

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-50902; File No. SR-Amex-2004-103)

December 21, 2004

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise Amex Rule 903C to Permit the Listing of Long-Term Index Options Series With a Duration of Up to Sixty Months Until Expiration

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> notice is hereby given that on December 14, 2004, 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 prepared by the Amex. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission.<sup>5</sup> 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

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The Amex provided the Commission with written notice of its intent to file the proposed rule change on December 3, 2004. Amex asked the Commission to waive the 30-day operative delay. See Section 19(b)(3)(A) of the Act, and Rule 19b-4(f)(6)(iii) thereunder. 15 U.S.C. 78s(b)(1), 17 CFR 240.19b-4(f)(6)(iii).

Amex seeks to revise Amex Rule 903C to permit the listing of long-term index options series (“LEAPS”) with a duration of up to 60 months (five years) until expiration.

The text of the proposed rule change is available at the 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 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 purpose of the proposed rule change is to permit the Exchange to list index LEAPS with a duration of up to 60 months (five years) until expiration.<sup>6</sup> Presently, the Exchange has authority pursuant to Amex Rule 903C to list index LEAPS that expire up to 36 months from the time they are listed. The Exchange represents that there has been increasing member firm and customer interest in longer term instruments. The Exchange, therefore, is proposing to amend Amex Rule 903C to permit the listing of index options with up to 60 months until expiration.

Currently, institutional customers use index options to hedge the risks associated

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<sup>6</sup> The proposal would permit five-year LEAPS on both broad-based and narrow-based indexes on which LEAPS have been approved for trading on the Amex.

with holding diversified equity portfolios.<sup>7</sup> Allowing investors to lock in their hedges with longer-term index LEAPS will permit institutions to protect better their portfolios from adverse market moves.<sup>8</sup> The Amex believes that index LEAPS with up to five years until expiration will allow this protection at a known and limited cost.<sup>9</sup> The proposal will provide institutions with an additional securities product with which to hedge their portfolios as an alternative to hedging with futures positions or off-exchange customized index options.<sup>10</sup> The Amex notes that the Chicago Board Options Exchange, Inc. (“CBOE”) increased the possible duration of LEAPS to 60 months (five years) until expiration in 1995.<sup>11</sup>

## 2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6 of the Act<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>13</sup> in particular, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest, and promote just and equitable principles of trade.

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

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<sup>7</sup> See Securities Exchange Act Release No. 35617 (April 17, 1995), 60 FR 20132 (April 24, 1995) (order approving SR-CBOE-95-02).

<sup>8</sup> See Securities Exchange Act Release No. 24853 (August 27, 1987), 52 FR 33486 (September 3, 1987) (order approving SR-CBOE-87-24).

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> See CBOE Rule 24.9(b).

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

<sup>13</sup> 15 U.S.C. 78f(b)(5).

The proposed rule change will impose no 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 either solicited or received by the Exchange on this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Amex has asked that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>16</sup> The Commission believes such waiver is consistent with the protection of investors and the public interest, for it will allow the

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

Amex to compete without unnecessary delay with other market entities that offer LEAPS with a duration of up to 60 months until expiration. For these reasons, the Commission designates the proposal to be operative upon filing with the Commission.<sup>17</sup>

#### IV. 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-2004-103 on the subject line.

##### Paper comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2004-103. 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

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<sup>17</sup> For purposes only of waiving the 30-day pre-operative period, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. 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-2004-103 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).