

PP&L was one of the licensees with which the NRC staff held meetings. At these meetings, the NRC staff reviewed with PP&L the schedule of Thermo-Lag corrective actions described in the PP&L submittals to the NRC dated April 15, 1993; February 3 and December 22, 1994; August 2, 1995; February 4, 1997; and January 6 and May 4, 1998. Based on the information submitted by PP&L, the NRC staff has concluded that the schedules presented by PP&L are reasonable. This conclusion is based on the (1) amount of installed Thermo-Lag, (2) the complexity of the plant-specific fire barrier configurations and issues, and (3) the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by PP&L must be completed in accordance with current PP&L's schedules. By letter dated May 19, 1998, the NRC staff notified PP&L of its plan to incorporate PP&L's schedule commitment into a requirement by issuance of an Order and requested consent from the Licensee. By letter dated June 3, 1998, the Licensee provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of June 3, 1998, is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitment in its June 3, 1998, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, effective immediately, that:

Pennsylvania Power & Light Company shall complete final implementation of Thermo-Lag 330-1 fire barrier corrective actions at Susquehanna Steam Electric Station, Units 1 and 2, described in the Pennsylvania Power & Light Company's submittals to the NRC dated April 15, 1993; February 3 and December 22, 1994; August 2, 1995; February 4, 1997; and January 6 and May 4, 1998, by completion of the April 2000

refueling outage for SSES, Unit 1. Overall work package closeout will be completed by the end of December 2000.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension.

Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Chief, Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406-1415 and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 2nd day of July 1998.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40161; International Series Release No. 1144; File No. 10-101]

Tradepoint Financial Networks plc; Notice of Application for Limited Volume Exemption From Registration as an Exchange Under Section 5 of the Securities Exchange Act

July 2, 1998.

AGENCY: Securities and Exchange Commission.

ACTION: Request for Comments.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is soliciting comments on whether to grant an exemption from registration as an exchange under Section 5 of the Securities Exchange Act of 1934 ("Exchange Act") to Tradepoint Financial Networks plc on the basis of expected low volume.

DATES: Comments must be received on or before August 10, 1998.

ADDRESSES: Interested persons should submit three copies of their written data, views and opinions to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. 10-101; this file number should be included on the subject line if comments are submitted using e-mail. All submissions will be available for public inspection and copying at the Commission's Public Reference Room, Room 1024, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (<http://www.sec.gov>).

FOR FURTHER INFORMATION CONTACT: For questions or comments regarding this release, contact: Sheila C. Slevin, Assistant Director, at (202) 942-0796 or Constance B. Kiggins, Special Counsel, at (202) 942-0059; Division of Market Regulation, Securities and Exchange Commission, Mail Stop 10-1, 450 Fifth Street, N.W., Washington, D.C. 20549. For questions or comments regarding corporate disclosure and securities

registration issues raised in this release, contact Paul Dudek, Office Chief, at (202) 942-2990, Division of Corporation Finance, Securities and Exchange Commission, Mail Stop 3-2, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Tradepoint Financial Networks plc (the "Company" or the "Exchange") operates as a securities exchange from facilities in London under the marketing name Tradepoint Stock Exchange. It is a Recognized Investment Exchange under section 37(3) of the U.K. Financial Services Act 1986. The Exchange does not have a physical trading floor; it is a screen-based electronic market for the trading of securities (the "Tradepoint System"). All of the securities currently traded through the Tradepoint System are listed on the London Stock Exchange (the "LSE"), which is the primary market for those securities.

By letter dated November 20, 1997, the Company filed with the Commission, pursuant to Section 5 of the Exchange Act, an application for exemption under Section 5 from registration as a national securities exchange under Section 6 of the Exchange Act if the Company operates the Tradepoint System in the United States. The Company anticipates that the Exchange will account for limited volume in trading of securities.¹

II. Description of the Tradepoint System²

The Exchange is an alternative market to the LSE. As mentioned above, all of the stocks currently traded on the Exchange are listed on the LSE. The Exchange does not "list" securities; it offers trading only in securities listed on other exchanges, and presently offers trading only in certain securities listed on the LSE.

