equitable basis among the Funds without the intervention of any portfolio manager of the Funds (other than the Money Market Fund portfolio manager acting in his or her capacity as a member of the Credit Facility Team). All allocations will require approval of at least one member of the Credit Facility Team who is not the Money Market Fund portfolio manager. The Credit Facility Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers (except to the extent that the portfolio manager of the Money Market Fund has access to loan demand data). The Credit Facility Team will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts to the Funds.

13. The Credit Facility Team will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Board of each Fund concerning the participation of the Fund in the credit facility and the terms and other conditions of any extensions of credit under the facility.

14. The Board of each Fund, including a majority of the Independent Trustees: (a) Will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula, and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Credit Facility Team will promptly refer the loan for arbitration to an independent arbitrator selected by the Board of any Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[3] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Board of each Fund setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and the rate of interest on the loan, the rate of interest available at the time on overnight repurchase agreements and bank borrowings, the yield of any Money Market Fund in which the lending Fund could otherwise invest and such other information presented to the Board in connection with the review required by conditions 13 and 14.

17. The Credit Facility Team will prepare and submit to the Board of each Fund for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of operations of the credit facility, the Credit Facility Team will report on the operations of the credit facility at the quarterly meetings of each Fund's Board.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund shall prepare an annual report that evaluates the Credit Facility Team's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate, and if applicable, the yield of the Money Market Funds, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and, (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third-party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, a Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its SAI all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–3004 Filed 2–6–03; 8:45 am]

BILLING CODE 8010–01–P

[3] If the dispute involves Funds with different Boards, the Board of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47298; File No. 4–429]

Joint Industry Plan; Order Approving on a Temporary Basis Joint Amendment No. 4 to the Options Intermarket Linkage Plan Relating to Satisfaction Orders, Trade-Throughs and Other Nonsubstantive Changes, as Modified by an Amendment Thereto, and Notice of Filing of Such Amendment

January 31, 2003.

I. Introduction

On September 24, 2002, October 1, 2002, October 9, 2002, November 6, 2002, and November 26, 2002, the International Stock Exchange, Inc. (''ISE''), the Pacific Exchange, Inc. (''PCX''), the Chicago Board Options Exchange, Inc. (''CBOE''), the Philadelphia Stock Exchange, Inc. (''Phlx''), and the American Stock Exchange LLC (''Amex'') (collectively, the ''Participants''), respectively, filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 11Aa3–2 thereunder,[2] an amendment (''Joint Amendment No. 4'') to the Options Intermarket Linkage Plan (''Linkage Plan'').[3]

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 240.11Aa3–2.

[3] On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage (''Linkage'') proposed by Amex,

Proposed Joint Amendment No. 4 was published for comment in the **Federal Register** on December 27, 2002.[4] No comments were received on the proposal. On January 28, 2003, January 28, 2003, January 29, 2003, January 29, 2003, and January 29, 2003, the ISE, the Phlx, the Amex, the PCX, and the CBOE, respectively, filed with the Commission an amendment to proposed Joint Amendment No. 4 to provide that the limitation on the liability for trade-throughs for the last seven minutes of the trading day would be effective for a one-year pilot period and to clarify that the limitation on liability would apply to each Satisfaction Order (''Pilot Amendment'').[5] This order approves Joint Amendment No. 4, as modified by the Pilot Amendment, on a temporary basis not to exceed 120 days, and solicits comment on the Pilot Amendment from interested persons.

II. Description of Proposed Joint Amendment No. 4

In proposed Joint Amendment No. 4, as modified by the Pilot Amendment, the Participants propose to clarify that the proposed limitation on liability for trade-throughs for the last seven minutes of the trading day would apply to the filling of 10 contracts per exchange, per transaction. Pursuant to the Pilot Amendment, this proposal would be effective for a one-year pilot period, and would apply to each Satisfaction Order. The proposed Linkage Plan amendment also would: (1) Decrease the time period a member must wait after sending a linkage order to a market before that member can trade through that market from 30 seconds to 20 seconds; (2) prohibit linkage fees for executing satisfaction orders; and (3) make other nonsubstantive revisions to the Linkage Plan.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the Pilot Amendment, including whether the proposed Pilot Amendment 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 submissions, all subsequent amendments, all written statements with respect to the proposed Pilot Amendment that are filed with the Commission, and all written communications relating to the proposed Pilot Amendment 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 filings will also be available for inspection and copying at the principal offices of the Amex, CBOE, ISE, Phlx, and PCX. All submissions should refer to File No. 4–429 and should be submitted by February 28, 2003.

