴ The respective Pre-Opening Application Rules that the Participants are proposing to amend are: AMEX, Rule 232; BSE, Chapter XXXI; CBOE, Rule 30.72; CHX, Article XX, Rule 39, CSE, Chapter 14, rules 14.1 and 14.3; NASD, Rules 5210, 5240 and 5250; NYSE, Rule 15; and PSE, Rule 5.20.

⁵ The Philadelphia Stock Exchange's ("PHLX") proposed Pre-Opening Application rule filing (SR-PHLX-97-13) was published for comment separately, and is being approved in a separate order issued on the same day as this order. See Securities Exchange Act Release Nos. 38507 (April 14, 1997), 62 FR 19383 (April 21, 1997) (notice) and 38701 (May 30, 1997) (approval order).

⁶ Amendment No. 1 adds language to NASD's Rule 5250(c), Pre-Opening Notification from Other Markets, that conforms the rule with corresponding Pre-Opening Application rules of other ITS Participant markets and with the ITS Plan. The last sentence of revised Rule 5250(c) states that "[i]n]o ITS/CAES Market Maker that has opened for trading or, with respect to a halt or suspension in trading initiated by another Participant Market, did not halt trading in the security reasonably contemporaneously with the Participant Market or resumed trading during such trading halt or suspension, shall respond to a pre-opening notification." See letter from Joan Conley, Corporate Secretary, NASD, to Katherine England, Assistant Director, Market Regulation, Commission, dated February 13, 1997 ("Amendment No. 1").

⁹ Registration Letter, *supra* note 2.

¹⁰ 15 U.S.C. 78s(a)(1).

¹¹ 17 CFR 200.30-3(a)(16).

effected through ITS and the pricing of commitments to trade, and specify the procedures pertaining to the Pre-Opening Application, whereby an Exchange specialist ("specialist") or Designated Primary Market Maker ("DPM"), or a ITS/CAES market maker ("market maker") in any ITS participant market who wishes to open his or her market in an ITS security may obtain any pre-opening interest in that security by other market makers registered in that security in other Participant markets.

The current Pre-Opening Application prescribes that if a specialist or a market maker anticipates that its opening transaction in the security the specialist, DPM, or market maker trades through ITS will be at a price that represents a change from the security's previous day's consolidated closing price of more than the "applicable price change," the specialist, DPM, or market maker shall notify other Participant markets by sending a pre-opening notification through the ITS.⁷ Thereafter, the specialist, DPM, or market maker shall not open the market in the security until not less than three minutes after the transmission of the pre-opening notification. Once a specialist, DPM, or market maker has issued a pre-opening notification, other Participant markets may transmit "pre-opening responses" to the specialist, DPM, or market maker through the ITS that contain "obligations to trade." The specialist, DPM, or market maker is then obligated to combine these obligations with orders it already holds in the security, and, on the basis of this aggregated information, decide upon the opening transaction in the security.

Consolidated closing price	Applicable price change (more than)
Network A: Under \$15	1/8 point.
\$15 or over	1/4 point.
Network B: Under \$5	1/8 point.
\$5 or over	1/4 point.

The Pre-Opening Application also applies whenever an "indication of interest" is sent to the Consolidated Tape Association ("CTA") Plan Processor prior to the opening of trading in the relevant security or prior to the reopening of trading in the relevant

security following the declaration of a trading halt for certain defined reasons, even if the anticipated opening or re-opening price is not greater than the "applicable price change." The current Pre-Opening Application rules provide that the Pre-Opening application applies when an indication of interest is disseminated following five defined trading halt situations; reopenings following order imbalance, order influx, equipment changeover, news pending and news dissemination, and for a delayed opening.

The purpose of the proposed amendments to the Participants' respective rules, to which all the Participants have agreed, is to amend the Pre-Opening Application rules to provide that the Pre-Opening Application will be triggered whenever an "indication of interest" (i.e., an anticipated opening price range) is sent to the Consolidated Tape System prior to the opening or reopening of trading in the relevant security. Under the proposed change, the Pre-Opening Application would also be triggered when indications of interest are disseminated in situations other than the five defined trading halts specified above, including the resumption of trading following the activation of market-wide circuit breakers. In particular, the proposed amendment would delete the definition of "Trading Halt," which is limited to the five defined trading halt situations mentioned above, and replace all references to "Trading Halt" with "halt or suspension in trading." As a result, one standard procedure would govern all trading halt situations and would include suspensions of trading pursuant to circuit breakers.⁸

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 a national securities

association, and, in particular, with the requirements of Sections 6(b)(5) and 15A(b)(6).⁹ The Commission believes that 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds that the changes are also consistent with Section 11A(a)(1)(D) of the Act¹⁰ which provides that the linking of all markets for qualified securities through communications and date processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to the best execution of such orders.¹¹

The Commission believes that the proposed rule changes are consistent with the Act because they will facilitate transactions in securities while continuing to further investor protection and the public interest by enhancing the linkage among all ITS Participant Markets and promoting coordinated openings and reopenings in ITS securities. The proposed rule changes achieve these goals by applying a standard procedure to govern all trading halt situations, including circuit breaker halts.

The proposed rule changes to PSE and CHX's Pre-Opening Application Rules add a footnote from the model Pre-Opening Application rule that defines when a market in a security is opened or reopened, for purposes of when the specialist or market maker at those markets must accept pre-opening responses from other Participant markets.¹² The NASD is incorporating previously inadvertently omitted language into NASD Rule 5240(e)(1) and 5240(e)(2) that describes when an ITS/CAES market maker has to accept pre-opening responses from other Participant markets prior to reopening a security, and what the ITS/CAES market

⁸ In its proposed rule change, the NYSE notes that indications are also required pursuant to NYSE rules in other situations, including circuit breaker halts, when a stock's price will change the lesser of 10% or three points from the last sale, or five points for stocks over \$100, unless the price change is less than one point. The NYSE notes that NYSE rules would continue to govern when NYSE specialists would be required to issue indications of interest. See NYSE filing SR-NYSE-97-03.

