

For the Nuclear Regulatory Commission.
Linda L. Gundrum,
*Project Manager, Project Directorate III-1,
 Division of Reactor Projects—III/IV, Office of
 Nuclear Reactor Regulation.*
 [FR Doc. 97-15271 Filed 6-9-97; 8:45 am]
 BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of June 9, 16, 23, and 30, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 9

Wednesday, June 11

9:00 a.m.—Briefing by the Executive Branch (Closed—Ex. 1)

Thursday, June 12

1:30 p.m.—Briefing on Status of License Renewal (Public Meeting) (Contact: P.T. Kuo, 301-415-3147)

3:00 p.m.—Affirmation Session (Public Meeting) (if needed)

Friday, June 13

9:00 a.m.—Briefing on Medical Regulation Issues (Public Meeting) (Contact: Catherine Haney, 301-415-6852)

Week of June 16—Tentative

Thursday, June 19

11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

Week of June 23—Tentative

Wednesday, June 25

10:00 a.m.—Briefing on Operating Reactors and Fuel Facilities (Public Meeting) (Contact: William Dean, 301-415-1726)

11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

2:00 p.m.—Briefing on Salem (Public Meeting) (Contact: John Zwolinski, 301-415-1453)

Week of June 30—Tentative

Thursday, July 3

11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

*The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292.

Contact person for more information:
 Bill Hill (301) 415-1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:

<http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmhnr.gov or dkwnrc.gov.

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Dated: June 5, 1997.

William M. Hill, Jr.,

Secretary, Tracking Officer, Office of the Secretary.

[FR Doc. 97-15281 Filed 6-6-97; 2:04 pm]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

- (1) *Collection title:* Statements of Claimed Railroad Service and Earnings.
- (2) *Form(s) submitted:* UI-9, UI-23, UI-44, ID-4F, ID-4U, ID-4X, ID-4Y, ID-20-1, ID-20-2, and ID-20-4.
- (3) *OMB Number:* 3220-0025.
- (4) *Expiration date of current OMB clearance:* 7/31/1997.
- (5) *Type of request:* Revision of a currently approved collection.
- (6) *Respondents:* Individuals or households.
- (7) *Estimated annual number of respondents:* 2,005.
- (8) *Total annual responses:* 2,005.
- (9) *Total annual reporting hours:* 234.
- (10) *Collection description:* When RRB records indicate that railroad service and/or compensation is insufficient to qualify a claimant for unemployment or sickness benefits, the statements obtain information needed to

reconcile the compensation and/or service on record with that claimed by the employee.

ADDITIONAL INFORMATION OR COMMENTS:

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97-15031 Filed 6-9-97; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38710; File No. SR-Amex-97-21]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Change by the American Stock Exchange, Inc., Relating to the Adoption of Certain Margin Provisions

June 2, 1997.

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 May 21, 1997, the America Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Amex submitted to the Commission Amendment No. 1 on May 30, 1997,³ and Amendment No. 2 on June 2, 1997.⁴ No comments were received on the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. As discussed below, the Commission is also granting accelerated

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4

³ See Letter from Claire P. McGrath, Managing Director and Special Counsel, Amex, to Ivette Lopez, Assistant Director, Division of Market Regulation ("Market Regulation"), Commission, dated May 30, 1997 ("Amex Amendment No. 1").

⁴ See Letter from Claire P. McGrath, Managing Director and Special Counsel, Amex, to Ivette Lopez, Assistant Director, Division of Market Regulation, Commission, dated June 2, 1997 ("Amex Amendment No. 2").

approval of the proposed rule change and the amendments thereto.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rule 462 "Minimum Margin" to (1) adopt options margin rules substantially similar to those that have been in effect under Regulation T ("Regulation T") of the Board of Governors of the Federal Reserve System ("Federal Reserve Board" or "Board"); (2) conform the Amex margin rule to those margin rules of the Chicago Board Options Exchange ("CBOE") and the New York Stock Exchange ("NYSE"); and (3) correct or clarify certain current provisions of the margin rule.