IV. Discussion

After careful consideration, the Commission finds that the proposed Joint Amendment to the Linkage Plan, as amended by the Pilot Amendment, is consistent with the requirements of the Act and the rules and regulations thereunder.[6] Specifically, the Commission finds that the proposed Joint Amendment, as modified by the Pilot Amendment, is consistent with section 11A of the Act,[7] and Rule 11Aa3–2 thereunder,[8] in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets. In addition, the Commission finds, as described further below, that it is appropriate to approve summarily the proposed amendment to the Linkage Plan, as amended, upon publication of the notice on a temporary basis for 120 days. The Commission believes that such action is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.[9]

The Participants have represented to the Commission that members of various exchanges have raised concerns regarding their obligations to fill Satisfaction Orders (which result after a trade-through [10]) at the close of trading in the underlying security. Specifically, these members are concerned that they may not have sufficient time to hedge the positions they acquire.[11] The Participants believe their proposal to limit liability for trade-throughs for the last five minutes of trading in the underlying security to the filling of 10 contracts per exchange, per transaction will protect small customer orders, yet establish a reasonable limit for their members' liability. The Participants represent that this proposal should not affect a member's potential liability under an exchange's disciplinary rule for engaging in a pattern or practice of trading through other markets under section 8(c)(i)(C) of the Linkage Plan.

The Pilot Amendment clarifies that the limitation on liability would apply to each Satisfaction Order. As amended, the proposal is limited to a one-year pilot period. The Commission believes this one-year pilot period will give the Participants and the Commission an opportunity to evaluate: (1) The need for the limitation on liability for trade-throughs near the end of the trading day; (2) whether 10 contracts per Satisfaction Order is the appropriate limitation; and (3) whether the opportunity to limit liability for trade-throughs near the end of the trading day leads to an increase in trade-throughs. The Commission expects the Participants to provide a report to the Commission at least sixty days prior to seeking permanent approval of the pilot program. The report should include information about the number and size of trade-throughs that occur during the last seven minutes of the trading day and the number and size of trade-throughs that occur during the rest of the trading day, the number and size of Satisfaction Orders that the Participants might be required to fill without the limitation on liability and how those amounts are affected by the limitation on liability, and the extent to which the

CBOE, and ISE. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Phlx and PCX joined the Linkage Plan. *See* Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70850 (November 28, 2000) and 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000). On June 27, 2001, May 30, 2002, and January 29, 2003, respectively, the Commission approved amendments to the Linkage Plan. *See* Securities Exchange Act Release Nos. 44482 (June 27, 2001), 66 FR 35470 (July 5, 2001), 46001 (May 30, 2002), 67 FR 38687 (June 5, 2002), and 47274 (January 29, 2003).

[4] *See* Securities Act Release No. 47028 (December 18, 2002), 67 FR 79171.

[5] *See* letters from Michael Simon, Senior Vice President and General Counsel, ISE, to Jonathan Katz, Secretary, Commission, dated January 27, 2003; Charles Rogers, Executive Vice President, Phlx, to Jonathan Katz, Secretary, Commission, dated January 27, 2003; Jeffrey Burns, Assistant General Counsel, Amex, to Jonathan Katz, Secretary, Commission, dated January 28, 2003; Kathryn L. Beck, Senior Vice President, General Counsel and Corporate Secretary, PCX, to Jonathan Katz, Secretary, Commission, dated January 28, 2003; and Edward J. Joyce, President and Chief Operating Officer, CBOE, to Jonathan Katz, Secretary, dated January 29, 2003.

[6] In approving this proposed Linkage Plan amendment, the Commission has considered its impact on efficiency, competition, and capital formation.

[7] 15 U.S.C. 78k–1.

[8] 17 CFR 240.11Aa3–2.

[9] 17 CFR 240.11Aa3–2(c)(2).

[10] Trade-throughs occur when broker-dealers execute customer orders on one exchange at prices inferior to another exchange's disseminated quote.

[11] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Annette Nazareth, Director, Division of Market Regulation, Commission, dated November 19, 2002.

Participants use the underlying market to hedge their options positions.

The Commission finds that the proposal to reduce the amount of time a member must wait after sending a linkage order to a market before that member can trade through that market from thirty seconds to twenty seconds is appropriate because the Linkage Plan will retain the requirement that a Participant respond to a Linkage order within 15 seconds of receipt of that order.[12]

The Commission also finds that the proposal to establish a general prohibition against Linkage fees for executing Satisfaction Orders is appropriate. An exchange will receive a Satisfaction Order only when it has traded through customer orders on another exchange. The Commission agrees with the Participants that an exchange that traded through another market should not be allowed to impose a fee on the aggrieved party that exercises its rights under the Linkage Plan to complain about a trade-through.

