

capitalization.²³ Fifth, the Exchange has proposed reasonable position and exercise limits for the Index options that will serve to minimize potential manipulation and other market impact concerns. Although a position and exercise limit of 100,000 contracts is high by traditional standards, in dollar value it represents \$2,155,400,000 (based on the May 31, 2003 Index closing value of 215.54), which the Commission believes is small enough to render it unlikely that attempted manipulations of the prices of the Index components would affect significantly the Index's value.²⁴

b. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Index options, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risk of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options will be subject to the same regulatory regime as the other standardized options traded on the ISE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Index options.

c. Surveillance

The Commission generally believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.²⁵ In this regard, the

NYSE, Amex, and the NASD are all members of ISG.²⁶

d. Market Impact

The Commission believes that the listing and trading of S&P Small Cap 600 Index Options on the ISE will not adversely affect the underlying securities markets.²⁷ First, as described above, the Index is broad-based and comprised of 600 stocks with no one stock or industry group dominating the Index. Second, as noted above, the stocks contained in the Index have relatively large capitalizations and are relatively actively traded. Third, existing ISE stock index options rules and surveillance procedures will apply to S&P Small Cap 600 options. Fourth, the position limits of 100,000 contracts on either side of the market, with no more than 60,000 of such contracts in a series in the nearest month expiration month, will serve to minimize potential manipulation and market impact concerns. Fifth, the risk to investors of contra-party non-performance will be minimized because the Index options will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring S&P Small Cap 600 options based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing expiring index options for exercise settlement purposes based on opening prices rather than closing prices may help reduce adverse effects on the securities underlying options on the Index.²⁸

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,²⁹ for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission believes that, the trading of these options on the Exchange will introduce price competition to the benefit of public investors, by providing investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the options promptly. In

addition, the proposed rule change, as amended, reflects the listing and trading standards currently applied by the CBOE to enable their members to trade the S&P Small Cap 600.³⁰ Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) and 19(b)(2) of the Act,³¹ to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the act,³² that the proposed rule change (SR-ISE-2003-18), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³³

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3549]

State of Delaware (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective September 29, 2003, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on September 18, 2003 and continuing through September 29, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 19, 2003, and for economic injury the deadline is June 21, 2004.

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

Dated: October 2, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3545]

State of North Carolina (Amendment #2)

In accordance with a notice received from the Department of Homeland

²³ See Amendment No. 1, *supra* note 3.

²⁴ The Commission would not be inclined to approve such a high position limit if the position limit dollar equivalent amount were substantially higher than as currently proposed.

²⁵ See Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992) (SR-CBOE-91-51).

²⁶ See *supra* note 10.

²⁷ The ISE has stated that it has the necessary systems capacity to support new series that would result from the introduction of the S&P Small Cap 600 options. In addition, the OPRA has represented that additional traffic generated by options on the S&P Small Cap 600 Index is within OPRA's capacity. See *supra* note 11.

²⁸ See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (SR-CBOE-92-09).

²⁹ 15 U.S.C. 78s(b)(2).

³⁰ See *supra* note 4.

³¹ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

³² 15 U.S.C. 78s(b)(2).

³³ 17 CFR 200.30-3(a)(12).