

("Act")¹ and rule 19b-4 thereunder,² notice is hereby given that on February 10, 2003, 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, II, and III below, which items have been prepared by the Amex. 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 increase to 500 contracts the maximum permissible number of equity and index option contracts in an order executable through its automatic execution system, Auto-Ex.

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 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. The Amex 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

In 1985, the Exchange implemented the Auto-Ex system, which automatically executes public customer market and marketable limit orders in options at the best bid or offer displayed at the time the order is entered into the Amex Order File ("AOF"). There are, however, limitations on the number of option contracts that can be entered into or executed by these systems. AOF, which handles limit orders routed to the specialist's book as well as orders routed to Auto-Ex, allows for the entry of orders of up to 2500 option contracts.³ Auto-Ex, however, is only permitted to execute equity option orders and index option orders of up to

250 contracts.⁴ As a result, market and marketable limit orders of more than 250 contracts are routed by AOF to the specialist's book.

The Exchange now proposes to increase to 500 contracts the maximum permissible number of equity and index option contracts in an order that can be executed through the Auto-Ex system. It is proposed that this increase to 500 contracts in permissible order size for Auto-Ex be implemented on a case-by-case basis for an individual option class or for all option classes when two floor governors or senior floor officials deem such an increase appropriate. Currently, the Amex posts applicable quote size parameters on its web page and represents that it will continue to do so. The Exchange represents that it has sufficient systems capacity necessary to accommodate implementation of the proposed increase.

The Exchange represents that the Commission, in its March 2002 Order permitting the Amex to expand the maximum Auto-Ex size to 250 contracts, was concerned at the time that an increase in the Auto-Ex order size could create greater risks for market participants. In particular, the Commission noted that a larger Auto-Ex size could subject market makers to greater financial risk due to the automatic execution of such orders at the quoted price. The Amex subsequently adopted a rule⁵ that would allow it to match the automatic execution sizes of other options exchanges provided the Exchange submits a filing pursuant to section 19(b)(3)(A) of the Act.⁶ In April 2002, pursuant to Amex rule 933, Commentary .03 and section 19(b)(3)(A) of the Act, the Amex filed a notice of immediate effectiveness with the Commission and increased its Auto-Ex size for QQQ options to up to 2,000 contracts for the two near-term expiration months and 1,000 contracts for all other expiration months in order to match Primary Market Makers' size guarantees in QQQ options on the International Securities Exchange, Inc. ("ISE").⁷ Since April 29, 2002, the

Exchange represents that it has established an Auto-Ex size of 1,000 contracts for all QQQ options series. The Exchange states that, to date, it is unaware of any increased risks to market participants and the marketplace as a result of the greater Auto-Ex size for QQQ options.

The Exchange also believes that the increased Auto-Ex size of up to 250 contracts for all other options classes at the Exchange has similarly not created greater financial risks or other known system difficulties. The Exchange has set the Auto-Ex order size to the 250-contract maximum in a number of actively-traded option classes that, the Exchange believes, are the classes with the greatest liquidity and trading interest.⁸ For example, options in Microsoft Corporation (MSFT) and General Electric Co. (GE) have Auto-Ex sizes of 250 contracts. The Exchange states that market participants have further indicated that even larger sizes would provide greater benefits to their customers and proprietary trading strategies. The Exchange maintains that an increase in the permissible size of orders executable through Auto-Ex will provide more efficient executions due to the speed of execution obtained by Auto-Ex versus manual handling. The Exchange states that customers and other market participants are increasingly demanding that the Exchange automatically execute larger option order sizes that in the past would have received manual handling. The Exchange believes that an increase in the Auto-Ex size of up to 500 contracts will meet this demand of the marketplace.

The Exchange's Auto-Ex system provides that all customer and broker-dealer market and marketable limit orders within the appropriate size parameters are executed at the prevailing best bid or offer, with both the specialist and registered options traders ("ROTs") as the contra-party to

Amex rule change with respect to maximum Auto-Ex size for the QQQ options was submitted as a change effective on filing pursuant to section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A).

⁸ The Exchange states that, as of February 7, 2003, it had established a maximum 250-contract Auto-Ex size for the following options classes: (1) Altria Group, Inc. (MO); (2) Advanced Micro Devices Inc. (AMD); (3) Applied Materials (AMST); (4) ARIBA, Inc. (ARBA); (5) Brocade Communication Systems (BRCD); (6) Capital One Financial Corporation (COF); (7) Exxon Mobile Corporation (XOM); (8) General Electric Co. (GE); (9) Home Depot Inc. (HD); (10) Intel Corporation (INTC); (11) Johnson & Johnson Company (JNJ); (12) Microsoft Corporation (MSFT); (13) Motorola, Inc. (MOT); (14) Oracle Corporation (ORCL); (15) Qlogic Corporation (QLGC); (16) Qualcomm Corporation (QCOM); (17) Texas Instruments (TXN); (18) The Coca-Cola Co. (KO); and (19) United Parcel Services, Inc. (UPS).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 44065 (March 12, 2001), 66 FR 15513 (March 19, 2001).

⁴ See Securities Exchange Act Release No. 45628 (March 22, 2002), 67 FR 15262 (March 29, 2002) ("March 2002 Order"). The Amex notes that the Auto-Ex guarantee size for Nasdaq-100 Tracking Stock ("QQQ") options is up to 2,000 contracts for the two near-term expiration months and 1,000 contracts for all other expiration months. See Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002).

⁵ See Amex rule 933, Commentary .03; see also Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ See Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002). The