The text of the proposed rule change is available at the Office of the Secretary, 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 V below. The Exchange 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

(1) Purpose

The Federal Reserve System's Regulation T, which covers the extensions of credit by and to brokers and dealers, currently prescribes margin requirements for options transactions. In April 1996, the Federal Reserve Board amended Regulation T to delete certain rules regarding options transactions in favor of rules to be adopted by the options exchanges and approved by the Commission.⁵ This amendment to Regulation T became effective June 1, 1997. Therefore, the Exchange proposes to incorporate certain Regulation T requirements into its rules so that these requirements will substantially remain in effect after June 1, 1997. In addition, in the course of amending its rules to accommodate the changes necessary

because of the Regulation T amendments, the Exchange has found it necessary to propose changes to its margin rules to conform them with the rules of the CBOE and NYSE, and also to make clarifying changes to certain existing provisions. The following is a description of the proposed additions, amendments and clarification to the Exchange's Rule 462.

Rule 642, Paragraph (c)

The Exchange proposes to amend paragraph (c) which sets forth exceptions to the initial and maintenance margin provisions to (i) clarify that broker-dealers may require margin in excess of the amounts specified in these rules; (ii) replace the Amex's provisions on Exempted Securities with provisions that are consistent with the C and the NYSE; (iii) adopt a margin treatment for non-convertible debt securities that is consistent with the CBOE and the NYSE; (iv) amend the margin requirement for offsets between long and short positions in the same security from 10% to 5% of the current market value of the "long" securities to conform to the CBOE and NYSE provisions; (v) adopt a treatment for a short equity call option position offset by a warrant to purchase the underlying security in a customer margin account (a treatment consistent with a provision of Regulation T and requiring no margin for the position if the warrant to purchase the underlying security does not expire on or before the expiration date of the short call, and if the amount (if any) by which the exercise price of the warrant exceeds the exercise price of the short call is deposited in the account); and (vi) adopt a provision that requires margin be deposited and maintained equal to 100% of the purchase price of long positions in listed equity options.

Rule 462, Paragraph (d)

The Exchange is proposing to move its existing margin rule definitions from where they were situated in Rule 462(d) (2) (C) to the very beginning of Rule 462(d) and amend the definitions of "current market value" and "current market price" to cover situations where there is no closing price or where trading was halted and not reopened before the normal end of the trading day or where the closing price was outside the last bid and offer that was established after the closing price. The Exchange states that, in such situations, a member organization may use a reasonable estimate of the market value of the security based upon the then current bids and offers in determining

the "current market value" of a security, including an option. The Exchange believes that this will allow member organizations to arrive at a more reasonable estimate of the current market value in general, and particularly where the underlying securities may be trading or quoted in other markets or in cases where the underlying security re-opens for trading and the options remain closed.

The provisions of subparagraph (D) dealing with the margin requirements for puts, calls, currency warrants, currency index warrants and stock index warrants issued, guaranteed or carried "short" in a customer's account is remaining the same except that the treatment of over-the-counter ("OTC") options has been deleted from subparagraph (D) because the Exchange is adopting the more extensive OTC margin provisions of the NYSE. The Exchange is also proposing the addition of a provision that would cap the margin on listed short puts that are out-of-the-money at a percentage of the exercise price of the short put. The reason for this cap is that, under the general rule, minimum margin is required equal to the options market value plus 10% of the current market value of the equivalent units of the underlying security for an option dealt in on the Exchange. However, as the market value of the underlying security increases above the strike price, at some point the put becomes farther out-of-the-money and the risk of the position decreases. Without the cap, the margin requirement would continue to increase at the same time that the risk of the position is decreasing.

Rule 462, Paragraph (d)2(I)

The Exchange states that its rules and the rules of other regulatory organizations have always distinguished the margin treatment for specialists and market-makers from that applicable to customers and other broker-dealers because of the unique position of specialists and market-makers in maintaining liquid, fair and orderly markets. The rules recognize that options specialists and market-makers must engage in various hedging transactions to manage the risk involved in fulfilling their role in the marketplace. Specific provisions governing permitted offset treatment for specialists and market-makers are being deleted from Regulation T. The Amex proposes to adopt these deleted changes. Additionally, the Amex proposes to adopt certain offsets permitted under the SEC's Net Capital

⁵ See 61 FR 20386 (May 6, 1996) (Federal Reserve Board's release adopting certain changes to Regulation T).

