

submitting petitions that request action with respect to specific products should list on the first page of the petition the following information: (1) The requested action; (2) the HTS subheading in which the product is classified; and, (3) if applicable, the relevant beneficiary developing country.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35651; File SR-Amex-95-05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing and Trading of Indexed Term Notes Linked to the Real Estate Index

April 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 16, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. On April 4, 1995, the Exchange filed Amendment No. 1 to the proposal.¹ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to approve for listing and trading under Section 107A of the Amex Company Guide ("Guide") intermediate-term, indexed notes ("Notes") whose value will be linked in part to changes in the level of the Real Estate Index ("Index"), a new index designed to reflect general movements in the underlying market for commercial real estate. The Index is calculated by combining the performance of two

¹ In Amendment No. 1, the Exchange proposes to: (1) clarify the name of the Real Estate Index; (2) specify that the Real Estate Index will be initialized at a value of 100; and (3) amend the formula for calculating the value of the Real Estate Index. See Letter from Claire McGrath, Managing Director and Special Counsel, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated April 4, 1995.

separate equity indexes—one comprised entirely of large, actively traded Real Estate Investment Trusts ("REIT50 Index"), and the other being the Russell 2000 Index, a broad-based index comprised of small capitalization stocks ("Russell 2000"). The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and the 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 IV below. The Amex 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 the Statutory Basis for, the Proposed Rule Change

Under Section 107 (Other Securities) of the Guide, the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, and warrants. The Amex now proposes to list for trading under Section 107A of the Guide, intermediate-term, indexed notes, the value of which can be expected to fluctuate based on changes in the level of an index designed to reflect general movements in the underlying market for commercial real estate by combining the performance of two separate equity indexes—one comprised entirely of large, actively trade real estate investment trusts ("REITs"), *i.e.*, the REIT50 Index, and the other a broad-based index of small capitalization stocks, *i.e.*, the Russell 2000.

Background

According to the Exchange, by some estimates over half of the wealth in the United States and as much as one-fourth of total corporate value are in the form of real estate. In addition, the Exchange represents that studies of asset allocation demonstrate clear diversification benefits from allocating a portion of an investment portfolio to real estate as a separate asset class. Traditional investment in a diversified portfolio of commercial real estate, however, is not possible for most

investors, in the Exchange's opinion, because of high transaction costs, market illiquidity, and the extremely large investment required to purchase a pool of properties diversified across different property types and geographic regions.

The Exchange further represents that research has demonstrated that the performance associated with an index of REITs may be attributed partly to movements in the underlying real estate market and partly to the small capitalization nature of REIT securities. Therefore, by subtracting a portion of the returns associated with a broad-based small capitalization stock index from the returns generated by an index of REITs, the Exchange believes that an index can be generated that more closely reflects the performance of the underlying real estate market. The Exchange states that the proposed Notes are intended to use this method to provide an exchange-listed alternative for investors who wish to gain exposure to general movements in the real estate sector or whose portfolios are heavily weighted in real estate and wish to shed some of that exposure.

Note Structure

The proposed Notes will conform to the listing guidelines under Section 107A of the Guide which provide, in part, that such issues have: (1) a public distribution of at least one million trading units; (2) a minimum of 400 holders; and (3) a market value of not less than \$4 million.² The Notes will have a term of two to five years and may provide for periodic payments to holders. Upon maturity, holders will receive not less than 90% of the original issue price plus an amount in U.S. dollars equal to a participation rate (*i.e.*, a specified percentage) multiplied by the increase, if any, in the level of the Index at the time of the offering and the average of the closing Index level on the first ten days of the last twenty days preceding maturity ("Closing Index Level").³

The Notes may not be redeemed prior to maturity and holders of the Notes have no claim to the securities underlying the Index. Thus, holders will be able to liquidate their investment

² The proposal incorrectly indicates that Section 107A requires a market value of not less than \$20 million. Section 107A was recently amended to set the minimum market value to \$4 million. See Securities Exchange Act Release No. 34765 (September 30, 1994), 59 FR 51220 (October 7, 1994).