Similarly, AMEX notes that in connection with a reopening following a "circuit breaker" halt, AMEX's rules require dissemination of an indication in the same circumstances as the NYSE. AMEX notes that its proposed amendments are intended to conform to the amendment to the ITS Plan agreed to by the Participants. See AMEX filing SR-AMEX-97-07.

⁹ 15 U.S.C. 78f(b)(6); 15 U.S.C. 78o-3(b)(6).

¹⁰ 15 U.S.C. 78k-1(a)(1)(D).

¹¹ 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).

¹² The footnote is added to a section in PSE and CHX's rules titled "Pre-Opening Responses from Open Markets."

⁷ The "applicable price changes" are:

If the previous day's consolidated closing price of the security exceeded \$100 and the security does not underlie an individual stock option contract listed and currently trading on an exchange, the "applicable price change" is one point. Network A is comprised of NYSE securities; Network B is comprised of securities admitted on the AMEX, BSE, CBOE, CHX, CSE, PSE, PHLX, or any other exchange, but not also admitted to dealings on the NYSE.

maker may do with regard to accepting pre-opening responses from other participant markets when the other market has already opened trading in the relevant security or, with respect to a halt or suspension in trading, either did not halt trading in the relevant security or has already resumed trading in the relevant security. The Commission finds that these additional substantive proposed rule changes are consistent with the Act because they should facilitate transactions in securities between and promote the linkage among the ITS Participants by conforming the CHX, PSE, and NASD's ITS rules with the model Pre-Opening Application rules contained as Exhibit A to the ITS Plan and the other ITS Participants' rules.

The Commission finds good cause to approve Amendment No. 1 to the NASD's proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 amends NASD Rule 5250(c), titled "Pre-Opening Notification from Other Markets," to state that no ITS/CAES Market Maker that has opened for trading or, with respect to a halt or suspension in trading initiated by another Participant Market, did not halt trading in the security reasonably contemporaneously with the Participant Market or resumed trading during such trading halt or suspension, shall respond to a pre-opening notification. The Commission notes that this language aligns the NASD's Rule 5250(c) with comparable rules of other Participants and with Exhibit A of the ITS Plan itself. By conforming the NASD's rule language with that of the other ITS Participants, Amendment No. 1 should ensure that all the Participants operate under similar rules that are designed to achieve similar goals, thereby facilitating transactions in securities and fostering the linking of all securities markets in the national market system through ITS. Accordingly, the Commission believes that it is consistent with Section 15A(b)(6) of the Act to approve Amendment No. 1 to the NASD's proposal on an accelerated basis so that all the markets have parallel requirements at the same time.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the NASD's rule proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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 NASD. All submissions should refer to File No. SR-NASD-97-09 and should be submitted by June 26, 1997.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule changes (SR-AMEX-97-07, SR-BSE-96-11, SR-CBOE-97-12, SR-CHX-96-34, SR-CSE-97-03, SR-NASD-97-09, SR-NYSE-97-03, and SR-PSE-97-05), including NASD Amendment No. 1, are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38693; File No. SR-Amex-97-15]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Options on the NatWest Energy Index

May 29, 1997.

I. Introduction

On March 20, 1997, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to 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 authorize Options on the NatWest Energy Index.

The proposed rule change was published for comment in the **Federal Register** on April 24, 1997.³ No

comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

A. General

Amex proposes to trade options on The NatWest Energy Index ("Index"), a cash-settled narrow based index developed by the Amex and NatWest Securities Corporation ("NatWest") based on 30 stocks (or ADRs thereon) of companies whose business is in various segments of the energy industry. In addition, the Amex proposes to amend (1) Rule 901C, Commentary .01 to reflect that 90% of the Index's numerical index value will be accounted for by stocks that meet the current criteria and guidelines set forth in Rule 915; and (2) Rule 902C to include the NatWest Energy Index in the disclaimer provisions of that rule.⁴

B. Composition of the Index

The Amex and NatWest have developed the Index based entirely on shares of widely held companies involved in producing and providing different types of energy products. The industries represented by these companies are domestic and international oil producers, refiners and transmitters, oil equipment manufacturers and drillers, and natural gas producers.

The Exchange will use an "equal dollar-weighted" method to calculate the value of the Index.⁵ The Index was initialized at a level of 250.00 as of the close of trading on December 20, 1996.

C. Eligibility Standards for the Inclusion of Component Stocks in the Index

The Exchange represents that the Index conforms with Exchange Rule 901C, which specifies criteria for inclusion of stocks in an index on which standardized options will be traded. In addition, the Index has met the following standards: (1) Each of the component securities is traded on the Amex, the New York Stock Exchange ("NYSE") or through Nasdaq and are reported national market system securities; (2) each of the component securities has a minimum market

⁴ Amex Rule 902 will be amended to add subsection (g) which will provide, among other things, that NatWest does not guarantee the accuracy or completeness of the Index or any data included therein, nor does NatWest make any warranty, either express or implied, as to the results to be obtained by any person or entity from the use of the Index or any data included therein.

⁵ See *infra* section II.D entitled "Calculation of the Index" for a description of this calculation method.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 38526 (Apr. 18, 1997), 62 FR 20043 (Apr. 24, 1997).