From its facilities in London, the Exchange supplies automated trading services to market-makers, broker-dealers and institutional investors (collectively, "Members") on identical terms and conditions. Potential Members must meet the eligibility

requirements of the Exchange.³ Members are not "members" of the Exchange in the sense that a member of a national securities exchange is a member: status as a Member of the Exchange does not carry voting rights or any other rights, other than the right to trade using the Tradepoint System.⁴

The Exchange provides to its Members an electronic, order-driven market that handles order entry and management, information display, matching, execution, and immediate trade publication and settlement message routing. Members are able to access the current market position in any security traded on the Exchange; monitor selected market information provided by the Exchange in real time; enter or revise orders; send orders to the relevant instant auction and/or periodic auction books for execution (described below); set up, access, and request trading and market reports; and input settlement routing instructions.

In addition to these functions, the Exchange also supports order processing and management of the order book; order book display and updating; maintenance of individual trading status books; maintenance and updating of individual stock watch lists; and market supervision, surveillance and compliance. Most of these functions are controlled by the Exchange, but allow for some customization by the Member.

The Exchange maintains an electronic order book for each traded security. Members enter a bid or an offer directly into the Tradepoint System. Orders have time/price priority. Those orders with the best bid or offer price are prioritized according to the time they are entered into the Tradepoint System. Prices and volumes are displayed automatically and simultaneously to all Members. Members have the option to display their entire order, or they may choose to display only part of their order; however, the minimum size for any order is one thousand shares. If only part of the order is displayed, the Member may direct the Tradepoint System to update the order when certain conditions have been met, such as when

their displayed order has been filled. Orders that are not displayed are at the end of the queue for time priority, and when an undisplayed order becomes a displayed order, it goes into the electronic order book at the end of the queue. The Tradepoint System is anonymous; the names of the Members are not displayed to other Members and are revealed only upon clearance and settlement.

In order for a Member to access the Tradepoint System, he or she must have a Personal Identification Number ("PIN"), which is assigned by the Exchange.⁵ Access to the Tradepoint System in the United Kingdom is currently available through an internal network of personal computers ("PCs"), via a stand alone PC, through a separate application on an existing Reuters RT terminal, ICV-Topic 3 Trader workstation, through a Liberty InterTrade Direct Screen, or through a Bloomberg terminal. Access to the Tradepoint System in the United States would be exclusively through Bloomberg terminals.⁶ In the future, the Exchange's screens may be accessible from other distributors of information services.

The Exchange operates two types of auctions: instant and periodic. A security may be traded in either an instant auction or a periodic auction, but not both. In the instant auction, orders are matched electronically, in full or in part, at the posted and accepted price. Execution is automatic and continuous. Thus, a Member's orders are executed as soon as a contra-side order reaches the order book.

The periodic auction is used for smaller capitalization and infrequently traded securities. It allows orders for these securities to accumulate over a period of time at the end of which the central computer matches qualifying buy and sell orders at a "balance price."⁷ All transactions in a given periodic auction take place at the balance price; during the period leading up to the auction, a projected balance price is recalculated each time a new order is entered into the Tradepoint System. This projected balance price is continuously displayed during the time before the auction. Orders can be

¹ See Letter from Joseph S. Cohn, Davis Polk & Wardwell, counsel for the Company, to Jonathan G. Katz, Secretary, dated November 20, 1997, available in the Commission's Public Reference Room. On April 6, 1998, the Company filed an amendment to the filing. On June 30, 1998, the Company filed a second amendment to the filing. Both amendments are also available in the Commission's Public Reference Room.

² This description is based upon the material representations made by the Company in its application requesting the exemption, see *supra* note 1.

³ These requirements are set forth in Tradepoint Market Rule 3.4 (see Exhibit A(2)(b) of the Company's application). Requirements include that the applicant is authorized to conduct investment business; that the applicant has arranged for clearing arrangements with an Exchange Clearing Member (a Member of the Exchange that is also a member of the London Clearing House, as more fully described below); and that the applicant meets the standards of financial responsibility and operational capability prescribed by the Exchange.

