

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.<sup>16</sup> 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.<sup>17</sup>

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,<sup>18</sup> 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.<sup>19</sup> 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,<sup>20</sup> to approve the proposal on an accelerated basis.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>21</sup> 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.<sup>22</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-27593 Filed 10-31-03; 8:45 am]

**BILLING CODE 8010-01-P**

## 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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.<sup>3</sup>

The proposed rule change, as amended, was published for comment in the **Federal Register** on September 5, 2003.<sup>4</sup> 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.<sup>5</sup> 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

<sup>16</sup> See Amex Company Guide Section 107A.

<sup>17</sup> 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.

<sup>18</sup> 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).

<sup>19</sup> See note 14, *supra*.

<sup>20</sup> 15 U.S.C. 78f(b)(5) and 78s(b)(2).

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 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.

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

<sup>5</sup> 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.

the NYSE. In addition, the Revised NYSE Composite Index would be calculated using a float-adjusted market capitalization weighting method instead of a full-market capitalization weighting, as was used in the Old Index.<sup>6</sup> The float-adjusted market capitalization method is used to reflect only the number of shares that are actually available to investors.<sup>7</sup> The Revised NYSE Composite Index will be maintained and calculated by the Dow Jones. Maintenance includes monitoring and implementing the adjustments for company additions and deletions, share changes, stock splits, stock dividends, corporate restructurings, spin-offs and other corporate actions.

The CBOE has proposed to list and trade options based on one-tenth (1/10th) the value of the Revised NYSE Composite Index as well as LEAPS and reduced-value LEAPS on the Revised NYSE Composite Index. The Revised NYSE Composite Index, unlike the Old Index, is a broad-based index designed to reflect the actual number of shares available to investors, and will be treated as a broad-based index under CBOE Rules. All other material terms to the options on the Revised NYSE Composite Index remain the same as those of the Old Index. Accordingly, options on the index would continue to have a.m., European style settlement, the same position and exercise limits as the Old Index options and broad based index options margin.

### III. Discussion

The Commission has carefully reviewed the CBOE's proposed rule change and finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>8</sup> and with the requirements of section 6(b) of the Act.<sup>9</sup> In particular, the Commission finds that

<sup>6</sup> The CBOE states that all option series on the Old Index have expired and no new series in Old Index Options have been added or will be added.

<sup>7</sup> In calculating this number of shares, the float-adjusted market capitalization methodology will reduce each underlying issuer's market share in the Revised NYSE Composite Index by the market capitalization value represented by those shares held through 5% or more block ownership. The following types of ownership are considered block ownership: cross ownership (shares that are owned by other companies); government ownership (shares that are owned by governments or their agencies); private ownership (shares that are closely held by individuals, families or charitable trusts and foundations); and restricted shares (shares that are not allowed to be traded during a certain period of time).

<sup>8</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f.

the proposed rule change is consistent with section 6(b)(5)<sup>10</sup> of the Act which requires that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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. While the Exchange does not believe that these changes will result in any material differences in the manner in which options on the Reduced Value Index will trade, the Commission believes that certain issues need to be addressed, including the float-adjusted market capitalization method for the index.

The Commission believes that index options on the Revised NYSE Composite Index should be beneficial to members that want to track the New York Stock Exchange equity markets, and could provide a useful hedging vehicle for such investors.<sup>11</sup> Because the Revised NYSE Composite Index is intending to track the NYSE's equity markets as a whole, the index is appropriately treated as a broad-based index option under CBOE rules, and for regulatory purposes.

As noted above, the float-adjusted market capitalization eliminates certain holdings that are not freely available from the capitalization calculation. This is the first index option CBOE will be trading using this method of calculation for the underlying index. The Commission believes that this newly-developed method for calculating the index value could help to relieve the potential price distortions that could result from including in the index the entire capitalization of a company with limited free float. While this somewhat reduces the overall capitalization of the Revised NYSE Composite Index, the capitalization of this index will still remain extremely large.

The Commission also notes that while the Exchange's proposal to list and trade options at one-tenth (1/10th) of the value of the underlying index represents a departure from the calculation used in

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a product that served no hedging or other economic function because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of index options on the Revised NYSE Composite Index will provide investors with a hedging vehicle for all equity securities traded on the NYSE.

the Old Index, the Commission does not believe that this should raise concerns. The purpose behind this change is to reduce the extremely large contract size that would result from pairing the standard contract multiplier with such a high underlying index level.<sup>12</sup> Such a reduction will provide investors with product offerings that are consistent with those available for the Old Index. Because the reduction in contract size is intended to have the index value be reduced to levels similar to the contract size on the Old Index, the Commission has determined that it is appropriate to apply the same position and exercise limits applicable to the Old Index options to the new option contracts on the Revised NYSE Composite Index. Further, the 45,000-contract limit with a reduction to 25,000 contracts in the near-term months, is equivalent to the position and exercise limits applicable to other similar broad-based indices.

The Commission notes that margin requirements and other material terms of the options, such as a.m. settlement, will remain unchanged, and, as such, the trading of options on the Revised NYSE Composite Index does not raise any new issues in these areas. CBOE has stated that it will apply its existing surveillance procedures to monitor trading in options on the Revised NYSE Composite Index. The Commission believes that these procedures should be sufficient to detect as well as deter manipulation and other trading abuses.

