provide customers with full collateral consisting of certain specified financial instruments or cash. The amendment would allow broker-dealers to pledge such other collateral as the Commission designates as permissible by order as necessary or appropriate in the public interest and consistent with the protection of investors after giving consideration to the collateral's liquidity, volatility, market depth and location, and the issuer's creditworthiness.

5. The Commission will consider whether to issue, jointly with the Commodity Futures Trading Commission, an order to permit certain foreign security index futures to continue to be treated as broad-based index futures.

6. The Commission will consider a release proposing amendments to Rule 10b–10 under the Securities Exchange Act of 1934 (''Exchange Act'') and new Exchange Act Rule 11d2–1, which are designed to clarify the disclosures broker-dealers effecting transactions in security futures products in customers' futures accounts must make in the confirmations sent to customers regarding those transactions.

The Commission will also consider issuing an exemptive order providing that broker-dealers effecting transactions in security futures products in customers' futures accounts are exempted from the requirements of Exchange Act Rule 10b–10 and Exchange Act Section 11(d)(2) until the amendments to Exchange Act Rule 10b–10 and new Rule 11d2–1 become effective.

The subject matter of the closed meeting scheduled for Thursday, May 30, 2002, will be:

Formal order of investigation;

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: May 22, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13299 Filed 5–22–02; 4:13 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45966; File No. SR–Amex–2002–24]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Securities Linked to the Nasdaq-100 Index

May 20, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

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

The Amex proposes to approve for listing and trading under Section 107A of the Amex Company Guide (''Company Guide''), index linked debt securities whose value will be linked in part to changes in the value of the Nasdaq-100 Index (''Nasdaq-100'') pursuant to the methodology set forth below.

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 Amex 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 III below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 107A of the Amex Company Guide (''Company Guide''), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[3] The Amex proposes to list for trading under Section 107A of the Company Guide, index linked debt securities (''Securities'') whose value in whole, or in part, will be based on the Nasdaq-100. Holders of the Securities will receive at maturity a payment linked to the closing level of the Nasdaq-100 based on the following formula: (1) If the Final Index Level of the Nasdaq-100 is at or above the Initial Index Level, the holder will receive a payment of $1,000 per Security; or (2) if the Final Index Level of the Nasdaq-100 is below the Initial Index Level, the holder will receive an amount in cash equal to $1,000 per Security multiplied by the Index Settlement Level. The Index Settlement Level is defined as the Final Index Level of the Nasdaq-100 divided by the Initial Index Level, expressed as a percentage. The Nasdaq-100 is determined, calculated and maintained solely by the Nasdaq.[4]

The Initial Index Level, which will be announced at the time of the offering, is the closing level of the Nasdaq-100 on the pricing date. The Final Index Level will equal the closing level of the Nasdaq-100 or any successor index at the regular official weekday close of the principal trading session of The Nasdaq Stock Market, Inc. (''Nasdaq'') National Market on the final index determination date.[5]

Securities Description

The Securities will be non-convertible, unsecured and unsubordinated obligations of J.P. Morgan Chase & Co. (''JP Morgan''). The Securities will conform to the initial

[3] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex–89–29).

[4] J.P. Morgan Chase & Co. and The Nasdaq Stock Market, Inc. have entered into a non-exclusive licensing agreement providing for the use of the Nasdaq-100 by J.P. Morgan Chase & Co. and certain affiliates and subsidiaries in connection with certain securities including these Notes. Nasdaq is not responsible and will not participate in the issuance and creation of the Securities.

[5] The final index determination date is five (5) trading days prior to maturity, subject to extension in the case of a market disruption event.

listing guidelines under Section 107A[6] and continued listing guidelines under Sections 1001–1003[7] of the Company Guide. Although a specific maturity date will not be established until the time of the offering, the Securities will provide for a maturity of not less than one (1) year nor more than ten (10) years from the date of issue. The Securities are expected to issue at a discount from the face or denomination amount. At maturity, holders of the Securities may receive less than 100% of the initial issue price.

