suspension. The staff estimates that each such application to terminate or suspend unlisted trading privileges requires approximately one hour to complete. Thus each potential respondent would incur on average one burden hour in complying with the rule.

The Commission staff estimates that there could be as many as ten responses annually and that each respondent's related cost of compliance with Rule 12f–3 would be $53.55, or, the cost of one hour of professional work needed to complete the application. The total annual related reporting cost for all potential respondents, therefore, is $535.50 (10 responses × $53.55/response).

Compliance with the application requirements of Rule 12f–3 is mandatory, though the filing of such applications is undertaken voluntarily. Rule 12f–3 does not have a record retention requirement *per se.* However, responses made pursuant to Rule 12f–3 are subject to the recordkeeping requirements of Rules 17a–3 and 17a–4 of the Act. Information received in response to Rule 12f–3 shall not be kept confidential; the information collected is public information.

• Rule 24b–1 Documents To Be Kept Public By Exchanges

Rule 24b–1 requires a national securities exchange to keep and make available for public inspection a copy of its registration statement and exhibits filed with the Commission, along with any amendments thereto. Implementing the requirements of Section 24(a), the rule requires that upon Commission action granting an exchange's application for registration or exemption from registration as a national securities exchange, the exchange must make available for public inspection at its offices during reasonable business hours a copy of the registration statement and exhibits filed with the Commission (along with any amendments thereto). However, the rule exempts those portions of this information to which the exchange has filed with the Commission an objection to disclosure and when the Commission has not overruled the objection. While the rule does not specify a retention period, the exchanges generally maintain this information for five years.

There are nine national securities exchanges that spend approximately one half hour each complying with this rule, for an aggregate total compliance burden of four hours per year. The staff estimates that the average cost per respondent is $62.58 per year, calculated as the costs of copying ($13.41) plus storage ($49.17), resulting in a total cost of compliance for the respondents of $563.22.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (a) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (b) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to Office of Management and Budget within 30 days of this notice.

Dated: January 29, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–3317 Filed 2–10–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47312; File No. SR–Amex–2002–96]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC to Permit Limited Side-by-Side Trading and Integrated Market Making of Certain iShares Lehman Treasury Index Exchange-Traded Fund Shares and Their Related Options

February 5, 2003.

I. Introduction

On November 18, 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 (''Act''),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to permit limited side-by-side trading and integrated market making of certain iShares Lehman Treasury Index exchange-traded fund shares and their related options.[3] The Exchange filed Amendment No. 1 to the proposed rule change on December 3, 2002.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on December 27, 2002.[5] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as amended.

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change to permit limited side-by-side trading and integrated market making of iShares Lehman Treasury Index ETFs and their related options is consistent with Section 6(b)(5) of the Act.[7]

Previously, the Commission approved a similar proposed rule change by the Amex to allow side-by-side trading and integrated market making of ETFs and trust issued receipts (''TIRs'') and their related options, so long as the component securities of the ETF or TIR satisfy certain criteria.[8] The Exchange now proposes to permit side-by-side trading and integrated market making of broad based iShares Lehman Treasury Index ETFs (composed of highly liquid treasury securities) and their related options. The Commission believes that this proposal does not raise significant new regulatory issues. Specifically, ETFs and TIRs are securities that are based on groups of stocks and whose prices are based on the prices of their component securities. Accordingly, the Commission believes that a market participant's ability to manipulate the price of the ETF, TIR or related option is limited. In addition, the Treasury securities that compose the iShares Lehman Treasury Index ETFs have more than $150 million par outstanding and

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

[2] 17 CFR 240.19b–4.

[3] The exchange traded funds (''ETFs'') covered by this proposal are the iShares Lehman 1–3 Year Treasury Bond Fund (the ''1–3 Year Bond Fund''), the iShares Lehman 7–10 Year Treasury Bond Fund (the ''7–10 Year Bond Fund''), the iShares Lehman 20+ Year Treasury Bond Fund (the ''20+Year Bond Fund'') (collectively, the ''iShares Lehman Treasury Index ETFs'').

[4] *See* letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Kelly McCormick-Riley, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, dated November 27, 2002 (''Amendment No. 1'').

[5] *See* Securities Exchange Act Release No. 47071 (December 18, 2002), 67 FR 79174.

