

last six months, as of the same date, ranged from a high of 742.5 million shares to a low of 36.02 million shares. The aggregate market capitalization of all securities in the Index was approximately \$1.714 trillion. Given the compositions of the stocks underlying the Technology Index, the Commission believes that the listing and trading of the Notes that are based on the performance of the Technology Index should not unduly impact the market for the underlying securities comprising the Technology Index or raise manipulative concerns. As discussed more fully above, the underlying stocks comprising the Technology Index are highly capitalized U.S. securities.

Furthermore, the Commission notes that the Notes depend upon the individual credit of the issuer, Morgan Stanley. To some extent this credit risk is minimized by the listing standards in Section 107A of the Amex Company Guide, which provide that only issuers satisfying substantial asset and equity requirements may issue securities such as the Notes. In addition, the Amex's "Other Securities" listing standards further require that the Notes have a market value of at least \$4 million.¹⁶ In any event, financial information regarding Morgan Stanley, in addition to the information on the 35 component stocks comprising the Technology Index, will be publicly available.¹⁷

The Commission also has a systemic concern, however, that a broker-dealer such as Morgan Stanley, or a subsidiary providing a hedge for the issuer, will incur position exposure. However, as the Commission has concluded in previous approval orders for other hybrid instruments issued by broker-dealers,¹⁸ the Commission believes that this concern is minimal given the size of the Notes issuance in relation to the net worth of Morgan Stanley.

Finally, the Commission notes that the value of the Technology Index will be disseminated at least once every

fifteen seconds throughout the trading day over the Consolidated Tape Association's Network B. The Commission believes that providing access to the value of the Technology Index at least once every fifteen seconds throughout the trading day is extremely important and will provide benefits to investors in the product.

The Commission finds 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.¹⁹ The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. Additionally, the Notes will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,²⁰ to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²¹ that the proposed rule change (SR-Amex-2003-91), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48681; File No. SR-CBOE-2003-14]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated Relating to Options on a Reduced Value NYSE Composite Index

October 22, 2003.

I. Introduction

On March 25, 2003, the Chicago Board Options Exchange, Incorporated ("CBOE" 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 permit the trading of options on the reduced value, Revised NYSE Composite Index. On August 6, 2003, the CBOE submitted Amendment No.1 to the proposed rule change.³

The proposed rule change, as amended, was published for comment in the **Federal Register** on September 5, 2003.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

In January 2003, the New York Stock Exchange, Inc. ("NYSE") announced that it would replace the NYSE Composite Index ("Old Index"), which was designed to measure the performance of securities listed on the NYSE (with the exception of preferred securities), with a Revised NYSE Composite Index.⁵ The Revised NYSE Composite Index has 700 fewer components than the Old Index and, according to the NYSE, should create an index that is more representative of investable equity securities tracked on

¹⁶ See Amex Company Guide Section 107A.

¹⁷ The Commission notes that the 35 component stocks that make up the Technology Index are reporting companies under the Act, and the Notes will be registered under Section 12 of the Act.

¹⁸ See, e.g., Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving the listing and trading of notes whose return is based on the performance of the Nasdaq-100 Index) (File No. SR-NASD-2001-73); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving the listing and trading of notes whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index) (File No. SR-Amex-2001-40); and 37744 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving the listing and trading of notes whose return is based on a weighted portfolio of healthcare/biotechnology industry securities) (File No. SR-Amex-96-27).

¹⁹ See note 14, *supra*.

²⁰ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

²¹ 15 U.S.C. 78s(b)(2).

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Jim Flynn, Attorney II, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission dated August 5, 2003 ("Amendment No. 1"). In Amendment No. 1, CBOE replaced its proposed rule change in its entirety.

⁴ See Securities Exchange Act Release No. 48416 (August 27, 2003), 68 FR 52804.

⁵ The Revised NYSE Composite Index would continue to measure the performance of all NYSE-listed common stock, American Depositary Receipts ("ADRs"), tracking stocks and real estate investment trusts ("REITs"), but would exclude closed-end investment companies, exchange traded funds ("ETFs"), derivatives, preferred stocks, shares of beneficial interest, trust units and limited partnerships.