Rule 15c3-1.⁶ These offset positions would be subject to the same "good faith" margin treatment as currently accorded under Regulation T and would require the clearing/carrying firm to comply with the applicable haircut requirements of the Net Capital Rule for any cash margin deficiency (*i.e.*, the difference between the margin required under Rule 462 and the amount received from the specialist or market maker.) The proposal also incorporates the current Regulation T definitions of the terms "in or at the money," "in the money" and "overlying options." the parameters for permitted offsets within the "in or at the money" definition have been expanded from one to two "standard exercise intervals."

Subparagraph (d)2(J) of Rule 462 has been revised in order to clarify the existing definition of "good faith margin" requirements.

Rule 462, Subparagraph (d)2(M)

A new provision has been added to incorporate the provisions currently contained in Regulation T regarding "exclusive designation" that allow a customer to designate which security position in an account to be utilized to cover the required margin at the time an option order is entered, provided the member organization offers such a service.

Rule 462, Subparagraph (d)2(N)

The Exchange is proposing to add a provision detailing the circumstances under which a customer may carry short equity option in a cash account, *i.e.*, an account in which no credit is extended. This provision is consistent with a provision in Regulation T and is being added so that the Exchange's rules are more complete, thus enabling its members to rely on such rules for all aspects of margin regulation. The proposed rule would permit either a call option contract or a put option contract held in a short position to be carried in a cash account if the option is uncovered, *i.e.*, if the account contains one of the specified offsets.

Rule 462, Paragraph (d)10

The rules governing the margin requirements for OTC options have been adopted from the NYSE Rule 431, except that the Exchange has made a slight change to cap the minimum margin on OTC short puts. A chart submitted with the filing sets forth the initial and/or maintenance margin required for options on various types of

underlying securities. The amount of margin required is the percentage of the current market value of the underlying component times the multiplier, if any, plus any "in the money amount." The amount of the margin required to be maintained may be reduced for a short put or call by any "out of the money" amount. The amount to which the margin required may be reduced is set forth in a separate column. The Exchange is also proposing to add margin treatment for related securities positions involving OTC options held in a customer margin account. The Exchange is proposing to add special margin treatment for covered write convertibles, covered calls/puts, spreads, and straddles involving OTC options. The proposed margin treatment is the same treatment that is set forth in NYSE Rule 431, except for the change to cap the minimum margin on short puts.

Rule 462, Commentary .03(c)

Finally, the Exchange is proposing to change the definition of "cash equivalents" found in Commentary .03(c) and defer to the definition Regulation T since it is expected that the definition in Regulation T will change from time to time.

(2) Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that 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 protect and 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 Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed 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 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 Exchange requests that the Commission finds good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change to its margin rules prior to the 30th day after publication of the proposed rule change in the **Federal Register**.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review of the Exchange's proposed amendments to its margin rules, and for the reasons discussed below, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, with the requirements of Section 6(b).⁷ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.⁸

Rule 462, Paragraph (c)

The Exchange proposes to amend Rule 462(c) which sets forth exceptions to the Exchange's initial and maintenance margin provisions to (i) clarify that broker-dealers may require margin in excess of the amounts specified in these rules; (ii) replace the Amex's provisions on Exempted Securities with provisions that are consistent with the CBOE and NYSE; (iii) adopt a margin treatment for non-convertible debt securities that is consistent with the CBOE and NYSE; (iv) amend the margin requirement for offsets between long and short positions in the same security from 10% to 5% of the current market value of the "long"

⁷ 15 U.S.C. § 78f(b).