³ If the Closing Index Level is lower than the level of the Index at the time of the offering, holders will receive at least 90% of the original issue price. The minimum level that holders will receive at maturity will be set at the time of the offering of the Notes.

prior to maturity only by selling the Notes in the secondary market. The Exchange anticipates that the trading value of the Notes in the secondary market will depend in large part on the value of the securities comprising the Index and such other factors as the level of interest rates, the volatility of the value of the Index, the time remaining to maturity, dividend rates, and the credit of the issuer.

The Notes will be subject to the equity margin rules of the Exchange. The Exchange will also distribute a circular to its membership prior to trading the Notes providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the notes and highlighting the special risks and characteristics of the Notes.⁴

The Index

The Notes will be linked to the Real Estate Index, a new index designed to reflect general movements in the underlying market for commercial real estate. The Index is calculated as a

combination of the performance of two separate equity indexes: the REIT50 Index, which is a total return index comprised of 50 large, actively traded REITs;⁵ and the Russell 2000 Index, which is a well-established capitalization-weighted broad-based index designed to track the performance of the small capitalization segment of the stock market.⁶

The Exchange represents that the method for calculating the value of the Index was developed based upon research that has demonstrated that the performance associated with an index of REITs may be attributed partly to movements in the underlying real estate market, and partly to the small capitalization nature of REIT stocks. Therefore, by subtracting a portion of the returns associated with a broad-based small capitalization stock index (such as the Russell 2000) from the returns generated by an index of REITs, the Exchange believes that an index can be generated that more closely reflects the performance of the underlying real estate market. Based on historical research and for purposes of simplicity,

the Exchange has determined that the portion of small capitalization stock returns to be subtracted from the returns of the REIT50 Index will be set at a fixed level of 50% of the value of the Russell 2000.

The Index will initially be set at a level of 100 as of the market close on the day prior to the start of trading of the Notes. At any point in time, the Index value is calculated by multiplying the initial Index level (*i.e.*, 100) by a factor determined as follows: First, the percentage change in the REIT50 Index from the market close on the day prior to the start of trading of the Notes is determined. Next, the percentage change of the Russell 2000 from the market close on the day prior to the start of trading of the Notes is determined. One half of the calculated percent change in the Russell 2000 is then subtracted from the calculated percent change in the REIT50 Index. This differential is added to the number one to yield the factor by which the initial Index level is multiplied to determine the current Index level. The following formula summarizes this calculation:

$$I_t = 100 * \left(1 + \left[\frac{(RE50_t - RE50_{init})}{RE50_{init}} - 50\% * \frac{(R2000_t - R2000_{init})}{R2000_{init}} \right] \right)$$

Where:

RE50=REIT50 Index.

R2000=Russell 2000 Index.

Init=Indicates the level of the designated index as of the market close on the day prior to the start of trading of the Notes.

t=Indicates the current level of the designated index.

The Index will be calculated continuously based on the most recently reported values of the REIT50 Index and the Russell 2000 and disseminated every 15 seconds over the Consolidated Tape Association Network B.

Russell 2000 Index

The Russell 2000 is a well established benchmark index of the small-capitalization segment of the U.S. equity market. Options on the Russell 2000 trade at the Chicago Board Options Exchange and futures trade at the Chicago Mercantile Exchange. The Russell 2000 is capitalization-weighted, and values are disseminated every 15 seconds to market vendors through the Option Price Reporting Authority. The

value of the Russell 2000 does not reflect reinvestment of dividends paid on component stocks in the Index.

REIT50 Index

The REIT50 Index is a new capitalization-weighted index and, as discussed below, is a total return index. The Exchange represents that the REIT50 Index conforms with Exchange Rule 901C, which specifies criteria for inclusion of stocks in an index on which standardized options will be traded. The REIT50 Index is composed of the 50 largest publicly-traded equity REITs, as measured by market capitalization. The REIT50 Index will be maintained so that at each quarterly review, as discussed below, over the prior six-month period, the components of the Index will have had an average monthly trading volume of at least 400,000 shares with share prices greater than or equal to \$5 for the majority of business days during the preceding three calendar months.⁷ The REIT50 Index also does not and will not include health care REITs or REITs that invest

primarily in real estate mortgages or debt securities.⁸ The REIT50 Index also will exclude real estate operating companies and partnerships.⁹