Nasdaq-100 levels for the purpose of determining the payment to holders at maturity will be determined by reference to prices for the Index on a business date shortly prior to maturity. The payment at maturity of the Securities will be based on the Final Index Level. At maturity, holders will receive an amount in cash that is greater than the issue price of the Securities if the Final Index Level of the Nasdaq-100 is greater than the Initial Index Level. However, in no event will a holder of the Securities receive more than $1,000 per Security (or the face amount of such security) at maturity. A holder at maturity will receive less than $1,000 in an amount based on the Index Settlement Level if the Final Index Level is less than the Initial Index Level. Holders of the Securities will receive a cash payment at maturity as long as the Nasdaq-100 does not lose 100% of its value.[8]

The Securities are expected to be listed in $1,000 denominations with the Exchange's equity margin rules applying to trading. The Securities will be cash-settled in U.S. dollars. Holders of the Securities will have no claim or right to the underlying securities of the Nasdaq-100 or the Nasdaq-100 itself. The Securities are designed for investors who want to participate or gain exposure to the Nasdaq-100 while limiting downside risk and, who are willing to forgo market interest payments during the term.[9] The Securities will not have a minimum principal amount that will be repaid and, accordingly, payments at maturity may be less than the original issue price of the Securities.

Index Description

The Nasdaq-100 is a modified capitalization-weighted index of 100 of the largest and most active non-financial domestic and international issues listed on Nasdaq. The Index is determined, comprised and calculated by Nasdaq without regard to the Securities. The Index is calculated and disseminated every fifteen seconds to market information vendors. The Nasdaq-100 reflects the largest growth companies across major industry groups with all index components of domestic issuers having a market capitalization of at least $500 million and an average daily trading volume of at least 100,000 shares. For foreign issuers, the worldwide market capitalization must be at least $10 billion with a U.S. market capitalization of at least $4 billion and an average daily trading volume of at least 200,000 shares. In addition, no single security comprising the Nasdaq-100 is permitted to have more than a 24% weighting. The Nasdaq-100 was originally developed with a base value of 125 on February 1, 1985. Originally a capitalization-weighted index, on December 21, 1998, the Nasdaq-100 changed to a modified capitalization-weighted index.

A modified capitalization-weighted index is a hybrid between equal weighting and capitalization-weighting. This type of methodology is expected to: (1) Retain the economic attributes of capitalization weighting; (2) promote portfolio weight diversification; (3) reduce Nasdaq-100 performance distortion by preserving the capitalization ranking of companies; and (4) reduce market impact on the smallest Nasdaq-100 securities from necessary weight rebalancings. A quarterly examination of the Nasdaq-100 is performed to gauge whether a rebalancing of the Index is necessary. If one of the following weight distribution requirements is not met, the Index is rebalanced. These requirements are as follows: (1) The current weight of the single largest market capitalization index security must be less than or equal to 24%; and (2) the collective weight of those index securities whose individual current weights are in excess of 4.5%, when added together, must be less than or equal to 48.0%.

As of March 19, 2002, the market capitalization of the securities included in the Nasdaq-100 ranged from a high of $334.98 billion to a low of $1.42 billion. The average daily trading volume for these same securities for the last six (6) months, as of the same date, ranged from a high of 76.86 million shares to a low of 0.54 million shares. The Commission has previously granted approval to the Amex to list and trade the Nasdaq-100 Tracking Stock ("QQQ") and options on the QQQ.[10] In addition, the Exchange also lists and trades options on the Nasdaq-100 (NDX) and the Mini Nasdaq-100 (MNX).[11]

Because the Securities are issued in $1,000 denominations, the Amex's existing floor trading rules will apply to the listing of the Securities. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Securities.[12] Second, even though the Exchange's debt trading rules apply, the Securities will be subject to the equity margin rules of the Exchange.[13] Third, in conjunction with the Amex's Hybrid Approval Order, the Exchange will, prior to trading the Securities, distribute a circular to the membership providing guidance with regard to member firm

[6] The initial listing standards for the Securities require: (1) A market value of at least $4 million, and (2) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

[7] The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Securities, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list a security if the aggregate market value or principal amount of bonds publicly held is less than $400,000.