⁸ In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

⁶ See Securities Exchange Act Release No. 38248 (February 6, 1997) 62 FR 6474 (February 12, 1997) (Final rule adopting changes to SEC Rule 15c3-1).

securities to conform to the CBOE and NYSE provisions; (v) adopt a treatment for a short equity call option position offset by a warrant to purchase the underlying security in a customer margin account (a treatment consistent with a provision of Regulation T⁹ and requiring no margin for the position if the warrant to purchase the underlying security does not expire on or before the expiration date of the short call, and if the amount (if any) by which the exercise price of the warrant exceeds the exercise price of the short call is deposited in the account); and (vi) adopt a provision that requires margin be deposited and maintained equal to 100% of the purchase price of the long positions in listed equity options.

The Commission agrees that maintenance margin rates established by an Exchange are intended to set minimum margin standards for its member organizations. The Commission believes that it is appropriate for the Exchange to clarify that, when appropriate, its members are permitted to require margin deposits in excess of the Exchange's minimum requirement. The Commission notes that because maintenance margin rates are intended to set a minimum margin standard, they should not be construed as limiting the ability of members of the Exchange to require margin to be deposited in excess of the minimum when appropriate.

The Exchange's proposed treatment for exempted securities would generally lower maintenance margin rates for United States debt securities from the existing 5%, and instead establish margin requirements of 1% to 6% depending on the years to maturity for the obligation. However, zero coupon bonds will be subject to a margin requirement of 3% for bonds with five years or more to maturity, and all other exempted securities, *i.e.*, other than obligation of the United States, will be subject to an initial and maintenance margin requirement of 15% of the current market value or 7% of the principal amount, whichever is lower.

The Commission notes that the Exchange's proposed margin treatment for exempted securities is nearly identical to an existing NYSE provision. When the NYSE adopted its provision, it stated that a sliding scale would provide greater margin requirements for the more volatile long-term securities, and reduce margin requirements as government securities approach maturity to reflect the reduced risk in carrying those securities. Prior to adopting the proposal, the NYSE had

also conducted an analysis of two-year historical price information for three Treasury securities of different maturities, a short-, intermediate-, and long-term instrument, and concluded that the proposed margin requirements for the more volatile long-term government instrument would provide at least a 96% confidence level that price movements over one and two week periods would be covered.¹⁰ Accordingly, the Commission believes that the proposal by the Amex to adopt the same margin rates for U.S. obligations as required by the NYSE is reasonable and should provide member organizations with adequate protection against adverse short-term market movements of securities in customer margin accounts. Additionally, the Commission believes uniform margin rates in this area will enhance efficiency in the market place for these securities. Nevertheless, the Commission notes that maintenance margin rates are intended to set a minimum margin standard and should not be construed as limiting the Exchange's ability to require margin to be deposited in excess of the minimum margin when appropriate.

The proposed treatment of non-convertible debt securities is new to Rule 462(c). The Exchange does not currently have a margin treatment specifically applicable to non-convertible debt securities and has decided to adopt the approach used by the NYSE for the sake of uniformity and because the Exchange believes that this approach is sensible. The Commission believes that this proposed revision does not raise new regulatory issues and, accordingly, is appropriate.

The proposed treatment of security offset is new to Rule 462. The Exchange is simply adopting a provision that conforms with the established NYSE Rule 431. At the same time, the Exchange has decided to reduce the margin for offsetting long and short positions in the same security from 10% to 5%. Again, this is being done to ensure that all the options SROs have similar rules.

The proposed treatment for a short listed call covered by a warrant is new to Rule 462(c) but it is consistent with the current treatment under Regulation T 12 CFR 220.4(b) and, accordingly, is reasonable.

The proposed treatment for long listed equity options is also new to Rule 462(c) and its provisions essentially clarify the application of Regulation T 12 CFR 220.18(a) to such options. Specifically, the provision confirms that long listed

equity options must be fully paid for at the time of purchase.¹¹

Rule 462, Paragraph (d)

The Exchange is proposing to move the definitions section of Rule 462(d) from after subparagraph 2(C) to the very beginning of Rule 462(d) and amend the definitions of "current market value" and "current market price" to cover situations where there is no closing price or where trading was halted and not reopened before the normal end of the trading day or where the closing price was outside the last bid and offer that was established after the closing price. The Commission believes that the amended definition of "current market value," and "current market price" is similar to the definition in NYSE Rule 431(a)(1) and will provide useful guidance to members especially in circumstances where trading in a security has been halted but the OTC market is still open. The Commission believes that the definition being adopted does not raise new or unique issues.

