

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56351; File No. SR-Amex-2007-81]

### Self-Regulatory Organizations; American Stock Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 Thereto To Eliminate Position and Exercise Limits for Options on the Russell 2000 Index, and To Specify That Certain Reduced-Value Options on Broad-Based Security Indexes Have No Position and Exercise Limits Pursuant to Section

September 4, 2007.

19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 2, 2007, 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 and II below, which Items have been substantially prepared by the Exchange. On August 21, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. This order provides notice of the proposed rule change, as modified by Amendment No. 1, and approves the proposal on an accelerated basis.

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

The Exchange proposes to eliminate position and exercise limits for options on the Russell 2000 Index (“RUT”), and to specify that reduced-value options on broad-based security indexes for which full-value options have no position and exercise limits will similarly have no position and exercise limits. The text of the proposed rule change is available at Amex, the Commission’s Public Reference Room, and <http://www.amex.com>.

#### 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 Exchange 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 III below. The Exchange 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

The Exchange proposes to amend Amex Rule 904C to eliminate position and exercise limits for options on RUT, a broad-based securities index that is multiply-listed and heavily traded.<sup>3</sup> The Exchange further proposes to amend Rule 904C to specify that reduced-value options on broad-based security indexes for which full-value options have no position and exercise limits will similarly have no position and exercise limits. Currently, options on the Full Size Nasdaq-100 Index (“NDX”) have no position and exercise limits. In this regard, the Exchange also proposes to eliminate position and exercise limits for options on the Mini Nasdaq-100 Index (“MNX”).

##### Eliminate Position and Exercise Limits for RUT Options

The Exchange believes that the circumstances and considerations relied upon in approving the elimination of position and exercise limits for other heavily traded broad-based index options (e.g., options on NDX, the Major Market Index (“XMI”), and the Institutional Index (“XII”)) equally apply to the current proposal relating to position and exercise limits for RUT options.<sup>4</sup>

In approving the elimination of position and exercise limits for NDX, XMI, and XII options, the Commission considered the capitalization of the 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. The Commission also noted the active trading volume for options on those indexes. Amex believes that RUT shares these factors in common with the NDX and XMI. As of July 31, 2007, the approximate market capitalization of the

NDX and XMI<sup>5</sup> were \$2.28 and \$2.82 trillion, respectively, the average daily trading volume (“ADTV”) for the components of the indexes were 572 million and 171 million shares, respectively, and the ADTV for options on the indexes were 64,003 contracts per day, and 1,338 contracts per day, respectively. Amex believes that RUT has very comparable characteristics. The market capitalization for RUT is \$1.73 trillion dollars, the ADTV for the underlying securities is 535 million shares, and the ADTV for RUT options is 79,000 contracts.

In approving the elimination of position and exercise limits for NDX, XMI, and XII, the Commission also noted 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 options on the indexes. These financial requirements also apply to RUT options. Under Amex rules, the Exchange also 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 Act<sup>6</sup> to the extent of any resulting margin deficiency.<sup>7</sup>

In approving the elimination of position and exercise limits for NDX, XMI, and XII the Commission relied heavily 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 in options on those indexes. The Exchange represents that it monitors the trading in RUT options in the same manner as trading in NDX and XMI options and that the current Amex surveillance procedures are adequate to continue monitoring RUT options. In addition, the Exchange intends to impose a reporting requirement on Amex members or member organizations (other than Amex specialists and registered options traders) who trade RUT options. This reporting requirement, which is currently imposed on members who trade NDX and XMI options, will require members or member organizations who maintain in excess of 100,000 RUT option

<sup>3</sup> The current position and exercise limits for RUT options are 50,000 contracts, with no more than 30,000 of such contracts in a series in the nearest expiration month. See Securities Exchange Act Release No. 53191 (January 30, 2006), 71 FR 6111 (February 6, 2006) (SR-Amex-2005-061).

<sup>4</sup> See Securities Exchange Act Release No. 52649 (October 21, 2005), 70 FR 62146 (October 28, 2005) (SR-Amex-2005-063) (“NDX Approval Order”); see also Securities Exchange Act Release No. 46393 (August 21, 2002), 67 FR 55289 (August 28, 2002) (SR-Amex-2002-31) (“XMI/XII Permanent Approval Order”).