[6] 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).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* Securities Exchange Act Release No. 46213 (July 16, 2002), 67 FR 48232 (July 23, 2002). The criteria that the component securities of an ETF or TIR must meet are set forth in Commentary .03(a) to Amex Rule 1000 and Commentary .02(a) to Amex Rule 1000A.

are highly liquid, which should reduce the likelihood that any market participant has an unfair information advantage about the ETF, its related options, or its component securities, or that a market participant would be able to manipulate the prices of the ETF or related options. Moreover, to address concerns about any market participant having an unfair competitive advantage over others in the crowd, Exchange Rule 174 requires integrated specialists in a side-by-side trading environment to disclose trading interest on the limit order book in iShares Lehman Treasury Index ETFs and related options upon request.[9] Lastly, the Commission expects the Exchange to continuously surveil these trading arrangements regularly and to assess its surveillance procedures to determine whether they are adequate for the new trading arrangements to ensure that market participants do not engage in manipulative or improper trading practices.

II. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR-Amex-2002–96), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–3381 Filed 2–10–03; 8:45 am]

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[9] Telephone conversation between Jeffrey P. Burns, Assistant General Counsel, Amex, and Christopher Solgan, Attorney, Division, Commission, on February 4, 2003.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47318; File No. SR–CBOE–2002–49]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to RAES Access Rules for Broad-Based Index Options and Options on Exchange-Traded Funds on Broad-Based Indexes

February 5, 2003.

I. Introduction

On November 1, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or the ''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 relating to RAES eligibility requirements for market makers in broad-based index options and options on exchange traded funds on broad based indexes. The **Federal Register** published the proposed rule change for comment on December 27, 2002.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of Proposal

Currently, the eligibility of CBOE market-makers to participate in trades through the Retail Automatic Execution System (''RAES'') in option classes on broad-based indexes, including OEX and SPX, as well as option classes on exchange traded funds (''ETFs'')[4] on broad-based indexes (collectively, ''index-related options'') is governed under three different Exchange rules. CBOE Rule 8.16 governs RAES eligibility for all options classes other than DJX, OEX, and SPX. CBOE Rule 24.17 addresses RAES eligibility for market-makers in OEX and DJX. Finally, CBOE Rule 24.16, which is separate yet functionally identical to CBOE Rule 24.17,[5] governs RAES eligibility for market makers in the SPX.

The proposed rule change would broaden CBOE Rule 24.17 to apply to market-makers in all index-related options, and delete the current text of CBOE Rule 24.16, while reserving the rule number for possible future use. The proposal also would amend CBOE Rule 8.16 and clarify that RAES eligibility under CBOE Rule 8.16 would apply only to option classes *other than* broad-based indexes and options on ETFs on broad-based indexes.

In addition, CBOE proposes to add to CBOE Rule 24.17 one set of provisions already present in the current CBOE Rule 8.16 in order to increase and make more consistent the enforcement of market-maker obligations in index-related options. These provisions currently exist as CBOE Rule 8.16(a)(iii) and the related Interpretations and Policies .01–.02. CBOE proposes to add the provisions to CBOE Rule 24.17(b)(vii) and Interpretations and Policies .03–.04. These provisions would authorize the appropriate Market Performance Committee to establish and enforce maximum percentages of transaction and contract volume that market-makers can execute through RAES transactions.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] Specifically, the Commission believes that the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that consolidation of CBOE's RAES eligibility rules for index-related options under one rule should clarify and simplify the treatment of index-related options under CBOE rules and help to

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 47033 (December 19, 2002), 67 FR 79198.

[4] For purposes of this rule, trust issued receipts or holding company depositary receipts (as defined in Interpretation .04 to CBOE Rule 1.1), as well as index portfolio receipts (as defined in Interpretation .02 to CBOE Rule 1.1) and index portfolio shares (as defined in Interpretation .03 to CBOE Rule 1.1), are all included within the meaning of the term ''exchange-traded fund.''

[5] While a few subsections of CBOE Rule 24.16 are phrased somewhat differently than their counterparts in CBOE Rule 24.17, they are interpreted and applied by the CBOE as being equivalent. *Compare* CBOE Rules 24.16(a)(ii), (c)(i), and (d)(i) with CBOE Rules 24.17(b)(ii), (c)(i), and (d)(i) (enabling market-makers to ''designate'' that their RAES trades be placed into an individual, joint, or nominee account in which the market-maker participates); *also compare* CBOE Rule 24.16(a)(iii) with CBOE Rule 24.17(b)(ii)–(iv) (establishing requirements for personally logging onto RAES and remaining in the trading crowd while logged in.)

[6] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).