The Exchange proposes to add a provision that would cap the margin on listed puts that are out-of-the-money and carried short in a customer's account at a percentage of the exercise price of the short put. The reason for this cap is that, under the general rule, minimum margin is required equal to the options market value plus 10% of the current market value of the equivalent units of the underlying security for a listed equity option. As the market value of the underlying security increases above the strike price, at some point the put becomes farther out-of-the-money and the risk of the position decreases. Without the cap, the margin requirement would continue to increase at the same time that the risk of the position is decreasing.

The Exchange proposes to remedy the anomaly by revising the method for calculating the minimum margin on short listed puts. Specifically, the Exchange proposes to substitute the market value of the underlying instrument with the put's aggregate exercise price. Under this new method, the minimum requirement is a fixed value and, therefore, an increasingly higher minimum requirement will not occur as the value of the underlying rises. The Commission believes this new method for calculating the minimum

⁹ The Exchange notes that provision is consistent with Regulation T, 12 CFR 220.5 (c)(3)(vi).

¹⁰ See Securities Exchange Act Release No. 24144 (February 27, 1987) 52 FR 7245 (March 9, 1987).

¹¹ The Commission notes that the Federal Reserve Board's recent amendments to Regulation T permit SROs' rules, pursuant to SEC approval, to allow the extension of loan value to listed options. See *supra* note 5. The current proposal, however, does not address this issue or otherwise permit the extension of loan value for long listed options.

margin for short listed equity options is reasonable and should result in adequate margining for the affected positions.¹²

Rule 462, Paragraph (d)2(I)

The Exchange has also proposed to adopt specific provisions governing permitted offset treatment for market-makers and specialists that are being deleted from Regulation T as of June 1, 1997. The proposed rule sets forth various permitted offset positions which may be cleared and carried by a member organization on behalf of one or more market-makers upon a margin basis satisfactory to the concerned parties ("good faith" margin). In addition, it requires that the amount of any deficiency between the equity maintained by the market-maker and the haircuts specified in SEC Rule 15c-1 shall be considered as a deduction from net worth in the net capital computation of the carrying broker.

A permitted offset position will be defined to mean, in the case of an option in which a market-maker makes a market, a position in the underlying instrument or other related instrument, and in the case of other securities in which a market-maker makes a market, a position in options overlying the securities in which a market-maker makes a market, if the account holds the following positions: (i) A long position in the underlying instrument offset by a short option position which is "in- or at-the-money;" (ii) a short position in the underlying instrument offset by a long option position which is "in- or at-the-money;" (iii) a stock position resulting from the assignment of a market-maker short option position; (iv) a stock position resulting from the exercise of a market-maker long position; (v) a net long position in a security (other than an option) in which a market-maker makes a market; (vi) a net short position in a security (other than an option) in which the market-maker makes a market; or (vii) an offset position as defined in SEC Rule 15c3-1.

The six proposed offsets described in proposed Rule 462(d)2(J) (a) to (f) codify the existing permitted offsets that were provided under Regulation T until June 1, 1997. These offsets reflect well-

recognized market-making hedging transactions involving certain options offset strategies involving the related underlying stock. The addition of Rule 462(d)2(J)(g), allowing any offset position defined under SEC Rule 15c3-1,¹³ constitutes a significant expansion of permitted offset positions. According to the Exchange, the inclusion of item (g) recognizes that options market-makers and specialists must engage in various hedging transactions to manage the risk involved in fulfilling their role, and, therefore, allows a member organization to clear and carry market-maker's offset positions as defined in SEC Rule 15c3-1 upon a good faith margin basis. The Exchange has clarified its proposal to reflect that market-makers are permitted to receive good faith margin for all permitted offset positions only if they are effected for market-making purposes such as hedging, reducing the risk of rebalancing, liquidating open positions of the market-maker, accommodating customer orders, or another similar market-making purpose.¹⁴