⁴ The Company is listed on the Vancouver Stock Exchange and on the Alternative Investment Market of the LSE. Unlike U.S. national securities exchanges, which are owned by their members, the Exchange is a publicly held, for-profit company.

⁵ All individuals who have access to the Tradepoint System must have completed training from representatives of the Exchange in the use of the System.

⁶ Access from terminals other than Bloomberg in the U.S. would be considered a material change to the manner in which the Exchange is offering its services in the U.S. and would require SEC notification.

⁷ The "balance price" is calculated so that the maximum possible number of buy and sell orders in the auction will be matched.

amended and withdrawn up to the commencement of the periodic auction. Bids above and offers below the balance price are executed at the balance price (lowest offers and highest bids are filled first). Orders at the balance price are matched on a time priority basis, to the extent that there are equal bids and offers. Bids below and offers above the balance price are not filled, but they may remain on the Tradepoint System after the auction to be carried forward to the next auction at the Member's discretion. Periodic auctions take place at specified times during the trading day with the frequency determined by trading patterns in individual securities as well as other market requirements. There is no set time for the periodic auctions, and there is no set number of periodic auctions. According to the Exchange, the frequency of the periodic auctions is designed to maximize liquidity in each security.⁸

Members of the Exchange are also able to enter "cross trades." Cross trades are trades between two customers of the same firm that take place between the posted bid and offer. These orders are exposed to the Exchange's book prior to the cross. To effect a cross trade, a Member will simultaneously enter a bid and an offer for a security, which will match ("cross") after exposure to the electronic order book.⁹ Thus, cross trades are entered into the Tradepoint System by the firm essentially for reporting purposes.

In addition, the Exchange may create a "specialist" capability for some of the stocks traded on the Exchange. The Exchange would enter into an arrangement with a specific Member who would commit to providing liquidity with respect to a particular security ("Committed Liquidity Provider" or "CLP"). The CLP would function in a manner similar to that of a specialist on a U.S. exchange. The CLP would enter a bid or an offer if none exists, or if the spread was greater than a maximum limit agreed upon by the Exchange and the CLP, or when the size of an order was smaller than an agreed upon minimum. There would be no more than one CLP for any security, and there would be no requirement that every security have a CLP. These orders

would be subject to the same price and time priorities as other system orders. As payment, the CLP would receive a percentage of the Exchange's net transaction fees resulting from execution of the orders entered by the CLP.

All trades executed on the Exchange (including those involving a U.S. Member) must be registered with the London Clearing House ("LCH") for clearance and settlement through CREST (with the exception of cross trades, which are settled as described below).¹⁰ All Members (including U.S. Members) must either be a member of the LCH ("Clearing Member") or have entered into a direct or indirect clearing arrangement with a Clearing Member ("Non-Clearing Member"). It is expected that U.S. Members would be Non-Clearing Members. Cross trades are settled directly through CREST by the Member that entered the trade (or by a sponsor of the Member that is a member of CREST). The LCH is not involved in the clearance and settlement of cross trades.

The settlement cycle in Great Britain is five business days, as opposed to three in the United States. Thus, U.S. Members' trades will not settle on the normal U.S. cycle, but on the U.K. cycle.

III. Trading by U.S. Members

The Exchange would permit U.S. Persons to become Members in accordance with its normal business procedures. However, to comply with the U.S. securities laws, the Exchange would offer two different levels of service—one for all U.S. Members ("Public Market") and one limited to U.S. Members who are non-U.S. persons, international agencies or "qualified institutional buyers" ("QIBs") as defined in Rule 144A under the Securities Act of 1933¹¹ ("Securities Act") ("QIB Market"). Bids and offers in securities registered in the U.S. in American Depositary Receipt ("ADR") form or in ordinary share form would be available in the Public Market; bids and offers in those securities that are not registered in the U.S. would be available only in the QIB Market. In addition, U.S. Members in the QIB Market would be required to resell any securities purchased on the Exchange through the Exchange or outside the United States. Such resales would be limited to other QIBs, international agencies, and non-U.S. persons.