Finally, the CBOE has agreed to send a circular to members discussing the Revised NYSE Composite Index and the index options that will be traded on CBOE on the Revised NYSE Composite Index. The circular will discuss the new float-adjusted market capitalization method. The Commission believes that this will be useful since the Old Index had a different calculation method and this is the first time that CBOE will be trading index options using a float-adjusted market capitalization method. The Revised NYSE Composite Index will also have a different symbol than the one used for the Old Index. These efforts should help to avoid investor confusion relating to options on the Old Index and the Revised NYSE Composite Index.

<sup>12</sup> The Old Index was calculated to a base of 500 and, after multiplying by the standard \$100 contract multiplier, the contract size was \$50,000. The Revised NYSE Composite Index is calculated to a base of 5,000, which, after multiplying by the standard \$100 contract multiplier, yields a contract size of \$500,000. To address this extremely large contract size, the CBOE has proposed to list and trade options based on 1/10th of the value of the Revised NYSE Composite Index. This translates to a contract size of \$50,000, which is the same as that of the Old Index.

In summary, the Commission notes that the Revised NYSE Composite Index is a broad-based index and that listing options on the Revised NYSE Composite Index will provide an opportunity for investors to hedge the market risk associated with the trading of equity securities on the NYSE.

**IV. Conclusion**

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change, as amended (SR-CBOE-2003-14) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-27536 Filed 10-31-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3555]**

**State of California**

As a result of the President's major disaster declaration on October 27, 2003, I find that Los Angeles, San Bernardino, San Diego and Ventura Counties in the State of California constitute a disaster area due to damages caused by wildfires occurring on October 21, 2003 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 26, 2003 and for economic injury until the close of business on July 27, 2004 at the address listed below or other locally announced locations:

U.S. Small Business Administration,  
Disaster Area 4 Office, P.O. Box  
13795, Sacramento, CA 95853-4795

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Imperial, Inyo, Kern, Orange, Riverside and Santa Barbara in the State of California; La Paz and Mohave Counties in the State of Arizona; and Clark County in the State of Nevada.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere .....	5.125
Homeowners without credit available elsewhere .....	2.562

<sup>13</sup> 15 U.S.C. 78s(b)(2).  
<sup>14</sup> 17 CFR 200.30-3(a)(12).

	Percent
Businesses with credit available elsewhere .....	6.199
Businesses and non-profit organizations without credit available elsewhere .....	3.100
Others (including non-profit organizations) with credit available elsewhere .....	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere .....	3.100

The number assigned to this disaster for physical damage is 355505. For economic injury the number is 9X4600 for California; 9X4700 for Arizona; and 9X4800 for Nevada.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 28, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-27548 Filed 10-31-03; 8:45 am]

**BILLING CODE 8025-01-P**

**DEPARTMENT OF STATE**

**[Public Notice 4523]**

**Advisory Committee on Labor Diplomacy; Notice of Meeting**

The Advisory Committee on Labor Diplomacy (ACLD) will hold a meeting beginning at 9 a.m. on November 17, 2003 in room 1406, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. Committee Chairman Thomas R. Donahue, former President of the AFL-CIO, will chair the meeting.

The ACLD is composed of prominent persons with expertise in the area of international labor policy and labor diplomacy. The ACLD advises the Secretary of State and the President on the resources and policies necessary to implement labor diplomacy programs efficiently, effectively and in a manner that ensures success in promoting the objectives and ideals of U.S. labor policies in the 21st century. The ACLD makes recommendations on how to strengthen the Department of State's ability to respond to the many challenges facing the United States and the federal government in international labor matters. These challenges include the protection of worker rights, the elimination of exploitative child labor, and the prevention of abusive working conditions.

The agenda for the November 17 meeting includes:

(1) Reading of the minutes of the last ACLD meeting;

(2) Review of the developments in Afghanistan, Iraq and the Middle East since the last ACLD meeting on May 2, 2003;

(3) Discussion of alternative proposals for labor diplomacy in Afghanistan, Iraq and the Middle East.

Members of the public are welcome to attend the meeting as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting must be pre-cleared by calling or faxing the following information, by close of business November 11, to Executive Director, ACLD, Jean Gardner at tel. (202) 647-3664, or fax (202) 647-0431, e-mail *Gardnerdj@state.gov*; name, company or organization affiliation (if any); date of birth; and social security number. Pre-cleared persons should use the C Street entrance to the State Department and have a driver's license with photo, a passport, a U.S. Government ID or other valid photo identification.

Members of the public may, if they wish, submit a brief statement to the Committee in writing. Those wishing further information should contact Ms. Gardner at the phone and fax numbers provided above.

Dated: October 27, 2003.

**Loren Craner,**

*Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State.*

[FR Doc. 03-27600 Filed 10-31-03; 8:45 am]

**BILLING CODE 4710-18-P**

**TENNESSEE VALLEY AUTHORITY**

**Sunshine Act; Notice of Meeting**

**AGENCY HOLDING THE MEETING:** Tennessee Valley Authority (Meeting No. 1548).

**TIME AND DATE:** 9 a.m. (EST), November 5, 2003, Fogelman Executive Conference Center Auditorium, Memphis, Tennessee.

**STATUS:** Open.

**Agenda**

Approval of minutes of meeting held on August 27, 2003.

**New Business**

*A—Budget and Financing*

A1. Approval of tax-equivalent payments for Fiscal Year 2003 and estimated payments for Fiscal Year 2004.

A2. Delegation of authority to the Chief Financial Officer; Executive Vice President, Customer Service and Marketing; Senior Vice President and Treasurer; and designees to enter into an arrangement for a \$1.5 billion