The Commission believes that the proposal is a reasonable effort by the Amex to accommodate the needs of Amex market-makers in undertaking their market-making responsibilities as it recognizes the occasional need for market-makers to effect transactions in their course of dealing in options classes for which the market-maker is not registered. The Commission believes that this approach will not adversely affect the depth and liquidity necessary to maintain fair and orderly markets. The Commission expects Amex clearing firms and other Amex members that extend margin to market-makers to implement adequate procedures to ensure that offsets elected by market-makers are recorded accurately and cleared into appropriate accounts. In addition, such members should have a reasonable basis for determining that the offset transactions satisfy the market-making requirements set forth in Amex Rule 462(d)2(J). The Commission believes that these requirements will ensure that transactions effected by market-makers and specialists receiving the offset treatment are in fact directly related to their market-making function and are not effected for speculative purposes on a margin basis which should be available only for bona fide market-making activity.

The Exchange indicates that its proposed definition of "in- or at-the-money," for purposes of permitted offset transactions, represents a codification of

its long standing practice of permitting the financing of options market-makers underlying stock positions on a good faith basis when offset on a share-for-share basis by options which are "in- or at-the money," i.e., where the current market price of the underlying security is not more than two standard exercise price intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option. According to the Exchange, the proposal represents its concurrence with the recommendation made by the NYSE's Rule 431 Committee, and also constitutes the Exchange's attempt at conforming its margin rules with those of the CBOE in order to preserve a uniform treatment within the option margin system.¹⁵ At this time, the Commission does not object to the codification by the Amex of what the Commission believes to be a longstanding industry practice.

Rule 462, Subparagraph (d)2(M)

A new provision has been added to incorporate the provisions currently contained in Regulation T regarding "exclusive designation" that allow a customer to designate which security position in an account to be utilized to cover the required margin at the time an option order is entered, provided the member organization offers such a service. The Exchange indicates that it is simply adopting the provision as currently found in Regulation T, 12 CFR 220.5(c)(6). Moreover, the Exchange indicates that the adoption of this provision is necessary to preserve the ability of "sophisticated customers" to choose and determine the most effective way to use offsetting positions in their margin accounts.¹⁶ The Commission believes it is reasonable for the Exchange to codify this Regulation T provision.

Rule 462, Subparagraph (d)2(N)

The Exchange is proposing to add a provision detailing the circumstances under which a customer may carry short equity option in a cash account, i.e., an account in which no credit is extended. This provision is consistent with a provision in Regulation T and is being added so that the Exchange's rules are more complete, thus enabling its members to rely on such rules for all aspects of margin regulation. The proposed rule would permit either a call option contract or a put option contract

¹² The Commission notes that the new minimum margin requirement should often result in higher margin levels for deep in-the-money puts. This will occur because the current minimum margin requirement for a short put is based, in part, on the underlying instrument's value, an amount that decreases as the put becomes deeper in-the-money. The new formula corrects this result by requiring a minimum margin amount based in part on the aggregate exercise value of the option, an amount that remains constant as the value of the underlying security decreases in value.

¹³ See *supra* note 6.

¹⁴ See Amex Amendment No. 1, *supra* note 3.

¹⁵ The Commission notes that the CBOE asserts that it has received oral no-action relief from the Federal Reserve Board permitting the two standard exercise price interval interpretation. See Securities Exchange Act Release No. 38709 (June 2, 1997).

¹⁶ See Amendment No. 2 *supra* note 4.

held in a short position to be carried in a cash account if the option is covered, i.e., if the account contains one of the specified offsets.

This provision is consistent with Regulation T and is being added so that the Amex's rule is more complete, thus enabling its members to rely on such rules for all aspects of margin regulation. The Commission believes that the proposal is a reasonable effort by the Amex to accommodate the needs of its market-makers and their customers.