[8] Thus, the Securities are not principal protected. Telephone conversation between Jeffrey P. Burns, Assistant General Counsel, Amex, and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on May 20, 2002.

[9] For example, a 20% loss in the Nasdaq-100 will provide a 0% return on the Securities, assuming that the expected issue price for a Security is $800 per $1,000 face value.

[10] *See* Securities Exchange Act Nos. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (approval to list and trade Nasdaq-100 Shares) and 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998) (approval to list and trade options on Exchange-Traded Funds).

[11] Approval of the Nasdaq-100 for underlying an option contract was originally granted to the Chicago Board Options Exchange, Inc. in 1994. See Securities Exchange Act Release Nos. 33428 (January 4, 1994), 59 FR 1576 (January 11, 1994) (approval to list and trade options on the Nasdaq-100); 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval to list and trade Flex Options on the Nasdaq-100) and 43000 (June 30, 2000), 65 FR 42409 July 10, 2000) (approval of a Reduced Value Nasdaq-100).

[12] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

[13] *See* Amex Rule 462.

compliance responsibilities (including suitability recommendations) when handling transactions in the Securities and highlighting the special risks and characteristics of the Securities. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Securities: (1) to determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics, and bear the financial risks, of such transaction.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Securities. Specifically, the Amex will rely on its existing surveillance procedures governing debt, which have been deemed adequate under the Act. In addition, the Exchange also has a general policy which prohibits the distribution of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act [14] in general and furthers the objectives of Section 6(b)(5) [15] in particular in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

A. 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

The Exchange did not receive any written comments on the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. 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–2002–24 and should be submitted by June 18, 2002.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.[16] The Commission believes that the availability of the Securities will provide an instrument for investors to achieve desired investment objectives through the purchase of an exchange-traded debt product linked to the Nasdaq. These objectives include participating in or gaining exposure to the Nasdaq while limiting somewhat downside risk. However, the Commission notes that the Securities are index-linked debt securities whose value in whole or in part will be based upon the Nasdaq-100. In addition, the Securities are non-principal protected: they do not have a minimum principal amount that will be repaid, and payments on the Securities at maturity may be less than their original issue price. For the reasons discussed below, the Commission has concluded that the Amex listing standards applicable to the Securities are consistent with the Act.

The Securities are non-convertible and will conform to the Amex listing guidelines under Section 107A of the Company Guide. The specific maturity date will not be established until the time of the offering, but will not be less than one year from the date of issue. The securities will have a face value of $1,000 per security and will be sold at a discount. Holders of the Securities will receive a cash payment based on the following formula: If the Final Index Value is greater than or equal to the Initial Index Value, then a holder receives $1,000 per Security; If the Final Index Value is less than the Initial Index Value, then the holder receives, per security, $1,000 multiplied by the result of dividing the Final Index Value by the Initial Index Value.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the Securities. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of the Securities. The Exchange will require members, member organizations and employees thereof recommending a transaction in the Securities to: (1) Determine that such transaction is suitable for the customer, and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics, and bear the financial risks, of such transaction.

In addition, the Amex equity margin rules and debt trading rules will apply to the Securities. The Commission believes that the application of these rules should strengthen the integrity of the Securities. The Commission also believes that the Amex has appropriate surveillance procedures in place to detect and deter potential manipulation for similar index-linked products. By applying these procedures to the Securities, the Commission believes that the potential for manipulation of the Securities is minimal, thereby protecting investors and the public interest. The Commission further notes that the underlying Index is managed by the Nasdaq, an entity independent of both the Exchange and the Issuer, and thus, a factor which the Commission believes should act to minimize the possibility of manipulation. In addition, the Nasdaq-100 is calculated and disseminated every 15 seconds to market information vendors.