Other than these restrictions, U.S. Members would trade on the Exchange under the same terms as non-U.S. Members.¹² For example, both periodic and instant auctions would take place on both the QIB and the Public Market. The type of auction that occurs would vary from security to security based on criteria unrelated to the security's registration status in the U.S. U.S. Members would also trade on the Exchange during London business hours.¹³ In addition, U.S. Members would be subject to the same fees as all other Members.¹⁴ As mentioned above, trades involving a U.S. Member would settle through the LCH in the normal U.K. settlement cycle.

IV. Exemption Standards

Section 5 of the Exchange Act requires that all exchanges subject to the jurisdiction of the United States either register with the Commission as a national securities exchange or obtain a Commission exemption from that requirement.¹⁵ Section 5 authorizes the Commission to grant an exemption from registration if the Commission finds that, "by reason of the limited volume of transactions effected on [the] exchange, it is not practicable and not necessary or appropriate in the public interest for the protection of investors" to require such registration.¹⁶

In its order granting a limited volume exemption from registration as an exchange to the Arizona Stock Exchange ("AZX"),¹⁷ the Commission used the "present volume levels of fully regulated national securities exchanges" as the benchmark for low volume for

¹² The Exchange generally will not provide access to U.S. Members to securities for which there is a U.S. transfer agent or which are eligible for deposit at a registered clearing agency. However, U.S. Members may have access to such securities if the annual trading volume in the U.S. of such securities is less than ten percent of the securities' annual worldwide trading volume.

¹³ Thus, the Exchange would be available to U.S. Members from 7:30 a.m. to 5:30 p.m. London time (2:30 a.m. to 12:30 p.m. Eastern Standard Time).

¹⁴ See Exhibit N, Sections 4 and 6, of the Company's Form 1 filing for the specific fees charged by the Exchange.

¹⁵ 15 U.S.C. 78e (1988). The Commission has published a release in order to solicit the public's comments on proposed rules that would permit, among other things, alternative trading systems to register as broker-dealers or as exchanges. See Exchange Act Release No. 39884 (April 17, 1998), 63 FR 23504 (April 29, 1998) ("Regulation ATS Proposing Release"). The limited volume exemption remains another choice for such systems. The Commission believes an exemption on the basis of low volume would only be appropriate, however, for a foreign market, such as the Exchange, that is also a low volume market in its home country. See the discussion at note 27 *infra*.

¹⁶ 15 U.S.C. 78(e) (1988).

¹⁷ See Exchange Act Release No. 28899 (Feb. 20, 1991), 56 FR 8377 (February 28, 1991). AZX was originally named Wunsch Auction Systems, Inc.

⁸ Presently, the Exchange has suspended periodic auctions. When there is sufficient interest among Members, periodic auctions will resume. Members would be notified electronically as to the time a periodic auction would commence.

⁹ If there is a bid or an offer on the Exchange's book that will match either side of the cross trade, however, that bid or offer will have priority over the bid or offer that is part of the cross, and will receive execution. As a result, half of the cross trade (or some portion of that side of the trade) would be left on the Exchange's book.

¹⁰ After a trade is registered with the LCH, the LCH becomes the counterparty to both sides of that trade, guaranteeing settlement.

¹¹ 17 CFR 230.144A.

AZX.¹⁸ Consequently, AZX's exemption order was conditioned upon its volume staying below that of the registered national securities exchange with the lowest average daily volume.¹⁹

Pursuant to a condition in the order granting relief from registration as an exchange, AZX trades only securities registered under the Exchange Act. As was the case with AZX, however, the Exchange has no U.S. operating history, so it is virtually impossible to predict what the Exchange's U.S. volume would be. The Exchange, however, currently trades certain securities listed on the LSE, only some of which are registered in the United States and trade on a market here, either as ADRs or as ordinary shares.²⁰ Therefore, the Commission believes that AZX's exemption standards are not the best benchmark for the Exchange. The Commission believes it is appropriate to consider the volume levels of the primary stock exchange in the U.K., the LSE, as well as the volume levels of U.S. national securities exchanges.²¹