Rule 462, Paragraph (d)10

The Exchange is proposing to add special margin treatment for covered write convertibles, covered calls/puts, spreads, and straddles involving OTC options. The proposed margin treatment is the same treatment that is set forth in NYSE Rule 431, except for the change to cap the minimum margin on short puts. The cap on the short puts is being adopted for the same reasons applicable to listed equity options discussed above. A chart submitted with the filing sets forth the initial and/or maintenance margin required for options on various types of underlying securities.

Given the near identical nature of the Amex's proposal to the NYSE's previously approved proposal, the Commission believes that adoption of these proposed standards is reasonable. With regard to the cap on short put positions, the Commission believes the treatment proposed by the Exchange is also reasonable for the same reasons set forth regarding the identical treatment for listed positions.

The Exchange is also proposing to add margin treatment for related securities positions involving OTC options held in a customer margin account. The proposed treatment of related securities positions in OTC options also is substantially similar to that of the NYSE and accordingly does not raise new regulatory issues.¹⁷ The Commission also believes that the Exchange's decision to model its margin treatment for OTC options and related securities positions based on the NYSE positions should help foster coordination between markets by achieving parity between the margin requirements of the various SROs.

Rule 462, Commentary .03(c)

Finally, the Exchange is proposing to change the definition of "cash equivalents" found in Commentary .03(c) and defer to the definition of Regulation T since it is expected that the definition in Regulation T will

change from time to time. The Commission believes that by adopting this approach the Exchange's definition of "cash equivalent" will remain current in accordance with Regulation T.

The Commission believes that good cause exist to approve the proposal, including Amendment Nos. 1 and 2 on accelerated basis prior to the thirtieth day after the date of publication of the notice of filing thereof. Certain provisions of Regulation T regarding option market-makers and specialists permitted offsets have been deleted as of June 1, 1997. Approval of Amex's substituting offset provisions is necessary to ensure the continued availability of these offsets. The other portions of the proposal are nearly identical to proposals submitted by the CBOE (SR-CBOE-97-17) and NYSE (SR-NYSE-97-01). Those proposals were noticed in the **Federal Register**¹⁸ with no comments received. The Commission is approving those proposals on the same date herewith. Amendment Nos. 1 and 2, which are also identical to amendments filed by the CBOE and NYSE, serve to clarify and strengthen the proposed rule filing by the Amex.

V. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-97-21 and should be submitted by July 1, 1997.

¹⁸ See Securities Exchange Act Release Nos. 38501 (April 14, 1997) 62 FR 19364 (CBOE) and, 38411 (March 17, 1997) 62 FR 14174 (NYSE).

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁹ that the proposed rule change (SR-Amex-97-21) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁰

[FR Doc. 97-15026 Filed 6-9-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38709; File No. SR-CBOE-97-17]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Chicago Board Options Exchange, Incorporated and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1 and 2 to the Proposed Rule Change Relating to Changes to Its margin Rules

June 2, 1997.

I. Introduction

On March 21, 1997, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "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 seeking to amend the Exchange's margin rules.

The proposed rule change was published for comment in Securities Exchange Act Release No. 38501 (April 14, 1997), 62 FR 19364 (April 21, 1997). The CBOE submitted to the Commission Amendment No. 1 on April 15, 1997,³ and Amendment No. 2 on May 30, 1997.⁴ No comments were received on the proposal.

This order approves the proposed rule change, as amended.

II. Description of the Proposal

The CBOE proposes to make revisions to its rules governing margin that will (i)

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Timothy H. Thompson, Senior Attorney, CBOE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation ("Market Regulation"), Commission, dated April 11, 1997 ("CBOE Amendment No. 1") making certain technical changes to the rule filing.

⁴ See Letter from Timothy H. Thompson, Senior Attorney, CBOE, to Chester McPherson, Attorney, Market Regulation, Commission, dated May 28, 1997 ("CBOE Amendment No. 2") (providing additional information and addressing certain permitted offset issues).

¹⁷ See NYSE Rule 431(f)(2).