The Exchange will review the component securities on a quarterly basis to ensure that the REIT50 Index continues to represent only the largest and most actively traded REITs. After the close of trading on the last business day of December, March, June, and September, all eligible REITs will be ranked by descending market capitalization, and the 50 largest, subject to the maintenance criteria discussed above, will comprise the REIT50 Index until the next quarterly review. Only REITs that have been trading for at least three calendar months will be considered for inclusion in the REIT50 Index. Resulting composition changes will be made after the close of trading on the third Friday of January, April, July, and October. The divisor of the REIT50 Index will be adjusted as necessary to ensure that there is no discontinuity in the value of

⁴ The Commission notes that the Amex will be required to submit a draft of the circular to the Commission staff for approval prior to distribution to members.

⁵ See Discussion of the REIT50 Index, *infra*.

⁶ See Discussion of the Russell 2000 Index, *infra*.

⁷ Telephone conversation between Claire McGrath, Managing Director and Special Counsel,

Amex, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on April 5, 1995.

⁸ *Id.*

⁹ *Id.*

the REIT50 Index as a result of these replacements.

The number of component stocks in the REIT50 Index will remain fixed between quarterly reviews. In the event that one or more component securities must be removed due to merger, takeover, bankruptcy, or other circumstances, the REIT next on the list from the most recent quarterly review, subject to the maintenance criteria discussed above, will be selected to replace that security in the REIT50 Index. In such case, the divisor will be adjusted as necessary to ensure that there is no discontinuity in the value of the REIT50 Index.

The REIT50 Index is a total return index in that the regular cash dividends of its component securities are included in calculating the value of the REIT50 Index. Therefore, at the close of trading each day, the prices of component securities that will trade "ex-dividend" the next day will be adjusted (downward) by the value of the dividend to reflect the price impact on the stock as it trades without (or "ex") the dividend on the following day. The divisor is then adjusted to ensure continuity of the Index value. The REIT50 Index value will be calculated and disseminated every 15 seconds over the Consolidated Tape Association's Network B under a separate ticker symbol so that the two component indexes that comprise the Index (*i.e.*, the REIT50 and the Russell 2000 Indexes) may be monitored separately, and the Index value calculated independently.

Because the Notes are linked to an index of equity securities, the Exchange's equity floor trading rules will apply to the trading of the Notes. In addition, members and member firms will have an obligation pursuant to Exchange Rule 411 to learn the essential facts relating to every customer prior to trading the Notes. The Exchange also will require, pursuant to Exchange Rule 411, that a member or member firm specifically approve a customer's account for trading the Notes prior to, or promptly after, the completion of the transaction.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) 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 Amex does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with 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, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-95-05 and should be submitted by May 25, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

¹⁰ 17 CFR 200.30-3(a)(12) (1994).

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35652; File No. SR-NASD-95-14]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to an Interim Extension of the OTC Bulletin Board® Service Through June 28, 1995

April 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 26, 1995 the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is simultaneously approving the proposal.

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

On June 1, 1990, the NASD, through a subsidiary corporation, initiated operation of the OTC Bulletin Board Service ("OTCBB Service" or "Service") in accord with the Commission's approval of File No. SR-NASD-88-19, as amended.¹ The OTCBB Service provides a real-time quotation medium that NASD member firms can elect to use to enter, update, and retrieve quotation information (including unpriced indications of interest) for securities traded over-the-counter that are not listed on The Nasdaq Stock MarketSM nor on a registered national securities exchange (collectively referred to as "OTC Equities").² Essentially, the Service supports NASD members' market making in OTC Equities through authorized Nasdaq Workstation® units. Real-time access to quotation information captured in the Service is available to subscribers of

¹ Securities Exchange Act Release No. 27975 (May 1, 1990), 55 FR 19124.

² With the Commission's approval of File No. SR-NASD-93-24, the universe of securities eligible for quotation in the OTCBB now includes certain equities listed on regional stock exchanges that do not qualify for dissemination of transaction reports via the facilities of the Consolidated Tape Association.