Trading volume in the United States is generally measured in shares. In 1990, when AZX was granted an exemption, the average daily volume of all regional stock exchanges was 24.5 million shares and the average price of shares traded was \$28.51.²² In 1997, the average daily volume of all regional stock exchanges was 59.2 million shares and the average price of shares traded was \$42.20. In 1997, the average daily volume on the LSE was 1.1 billion shares and the average price of shares traded was \$6.04.²³ By contrast, the average daily

volume of the Exchange in 1997 was 3.1 million shares.

As the numbers cited above for the LSE and the Exchange illustrate, the Exchange is a low-volume market in its home country. The Exchange's average daily volume in 1997 was significantly less than one percent of the LSE's average daily volume.

In the United Kingdom, the monetary value of trading is the common measure of a securities transaction and of overall market activity.²⁴ In the U.K., share prices are roughly one-seventh of what they are in the U.S. for a comparable security. This difference in share price is also reflected in the trading of ADRs in this country, where each ADR is generally a multiple of the ordinary shares that are traded on the LSE.²⁵

Because of this difference in share price and volume, average daily share volume is not the best measure for a U.K. Recognized Investment Exchange proposing to operate as a limited volume exchange in the U.S. The average daily volume of the Exchange in 1997 was 3.1 million shares, and the average price of shares traded was \$5.61.²⁶ This average daily volume, however, may not be indicative of what the Exchange's U.S. volume would be.

In order to adjust for these factors, the Commission is proposing to grant the Exchange's application for exemption from exchange registration, using dollar value as a benchmark for volume, rather than average daily number of shares traded. This will permit the Exchange to operate in the U.S. under a benchmark which more appropriately reflects the difference in dollar value between U.S. and U.K. markets, and the difference in the way trading is measured in the U.K. In addition, the Commission is proposing to condition the Exchange's operation in the U.S. upon it remaining a low volume exchange in the U.K.

Under the proposed Exemption, the Exchange would be exempt so long as (i) the average daily dollar value of

trades (measured on a quarterly basis) involving a U.S. Member did not exceed \$40 million,²⁷ and (ii) its worldwide average daily volume (measured on a quarterly basis) did not exceed ten percent of the average daily volume of the LSE. The limitation on the Exchange's worldwide trading volume would ensure that the Commission could reevaluate the appropriateness of the low volume exemption should the Exchange achieve significant volume relative to the LSE.

The Commission also proposes to exempt the Exchange from Rules 6a-1, 6a-2, 6a-3 and 24b-1 under the Exchange Act.²⁸ Rules 6a-1, 6a-2 and 6a-3 set forth the procedures regarding amendments and supplemental material exchanges must file. Essentially the same information required by these rules will be provided to the Commission by the Exchange under the other conditions the Division of Market Regulation is proposing (see **V. Conditions**, below). To require the Exchange to comply with these rules would be duplicative, and would not result in the Commission receiving the materials in as useful a form as proposed under the conditions set forth here.

Rule 24b-1 requires an exchange to make a copy of statements and exhibits filed with the Commission available to the public at its offices during reasonable business hours. Some of the information the Commission is proposing that the Exchange be required to file, however, is volume information which is substantially similar to the information required of broker-dealer trading systems under Rule 17a-23.²⁹ Information filed pursuant to Rule 17a-23 is confidential, and is not required of exchanges. In addition, the Commission

¹⁸ *Id.* at 17.

¹⁹ For calendar year 1990, this was the Cincinnati Stock Exchange ("CSE"). In 1990 the CSE's average daily trading volume, expressed in shares, was 1,238,241. In 1996, AZX's volume threshold was increased to 5,965,346 shares, which was the average daily volume of shares traded on the Philadelphia Stock Exchange ("Phlx") in 1995. In 1995, the Phlx was the national securities exchange with the lowest average daily volume.