V. Conclusion

It is therefore ordered, pursuant to section 11A of the Act,[13] and Rule 11Aa3–2(c)(4) thereunder,[14] that Joint Amendment No. 4, as modified by the Pilot Amendment, is approved until May 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–3101 Filed 2–6–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 68 FR 5058, January 31, 2003.

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, February 4, 2003.

CHANGE IN THE MEETING: Rescheduled Item.

The following item has been rescheduled to be considered at the Open Meeting of Thursday, February 6, 2003 at 10 a.m., in Room 1C30, the William O. Douglas Room: Regulation AC (Analyst Certification).

Commissioner Goldschmid, as duty officer, determined that no earlier notice thereof was possible.

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: February 4, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–3241 Filed 2–5–03; 12:41 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47297; File No. SR–Amex–2002–84]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by American Stock Exchange LLC, Relating to Rules Governing the Intermarket Linkage, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 Thereto

January 31, 2003.

I. Introduction

On October 15, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new rules governing the operation of the intermarket linkage (the ''Linkage''). On December 19, 2002, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The proposed rule change was published for comment in the **Federal Register** on December 27, 2002.[4] The Commission received no comments on the proposed rule change. On January 30, 2003, the Exchange filed Amendment No. 2 to the proposed rule change.[5] On January 31, 2003, the Exchange filed Amendment No. 3 to the proposed rule change, which replaces Amendment No. 2 in its entirety.[6] This order approves the proposed rule change, provides notice of filing of Amendment No. 3 and grants accelerated approval to Amendment No. 3.

II. Description of Proposal

In general, the proposed rules contain relevant definitions, establish the conditions pursuant to which market makers may enter Linkage orders, impose obligations on the Exchange regarding how it must process incoming Linkage orders, and establish a general standard that members should avoid trade-throughs.[7] The proposed rules establish potential regulatory liability for members who engage in a pattern or practice of trading through other exchanges, whether or not the exchanges traded through participate in the Linkage, provide procedures to unlock and uncross markets, and codify the ''80/20 Test'' contained in section 8(b)(iii) of the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (the ''Plan''),[8] which

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[12] The Participants have represented that they believe reducing the response time even further to five seconds would provide an opportunity for the transmittal of responses to orders, while also allowing their members to execute orders on their own exchanges in a timely manner.

[13] 15 U.S.C. 78k–1.

[14] 17 CFR 240.11Aa3–2(c)(4).

[15] 17 CFR 200.30–3(a)(29).

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

[2] 17 CFR 240.19b–4.

[3] *See* letter to Deborah Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission, from Jeffrey Burns, Assistant General Counsel, Amex, dated December 18, 2002 (''Amendment No. 1''). In Amendment No. 1, Amex clarified that it was not deleting its interim linkage rules at that time.

[4] *See* Securities Exchange Act Release No. 47066 (December 20, 2002), 67 FR 79180.

[5] *See* letter from Jeffrey Burns, Assistant General Counsel, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated January 28, 2003 (''Amendment No. 2''). Amendment No. 2 was replaced with a subsequent amendment. Telephone call between Jeffrey Burns, Assistant General Counsel, Amex, and Jennifer Lewis, Attorney, Division, Commission, on January 31, 2003.

[6] *See* letter from Jeffrey Burns, Assistant General Counsel, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated January 28, 2003 (''Amendment No. 3''). Amendment No. 3 replaces Amendment Nos. 1 and 2 in their entireties. In Amendment No. 3, the Exchange proposes to: (1) Delete its interim linkage rules; (2) reorder the proposed linkage rules as Amex Rules 940 through 944; (3) amend the definition of ''Linkage Order'' contained in proposed Amex Rule 940 to state that such orders are immediate or cancel orders; (4) amend the definition of ''Eligible Market Maker'' contained in proposed Amex Rule 940 to state that such market maker is participating in the Exchange's automatic execution system, if available; (5) amend proposed Amex Rule 941 to clarify the specialist's obligation to address a linkage order when such order is not eligible to be executed automatically pursuant to commentary .01(d) to Amex Rule 933; (6) amend proposed Amex Rule 942 to clarify language regarding liability for trade-throughs at the end of the trading day and to request approval of this provision only for a one-year pilot period; (7) amend proposed Amex Rule 942 to clarify that members may not engage in a pattern or practice of trading through; (8) clarify that its existing fees for specialists and market makers will apply to certain Linkage orders; and (9) to make other non-substantive grammatical revisions to the proposed rules.

[7] Trade-throughs occur when broker-dealers execute customer orders on one exchange at prices inferior to another exchange's disseminated quote.

[8] Approved by the Commission in Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000), as subsequently amended. *See* Securities Exchange Act Release Nos.