<sup>5</sup> Options on XII are no longer listed and traded on the Exchange.

<sup>6</sup> 17 CFR 240.15c3-1.

<sup>7</sup> See Commentary .03 to Amex Rule 904C.

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

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

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 may also specify other reporting requirements, as well as the limit at which the reporting requirement may be triggered.

The Exchange proposes to delete the reference to XII options in Rule 904C(b), Commentary .03 to Rule 904C, Rule 906C(b), and Rule 906G, as XII options are no longer listed and traded on the Exchange.

For consistency, the Exchange also proposes to amend Rule 906G(a)(i), (iv), and (v) relating to the trading of FLEX broad-based index options to reflect that there shall be no position or exercise limits on RUT options and to adopt the 100,000 contract reporting requirement for FLEX RUT options. All other FLEX rules applicable to NDX and XMI options shall also apply, where applicable, to RUT options.

The Exchange believes that eliminating position and exercise limits for RUT options and FLEX RUT options is consistent with Amex rules relating to similar broad-based indexes and also allows Amex members and their customers greater hedging and investment opportunities.

#### Elimination of Position Limits for Reduced-Value Options on Broad-Based-Indexes for Which There Are Not Position and Exercise Limits for Full-Value Options

The Exchange lists and trades reduced-value options on broad-based indexes for which the Exchange also lists and trades full-value options (e.g., MNX options). When the exchange received approval to list and trade MNX options, the proscribed position and exercise limits were equivalent to the reduced-value contract factor (e.g., 10) multiplied by the applicable position and exercise limits for the full-value options on the same broad-based index.<sup>8</sup> For example, when the Exchange received approval to list and trade NDX and MNX options,<sup>9</sup> the position and exercise limits for MNX (1/10th NDX value) options were 750,000 contracts, which was equal to the applicable factor (10) multiplied by the position limit for NDX options (75,000 contracts). In the NDX Approval Order, the Exchange

noted that NDX contracts would be aggregated with MNX contracts to determine compliance with applicable position and exercise limits. Since position and exercise limits were eliminated for NDX options,<sup>10</sup> the Exchange now proposes to eliminate position and exercise limits for MNX options. The Exchange further proposes to amend Rule 904C(b) to state that reduced-value options on broad-based security indexes for which full-value options have no position and exercise limits, would similarly have no position and exercise limits.

In addition, because position and exercise limits for reduced-value options are aggregated with full-value options for purposes of determining compliance with position and exercise limits, the Exchange proposes to amend Rule 906C to reflect that such aggregation would apply when calculating reporting requirements (e.g., 10 MNX options equal 1 NDX full-value contract).

#### 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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 were solicited or received with respect to the proposed rule change.

#### III. 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](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2007-81 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2007-81. This file number should be included on the 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 Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-2007-81 and should be submitted on or before October 2, 2007.

#### IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.<sup>13</sup> In

<sup>8</sup> See Securities Exchange Act Release No. 51884 (June 20, 2005), 70 FR 36973 (June 27, 2005) (SR-Amex-2005-038).

<sup>9</sup> See NDX Approval Order, *supra* note 4.

<sup>10</sup> *Id.*

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

particular, the Commission believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, which requires that the rules of a national securities exchange 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 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.<sup>14</sup>

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position.

The Commission notes that it continues to believe that the fundamental purposes of position and exercise limits remain valid. Nevertheless, the Commission believes that experience with the trading of index options as well as enhanced reporting requirements and the Exchange's surveillance capabilities have made it possible to approve the elimination of position and exercise limits on certain broad-based index options. Thus, in 2002, the Commission approved an Amex proposal to eliminate permanently position and exercise limits for options on XMI and XII,<sup>15</sup> and, in 2005, the Commission approved an Amex proposal to eliminate permanently the position and exercise limits for options on NDX.<sup>16</sup> The Commission believes that the considerations upon which it relied in approving the elimination of position and exercise limits for XMI, XII, and NDX options equally apply with respect to options on RUT.