²⁰ As of June 30, 1998, the Exchange traded 72 securities whose issuers also have securities registered in the United States. This number may change in the future, as issuers' registration status under the Exchange Act changes. As a condition to an exemptive order, the Exchange would be required to inform the Commission of any changes in the registration status of the securities it trades. As described above, the registration status of a given security under the Securities Act and under the Exchange Act has an effect on how it will be traded through the TradePoint System in the U.S.

²¹ Similarly, it would be appropriate to consider the primary market in any other country from which a low volume exchange was applying for an exemption as a benchmark, as well as the volume levels of U.S. national securities exchanges.

²² Securities Industry Association, 1996 Securities Industry Fact Book at 45.

²³ See Application of TradePoint Investment Exchange, Amendment No. 2, Exhibit N, available in the Commission's Public Reference Room.

²⁴ According to the Exchange, commissions in the United Kingdom are also based on a percentage of the share price, rather than on the number of shares purchased.

²⁵ For example, British Airways PLC ("BAB") is traded on the New York Stock Exchange ("NYSE") in ADR form. On June 26, 1998, BAB closed at 106 7/16. The ADR ratio for BAB is 10:1; thus, each ADR is equivalent to ten ordinary shares. Glaxo Welcome PLC ("GLX") is also traded on the NYSE in ADR form. On June 26, GLX closed at 61 3/16. The ADR ratio for GLX is 2:1. SmithKline Beecham PLC ("SBH") is also traded on the NYSE in ADR form. On June 26, SBH closed at 61 1/8. The ADR ratio for SBA is 5:1. These securities would all be available for trading through the Exchange in their ordinary share form in the U.S. if the Exchange receives an exemption from exchange registration.

²⁶ See Application of TradePoint Investment Exchange, Amendment No. 2, Exhibit N, available in the Commission's Public Reference Room.

²⁷ The Average price of shares traded on all regional exchanges in 1997 was \$42.20. Thus, \$40 million is equivalent to significantly less than 1.2 million shares a day, which was the original volume limitation placed on AZX.

²⁸ 17 CFR 240.6a-1, 17 CFR 240.6a-2, 17 CFR 240.6a-3 and 17 CFR 240.24b-1. Rules 6a-1, 6a-2 and 6a-3 have been proposed to be amended in the Commission's release on the regulation of alternative trading systems. See Regulation ATS Proposing Release *supra* note 15. Should the proposed rules be adopted, the Commission would re-evaluate the appropriateness of the exemption from Rules 6a-1, 6a-2 and 6a-3 for the Exchange.

²⁹ 17 CFR 240.17a-23. Rule 17a-23 is proposed to be repealed in the Commission's release on the regulation of alternative trading systems. See Regulation ATS Proposing Release, *supra* note 15 at IV.A. The recordkeeping requirements currently imposed under Rule 17a-23, however, would still be required under amendments to Rules 17a-3 and 17a-4 if the proposed rules are adopted. Because the Exchange's volume information would be needed by the Commission to determine if the thresholds had been reached, the Exchange would still be required to report volume information as outlined here.

is proposing that the Exchange provide certain trading data regarding trades involving U.S. Members and trades involving non-U.S. Members. This data is confidential and proprietary and would not otherwise be public. Data of this nature is not currently required from any other registrant. This data is necessary so that the Commission may monitor the Exchange's compliance with the proposed volume limitations. For these reasons, and because the Exchange will have no offices in the U.S. and therefore would be making such information public in the United Kingdom, the Commission proposes to exempt the Exchange from Rule 24b-1 as well.

V. Conditions

The Commission proposes to impose other conditions on the Exchange besides the low volume requirements discussed above. In general, these conditions would allow the Commission to monitor the Exchange for compliance with all applicable sections of the Securities Act and the Exchange Act (such as the anti-fraud and securities registration sections), and would ensure that the Commission has access to books, records and personnel of the Exchange should the need arise.

