

For the Nuclear Regulatory Commission
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52633; File No. SR-Amex-
 2005-093]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate Rule 891 Relating to Transfer Agents

October 18, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on September 19, 2005, American Stock Exchange LLC (“Amex”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by Amex. Amex has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, pursuant to Section 19(b)(3)(A)(i) of the Act,² which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The purpose of the proposed rule change is to eliminate Amex’s Rule 891 relating to obsolete transfer agent requirements.

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

In its filing with the Commission, 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 IV below. Amex has prepared summaries, set forth in sections (A), (B),

and (C) below, of the most significant aspects of these statements.³

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

On March 17, 2000, Amex amended its Company Guide to eliminate the qualification of transfer agents, registrars, and bond trustees.⁴ Amex believed that the Commission’s rules governing transfer agents made Amex’s rules unnecessary or inappropriate. However, at that time Amex did not eliminate transfer agent requirements in its rules.

The purpose of this filing is to conform Amex’s rules to the changes made to the Company Guide. Rule 891 of Amex’s rules currently lists the requirements to qualify as a transfer agent for securities listed on Amex, which includes among other things a requirement to maintain office facilities that are located south of Chambers Street in the Borough of Manhattan, City of New York, that allow the issuer to receive and redeliver securities. In light of the amendments to the Company Guide, Amex has determined that Rule 891 is obsolete and no longer in use and proposes to eliminate that Rule 891.

Section 6(b)(5) of the Exchange Act requires the Amex rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. Amex believes the proposed rule change is consistent with Section 6(b) of the Exchange Act⁵ in general and furthers the objectives of Section 6(b)(5) of the Act⁶ and the rules and regulations thereunder because it makes consistent the requirements of the Company Guide with the requirements in Amex rules and further clarifies the compliance obligations of transfer agents acting for issuers listed on Amex.

³ The Commission has modified the text of the summaries prepared by the Amex.

⁴ Securities Exchange Act Release No. 42539 (March 17, 2000); 65 FR 15672 (March 23, 2000); [File No. SR-Amex-99-39].

⁵ 15 U.S.C. 78s(b).

⁶ 15 U.S.C. 78s(b)(5).

(B) Self-Regulatory Organization’s Statement on Burden on Competition

Amex does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. Amex will notify the Commission of any written comments received by Amex.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act⁷ and Rule 19b-4(f)(1)⁸ thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2005-093 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-Amex-2005-093. This file number should be included on the

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(i).

⁷ 15 U.S.C. 78s(b)(3)(A)(i).

⁸ 17 CFR 240.19b-4(f)(1).

subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of Amex and on Amex's Web site, <http://www.amex.com>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2005-093 and should be submitted on or before November 18, 2005.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52649; File No. SR-Amex-2005-063]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change Relating to the Elimination of Position and Exercise Limits on NDX Options

October 21, 2005.

I. Introduction

On June 9, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule

change to eliminate position and exercise limits for options on the Nasdaq 100 Index ("NDX"). The Commission published the proposed rule change for comment in the **Federal Register** on August 26, 2005.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Amex proposes to amend its rules to eliminate position and exercise limits for options on the NDX. In connection with this change, options on the NDX would be subject to specific reporting requirements and additional margin provisions imposed by the Amex with respect to options on the Major Market Index ("XMI") and the Institutional Index ("XII"), the two broad-based index options that, under the Exchange's current rules, are not subject to position and exercise limits.⁴

The Exchange noted that in approving the elimination of position limits for XMI and XII options, the Commission considered the enormous capitalization of each of these indexes and the deep and liquid markets for the securities underlying each index significantly reduced concerns of market manipulation or disruption in the underlying markets.⁵ The Amex noted that the market capitalization of NDX, as of June 1, 2005, was \$1.86 trillion and the average daily trading volume ("ADTV"), in the aggregate, for the component securities of the NDX, for the period from January 1, 2005 through May 31, 2005 was 425.8 million shares. For the same period, the ADTV for options on the NDX was 45,820 contracts.

The Exchange also stated that in the XMI/XII Permanent Approval Order, the Commission noted that the financial requirements imposed by both the Exchange and the Commission serve to address any concerns that an Exchange member or its customer(s) may try to maintain an inordinately large unhedged position in XMI/XII options. The Amex noted that these same financial requirements would apply equally to NDX options. The Exchange further noted that it has the authority to impose additional margin upon accounts maintaining underhedged

positions, and is further able to monitor accounts to determine when such action is warranted. As noted in the Exchange's rules, the clearing firm carrying such an account would be subject to capital charges under Rule 15c3-1 under the Act⁶ to the extent of any resulting margin deficiency.⁷

The Amex indicated that the Commission, in the XMI/XII Permanent Approval Order, relied substantially on the Exchange's ability to provide surveillance and reporting safeguards to detect and deter trading abuses arising from the elimination of position and exercise limits on XMI and XII options. The Exchange represents that it monitors the trading in NDX options in the same manner as trading in XMI options and that the current Amex surveillance procedures are adequate to continue monitoring NDX options. In addition, the Exchange intends to impose a reporting requirement on Amex members (other than Amex specialists and registered options traders) or member organizations who trade NDX options. This reporting requirement, which is currently imposed on members who trade XMI options, would require members or member organizations who maintain in excess of 100,000 NDX option contracts on the same side of the market, for their own accounts or for the account of customers, to report information as to whether the positions are hedged and provide documentation as to how such contracts are hedged, in a manner and form required by the Exchange's Regulation Department. The Exchange also would be permitted to specify other reporting requirements, as well as the limit at which the reporting requirement may be triggered.⁸

Finally, the Amex proposes to amend Exchange rules relating to the trading of FLEX broad-based index options to eliminate position and exercise limits on FLEX NDX options, and to adopt for NDX FLEX options the same 100,000 contract reporting requirement and additional margin provisions that apply for XMI FLEX options.

The Exchange believes that eliminating position and exercise limits

⁶ 17 CFR 240.15c3-1.

⁷ See Commentary .03 to Amex Rule 904C. Clarified as per telephone conversation between Ira Brandriss, Special Counsel, and Theodore Venuti, Attorney, Division of Market Regulation, Commission, and Jeffery P. Burns, Associate General Counsel, Amex, on August 16, 2005.

⁸ Pursuant to Amex Rule 906, as referenced in Amex Rule 906C(a). Telephone conversation between Ira Brandriss, Special Counsel, and Theodore Venuti, Attorney, Division of Market Regulation, Commission, and Jeffery P. Burns, Associate General Counsel, Amex, on August 18, 2005.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 52312 (August 22, 2005), 70 FR 50431 ("Notice").

⁴ According to the Amex, options on the XII are no longer listed and traded on the Exchange.

⁵ See Securities Exchange Act Release No. 46393 (August 21, 2002), 67 FR 55289 (August 28, 2002) (order granting permanent approval to the elimination of position and exercise limits on the Major Market index and the Institutional Index) ("XMI/XII Permanent Approval Order").