As noted by Amex, the market capitalization of the RUT as of July 31, 2007, was \$1.73 trillion. The ADTV for all underlying components of the index was 535 million shares. The Commission believes that the enormous market capitalization of RUT and the deep, liquid market for the underlying component securities significantly reduce concerns regarding market manipulation or disruption in the

underlying market. Removing position and exercise limits for RUT options may also bring additional depth and liquidity, in terms of both volume and open interest, to RUT options without significantly increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.

In addition, the Commission believes that financial requirements imposed by both the Exchange and the Commission adequately address concerns that an Amex member or its customer may try to maintain an inordinately large unhedged position in RUT options. Current risk-based haircut and margin methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer.<sup>17</sup> Under the proposal, Amex also would have the authority under its rules to impose a higher margin requirement upon an account maintaining an under-hedged position when it determines a higher requirement is warranted. As noted in the Amex rules, the clearing firm carrying the account would be subject to capital charges under Rule 15c3-1 under the Act to the extent of any margin deficiency resulting from the higher margin requirement.

In approving the elimination of position and exercise limits for options on XMI, XII, and NDX, the Commission took note of the enhanced surveillance and reporting safeguards that Amex had adopted to allow it to detect and deter trading abuses that might arise as a result.<sup>18</sup> Amex represents that it monitors trading in RUT options in much the same manner as trading in XMI and NDX options. These safeguards, including the 100,000-contract reporting requirement described above, would allow Amex to monitor large positions in order to identify instances of potential risk and to assess and respond to any market concerns at an early stage. In this regard, the Commission expects Amex to take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop. Moreover, as previously noted, the Exchange has the flexibility to specify other reporting requirements,

as well as to vary the limit at which the reporting requirements may be triggered.

The Commission further notes that in eliminating position and exercise limits for FLEX RUT options, Amex is adopting the same additional rules for these options that currently exist for FLEX XMI and NDX options.

In addition, the Commission notes that the Exchange's existing rules applicable to position and exercise limits for full-value broad-based index options are used to calculate the position and exercise limits for reduced-value options. The Exchange proposes to amend its rules for those specified broad-based index options that do not have position and exercise limits to specifically state that there will not be position and exercise limits on the reduced-value options on those same broad-based index options. The Exchange also proposes to amend its rules to state that reduced-value options will be aggregated with full-value options when calculating reporting requirements.

The Commission finds good cause, consistent with Section 19(b)(2) of the Act, to grant accelerated approval of the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that it recently approved a substantially similar proposal filed by the Chicago Board Options Exchange, Incorporated ("CBOE").<sup>19</sup> The Commission received no comments regarding the CBOE proposal.<sup>20</sup> The Commission believes that Amex's proposal to eliminate position and exercise limits for RUT options raises no new regulatory issues. Moreover, accelerating approval of the proposed rule change will allow Amex members and their customers greater hedging and investment opportunities in RUT options without further delay.

## 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-2007-81), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>22</sup>

<sup>19</sup> See Securities Exchange Act Release No. 56350 (September 4, 2007) (SR-CBOE-2007-79).

<sup>20</sup> See Securities Exchange Act Release No. 56191 (August 2, 2007), 72 FR 44894 (August 9, 2007) (SR-CBOE-2007-79).

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

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

<sup>17</sup> See Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999) (SR-Amex-98-38) ("XMI/XII Pilot Approval Order").

<sup>18</sup> See *id.* and NDX Approval Order, *supra* note 4.

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See XMI/XII Permanent Approval Order, *supra* note 4.

<sup>16</sup> See NDX Approval Order, *supra* note 4.

Florence E. Harmon,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56350; File No. SR-CBOE-2007-79]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto To Eliminate Position and Exercise Limits for Options on the Russell 2000 Index, and To Specify That Certain Reduced-Value Options on Broad-Based Security Indexes Have No Position and Exercise Limits

September 4, 2007.

#### I. Introduction

On July 17, 2007, 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 eliminate position and exercise limits for options on the Russell 2000 Index ("RUT") and to specify that reduced-value options on broad-based security indexes for which full-value options have no position and exercise limits similarly have no position and exercise limits. On August 2, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the *Federal Register* on August 9, 2007 for a 15-day comment period.<sup>3</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### II. Description of the Proposal

CBOE proposes to amend Rules 24.4 and 24.5 to eliminate position and exercise limits for options on RUT, a broad-based security index. In connection with this change, RUT options would be subject to specific reporting requirements and additional margin provisions imposed by CBOE with respect to options on the Standard & Poor's 500 Index ("SPX"), the

Standard & Poor's 100 Index ("OEX"), the Dow Jones Industrial Average ("DJX"), and the Nasdaq-100 Index ("NDX"), other broad-based index options that, under the Exchange's current rules, are not subject to position and exercise limits.