The Commission also notes that the Amex will issue a circular on the Securities. The circular should include, among other things, a discussion of the risks that may be associated with the Securities in addition to details on the composition of the Index and how the rates of return will be computed. Further, pursuant to Exchange Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating

[14] 15 U.S.C. 78f(b).

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

[16] *Id.*

to every customer prior to trading the Securities.

The Commission notes that the securities are dependent upon the individual credit of the issuer, J.P. Morgan. To some extent this credit risk is minimized by the Exchange's listing standards in Section 107A of the Company Guide which provide that only issuers satisfying substantial asset and equity requirements may issue securities such as the Securities. In addition, the Exchange's hybrid listing standards further require that the securities have at least $4 million in market value.[17] In any event, financial information regarding J.P. Morgan, in addition to the information on the issuers of the underlying securities comprising the Nasdaq-100, will be publicly available.[18] Based on these factors, the Commission finds that the proposal to trade the Securities is consistent with section 6(b)(5) of the Act.[19]

Amex has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex. In determining to grant the accelerated approval for good cause, the Commission notes that the Nasdaq-100 is a portfolio of highly capitalized and actively traded securities similar to component securities in hybrid securities products that have been approved by the Commission for U.S. exchange trading. Additionally, the Securities will be listed pursuant to existing hybird security listing standards as described above. Based on the above, the Commission finds good cause to accelerate approval of the proposed rule change, as amended.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change (SR–Amex–2002–24), is hereby approved on an accelerated basis.

[17] See Section 107A of the Company Guide.

[18] The companies that comprise the Nasdaq-100 are reporting companies under the Act.

[19] 15 U.S.C. 78(f)(b)(5).

[20] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13193 Filed 5–24–02; 8:45 am]

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[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45969; File No. SR–DTC–2002–04]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to the Application of a Receiver-Authorized Delivery-Like Function to Maturity Presentments for Money Market Instruments in Times of Unusual Market Stress

May 20, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 25, 2002, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. 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 proposed rule change would amend DTC's procedures to allow the application of a Receiver-Authorized Delivery (''RAD'')-like function in times of unusual market stress to maturity presentments (''MPs'') of money market instruments (''MMIs'') that are in DTC's custody.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

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

[2] The Commission has modified parts of these statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(i) Current Maturity Presentments

Under DTC's current procedures for the processing of MPs, early on the maturity date (generally around 2:00 a.m.), DTC initiates deliveries of the maturing paper from the accounts of participants having position in the maturing paper to the MMI participant account of the issuing/paying agent (''IPA''). These MPs are processed as the equivalent of book-entry deliveries versus payment. As such, MPs may ''recycle'' just as any delivery would if the net debit cap or collateralization controls applicable to the IPA's account prevents the delivery from being completed. If recycled, the MP delivery would be completed once additional funds such as settlement obligation prepayments or new issuances are credited to the IPA's account. Attempts to complete deliveries of recycling MPs occur randomly without regard to the identity of the offsetting prepayment/issuance transactions. For example, an issuance for commercial paper (''CP'') Issuer A might establish collateral in the IPAs account that could be used to support the processing of a maturity of CP Issuer B's paper. This arrangement has operated successfully since MMIs first became DTC-eligible in 1990.

DTC's MMI procedures provide that the IPA can ''refuse to pay'' for maturing paper of a particular issuer by communicating that intention to DTC before 3:00 p.m. (ET) on the maturity date. This intention will be communicated to all participants by DTC. DTC will then reverse any completed MPs by recrediting them to presenting participants' accounts, which offsets the associated settlement credits in those accounts. DTC will also unwind the following transactions it may have processed earlier that day in the same and other MMIs of that ''defaulting issuer': uncompleted maturity presentments; any valued issuances; any periodic income (interest or dividend) and principal presentments; and any reorganization presentments. In addition, DTC will mark down the collateral value of all of the defaulting issuer's MMIs in the system to zero and will block further issuances of that issuer's paper through DTC.

(ii) Application of Receiver-Authorized Delivery-Like Function

The Receiver-Authorized Delivery (RAD) function enables each participant to limit and consider certain securities