Specifically, the Commission proposes to impose the following conditions on the operation of the Exchange in the U.S.: the Exchange would keep and provide to the Commission upon request (a) records regarding the identity of U.S. Members in the Tradepoint System and the identity of those denied participation in the Tradepoint System and the reason for such denial, as well as a description of the reason for terminating any former Member's capacity to use the Tradepoint System; (b) records regarding daily summaries of trading and time-sequenced records of each transaction involving a U.S. Member; (c) information disseminated to U.S. Members, such as quotation and transaction information regarding securities traded through the Tradepoint System, as well as market notices to Members and other communications (such as changes to the Market Rules); (d) daily pound and equivalent dollar value transactions, and daily share volume of business transacted through the Tradepoint System (separately for orders entered by non-U.S. and U.S. Members, and in the aggregate); (e) a list of securities for which U.S. orders are accepted; and (f) copies of Member application and criteria standards for selection used by the Exchange. The Exchange would also provide 30 days prior notice to the Commission of any

material changes in the operation of the Tradepoint System.

Furthermore, the Exchange would supply to the Commission on a quarterly basis within thirty days of the end of each quarter: total volume and average daily volume of transactions effected through the system during the period and year-to-date aggregates of these numbers, expressed in (a) number of units of securities (for transactions in stock, number of ordinary shares; for transactions in securities other than stock, other appropriate commonly used measure of value of such securities); (b) number of transactions; and (c) monetary value (for transactions in stock, pound value and equivalent dollar value; for transactions in securities other than stock, other appropriate commonly used measure of value of such securities and equivalent dollar value). The Exchange would provide separate unit, transaction, and monetary volume and average daily volume information for the period covered by the report reflecting: (i) Tradepoint System activity in securities involving a U.S. Member and; (ii) Tradepoint System activity in securities not involving a U.S. Member. The primary market and hours for each type of security would also be identified.

The Exchange would also be required to adopt and implement procedures to conduct surveillance of trading by Exchange employees and adopt requirements to ensure the non-disclosure of confidential information in the possession of Exchange employees. In addition, in response to regulatory trading halts on U.S. markets, the Exchange would be required to either suspend trading on the Tradepoint System for U.S. Members or consult with the Commission with respect to a possible suspension of trading; cooperate with any investigation in connection with trading on the Tradepoint System conducted by the Commission, including allowing Commission staff access to the facilities, books and records and other documents, as well as employees for interviews; and to provide the Commission with any requested information (including documents) in connection with trading on the Tradepoint System. The Exchange would also be required to continue to operate at all times in accordance with all applicable U.K. laws. The Exchange would also be required to maintain an agent for service of process in the U.S. at all times that it was offering its services in the U.S.

The Exchange would also be required to maintain, at all times, certain provisions in its Member Agreement and its Market Rules relating to choice

of law and choice of forum. Specifically, the Exchange would be required to retain provisions requiring that, in the event of a dispute involving a Member arising out of a transaction that occurred in the U.S., or that resulted in damages suffered in the U.S., the U.S. federal securities laws statutes would be applied if the cause of action is based upon fraudulent acts or omissions. These provisions are designed to satisfy the anti-waiver provision of the Exchange Act.³⁰

The Exchange would also be required to disclose to its U.S. Members information regarding the trading priorities of the Exchange and the response time of orders entered into the Tradepoint System by U.S. Members as compared to the response time of orders entered by European or other non-U.S. Members. In addition, the Exchange would be required to disclose that the nature and timeliness of pre-trade and post-trade information provided by the Exchange differ from that provided by U.S. registered securities exchanges. Such information should include notification that trades executed through the Exchange are not reported to the U.S. Consolidated Tape; a description of clearance and settlement procedures and disclosure that the time for clearance and settlement under U.K. law is the date of the transaction plus five business days, as compared to three business days under U.S. law; and disclosure of any Tradepoint System limitations affecting capacity to disseminate timely information or to handle Members' orders during peak or other periods.

In addition, the exemptive order would be subject to amendment were the Exchange to offer trading in securities listed on any market (in the U.K. or otherwise) other than the LSE.