The Exchange notes that in approving the elimination of position and exercise limits for SPX, OEX, DJX, and NDX options, the Commission considered the enormous capitalization of each of these indexes and the deep and liquid markets for the securities underlying each index that significantly reduced concerns of market manipulation or disruption in the underlying markets.<sup>4</sup> CBOE noted that the market capitalization of RUT, as of the date of filing of the proposed rule change, was \$1.73 trillion and the average daily trading volume ("ADTV"), in the aggregate, for the component securities of RUT, for the period as of three months prior to the date of filing of the proposed rule change, was 535 million shares. For the same period, the ADTV for options on RUT was 79,000 contracts.

The Exchange also states that in the SPX/OEX/DJX/NDX Approval Orders, 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 the index options. CBOE notes that these same financial requirements would apply equally to RUT options. The Exchange further notes that it has the authority to impose additional margin upon accounts maintaining underhedged positions and is 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 Act<sup>5</sup> to the extent of any resulting margin deficiency.<sup>6</sup>

CBOE indicates that the Commission, in the SPX/OEX/DJX/NDX Approval Orders, 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 SPX, OEX, DJX, and NDX options. The Exchange represents that it monitors the trading in RUT options in the same manner as trading in SPX, OEX, DJX, and NDX options and that the current CBOE surveillance procedures are adequate to continue monitoring RUT options. In addition, the Exchange intends to impose a reporting requirement on CBOE members or member organizations (other than CBOE market-makers) that trade RUT options. This reporting requirement, which is currently imposed on members who trade SPX, OEX, and NDX options, would require members or member organizations who maintain in excess of 100,000 RUT 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 Department of Market Regulation.<sup>7</sup> The Exchange also would be permitted to specify other reporting requirements, as well as the limit at which the reporting requirement may be triggered.<sup>8</sup>

In addition, CBOE proposes to amend Rule 24A.7 relating to the trading of FLEX broad-based index options to eliminate position and exercise limits on FLEX RUT options, and to adopt for FLEX RUT options the same 100,000 contract reporting requirement and the additional margin provisions that currently apply to FLEX SPX, OEX, and NDX options. The Exchange believes that eliminating position and exercise limits for RUT options and FLEX RUT options is consistent with CBOE rules relating to similar broad-based indexes and also would allow CBOE members and their customers greater hedging and investment opportunities.

The Exchange notes that it lists and trades several reduced-value options on broad-based indexes for which the Exchange also lists and trades full-value options (e.g., Mini-SPX Index ("XSP") options, Mini-Russell 2000 Index ("RMN") options, and Mini-Nasdaq-100 Index ("MNX") options). The Exchange states that when it received approval to list and trade reduced-value options on broad-based indexes, the proscribed position and exercise limits were equivalent to the reduced-value contract

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

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

<sup>3</sup> See Securities Exchange Act Release No. 56191 (August 2, 2007), 72 FR 44894.

<sup>4</sup> See Securities Exchange Act Release Nos. 44994 (October 26, 2001), 66 FR 55722 (November 2, 2001) (SR-CBOE-2001-22) ("SPX/OEX/DJX Permanent Approval Order"); and 52650 (October 21, 2005), 70 FR 62147 (October 28, 2005) (SR-CBOE-2005-41) ("NDX Approval Order") (collectively, "SPX/OEX/DJX/NDX Approval Orders"). See also Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 4911 (February 1, 1999) (SR-CBOE-98-23) ("SPX/OEX/DJX Pilot Approval Order").

<sup>5</sup> 17 CFR 240.15c3-1.

<sup>6</sup> See Interpretation and Policy .04 to CBOE Rule 24.4.

<sup>7</sup> See Interpretation and Policy .03 to CBOE Rule 24.4. The reporting requirement for DJX options is triggered at 1 million contracts.

<sup>8</sup> *Id.*