VI. Conclusion

The Commission believes that permitting the Exchange to operate in the U.S. would provide U.S. investors with greater opportunities to invest in foreign securities. At the same time, the Commission is concerned that U.S. investors who utilize the Exchange are afforded sufficient protection. Accordingly, the Commission requests comment regarding the Exchange's application for a limited volume exemption from registration as a national securities exchange under the Exchange Act. In particular, the Commission requests comment on: (1) Whether the Commission should grant the Exchange the exemption it seeks; (2)

³⁰ The anti-waiver provision of the Exchange Act can be found in Section 29(a).

whether dollar value volume is an appropriate measure for determining limited volume; and (3) what conditions should apply to such an exemption.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40159; File No. SR-Amex-98-22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to an Increase in Position and Exercise Limits for Standardized Equity Options

July 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 24, 1998, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. 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 amend Exchange Rule 904 to increase position and exercise limits for standardized equity options to three times their current levels.

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 self-regulatory organization 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 IV below. The self-regulatory organization 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 Amex is proposing to increase the position and exercise limits for equity options traded on the Exchange to three times their current levels. Currently, Amex Rule 904 subjects equity options to one of the five different position limits depending on the trading volume and outstanding shares for the underlying security. Rule 905 establishes exercise limits for the corresponding options at the same levels.³ The limits are: 4,500; 7,500; 10,500; 20,000; and 25,000; contracts on the same side of the market. Under the proposed changes the new limits will be: 13,500; 22,500; 31,500; 60,000; and 75,000. The Exchange believes sophisticated surveillance techniques at options exchanges adequately protect the integrity of the markets for the options that will be subject to these increased position and exercise limits.

Manipulation. The Amex believes that position and exercise limits, at their current levels, no longer serve their stated purpose. The Commission has stated that:

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility of disruption of the options market itself, especially, illiquid options classes.⁴

On the twenty-fifth anniversary of listed options trading, the Exchange believes that the existing surveillance procedures and reporting requirements

at options exchanges and clearing firms that have been developed over the years are able to properly identify unusual and illegal trading activity. In addition, Amex believes that routine oversight inspections of Amex's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted. These procedures entail a daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both the options and underlying stock. Further, the Exchange believes the significant increases in unhedged options capital charges resulting from a September 1997 adoption of risk-based haircuts and the Exchange margin requirements applicable to these products under Exchange rules serves as a more effective protection than position limits.⁵

Further, large stock holdings must be disclosed to the Commission by way of Schedule 13D or 13G.⁶ Options positions are part of any reportable positions and cannot be legally hidden. In addition, Exchange Rule 906—which requires members to file reports with the Exchange for any customer who held aggregate long or short positions of 200 or more option contracts of any single class for the previous day—will remain unchanged and an important part of the Exchange's surveillance efforts.

Position and exercise limits restrict legitimate options use. In the Exchange's view, equity position limits prevent large customers like mutual funds and pension funds from using options to gain meaningful exposure to individual stocks, resulting in lost liquidity in both the options market and the stock market. The Exchange further believes that equity position limits also act as a barrier to the use of options by corporations wishing to implement options strategies with their own stock. For example, existing equity position limits could restrict the number of put options that could be sold under a corporate buyback program.⁷

Financial requirements. The Exchange believes that financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or its customer may try to maintain an

³ Rule 905 states "no member or member organization shall exercise, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange if as a result thereof such member or member organization, or partner, officer, director or employee thereof or customer acting alone or in concert with others, directly or indirectly has or will have exercised within any five (5) consecutive business days aggregate long positions in excess of: (i) the number of option contracts set forth as the position limit in Rule 904 in a class of options for which the underlying security is a stock. * * *

⁵ See Exchange Act Release No. 38248 (February 6, 1997), 62 FR 6474 (February 12, 1997) (adopting Risk Based Haircuts); and Amex Rule 462.

⁶ Exchange Act Rule 13d-1.

⁷ The Commission notes that issuers would, of course, need to comply with all applicable provisions of the federal securities laws in conducting their share repurchase programs.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁴ Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998).