CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–0001, (202) 789–6840.

Dated: October 16, 1998.

Margaret P. Crenshaw,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40547; File No. SR–OPRA–98–1]

Options Price Reporting Authority; Notice of Filing of Amendment to OPRA Plan Adopting a New Rider to OPRA's Vendor Agreement To Permit Vendors To Utilize Electronic Contracts

October 13, 1998.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Exchange Act''),[1] notice is hereby given that on September 18, 1998, the Options Price Reporting Authority (''OPRA'')[2] submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''Plan''). The amendment adds a new Electronic Contract Rider (''Rider'') to OPRA's Vendor Agreement that would permit OPRA's vendors to utilize electronic contracts with certain categories of Internet or other on-line customers in satisfaction of the requirement of the Vendor Agreement for written agreements between vendors and their customers. The Commission is publishing this notice to solicit comments from interested persons on the proposed Plan amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to allow OPRA vendors who wish to offer Internet or other on-line access to options market information to Nonprofessional Subscribers or PC Dial-Up customers to make use of electronic contracts in satisfaction of the requirement of the Vendor Agreement that there be written agreements between OPRA's Vendors and those categories of customers. This amendment is proposed in response to requests from an increasing number of OPRA vendors (including some whose activities as vendors are in support of their primary function as electronic brokers) to be able to conduct all of their business with customers electronically, including contract administration.

The Rider imposes conditions on the use of these electronic contracts by vendors. As a threshold matter, a vendor is permitted to use these electronic contracts only if the vendor's other agreements with its customers may be entered into electronically. In addition, the vendor is required to submit for OPRA's approval an ''Attachment A'' that describes the procedures and systems the vendor intends to utilize in administering its electronic contracts. The Rider requires vendors to use the forms of electronic contracts (one for Nonprofessional Subscribers and one for Dial-Up Customers), except that vendors are permitted to use their own forms of electronic contracts for Dial-Up Customers, subject to the approval of OPRA. In this respect the Rider is comparable to the existing Vendor Agreement, which requires the use of a specified form of written Nonprofessional Subscriber Agreement and requires OPRA's approval of each form of Dial-Up Agreement.

The Rider imposes certain requirements on vendors concerning the manner in which they present electronic contracts to their customers and how customers indicate their assent to these contracts. These requirements are intended to assure that customers are given an opportunity to read the full text of each contract before they are asked to assent to it, and that procedures are in place to verify the identity of the customers who enter into agreements electronically and to confirm the terms of the electronic contracts to which they have agreed. Vendors are required to maintain detailed records of all electronic contracts entered into, and to make such records available for OPRA's inspection. Finally, each time a customer accesses the Options Information Service, the vendor must give the customer notice concerning the electronic contract and must make the text of that contract available for the customer's review. All of the above requirements are related to the dictates of current law or proposed legislation governing electronic contracts.

Vendors are also required to indemnify OPRA against loss in the event electronic contracts are held to be invalid or unenforceable by reason of their having been entered into or administered electronically. Because the law on electronic contracts is still developing, OPRA believes it is reasonable to ask those vendors who wish to use electronic contracts to assume any risk that such contracts may be found to be unenforceable or invalid.

The Rider also provides OPRA with the right to modify or terminate the electronic contracts in the event of changes in the law or industry practice concerning electronic contracts or if OPRA determines that the required electronic contracts are likely to be held unenforceable or invalid for any reason. In light of the continuing evolution of the law of electronic contracts, OPRA should be able to amend or withdraw permission to use electronic contracts if such contracts are likely to be held invalid or unenforceable or are otherwise found to be deficient.

II. Implementation of the Plan Amendment

The proposed amendment is reflected in a Rider to the Vendor Agreement that will be made available to vendors who wish to utilize electronic contracts, subject to the Commission's approval of this filing.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, and 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 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. Copies of the filing also will be available at the principal offices of OPRA. All submissions should refer to file number SR–OPRA–98–1 and should be submitted by November 10, 1998.

[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3–2 thereunder. See Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange (''AMEX''), the Chicago Board Options Exchange (''CBOE''); the New York Stock Exchange (''NYSE''); the Pacific Exchange (''PCX''); and the Philadelphia Stock Exchange (''Phlx'').

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40537; File No. SR–Amex–98–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Trading of Differential Index Options

October 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 5, 1998, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') 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 self-regulatory organization. The Exchange filed with the Commission amendments to the proposed rule change on April 21, 1998,[3] and September 3, 1998.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Amex proposes to trade Differential Index Options, a new type of standardized index option whose value at expiration is based on the relative performance of either a designated index versus a benchmark index, a designated stock versus a benchmark index or a designated stock versus a benchmark stock.

The text of the proposed rule change is available at the Office of the Secretary, 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 self-regulatory organization 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 self-regulatory organization 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 is proposing to trade a new type of standardized index option, the Differential Index Option, which will offer new investment and hedging opportunities. Differential Index Options will have a value at expiration based on an index, called the ''differential index,'' of the relative performance of a designated index versus a benchmark index over a specific time period (''Index Differential Option''); of a designated stock versus a benchmark index over a specific time period (''Equity Differential Option''); or of a designated stock versus a benchmark stock (''Paired Stock Differential Option'') over a specific time period. If the percent gain in the level of the designated index or stock during the period is greater than the percent gain in the underlying benchmark index or stock, then a Differential Put Option originally struck at the money will have a positive value at expiration and a Differential Put Option originally struck at the money will expire worthless. If the percentage gain in the level of the designated index or stock during the period is less than the percent gain in the underlying benchmark, then a Differential Put Option originally struck at the money will have a positive value at expiration and a Differential Call Option originally struck at the money will expire worthless. Thus, a Differential Index Option affords an investor the opportunity, through a single investment, to participate in the relative outperformance of a designated index or stock versus a benchmark index or stock (a Differential Call Option) or the relative underperformance of a designated index or stock versus a benchmark index or stock (a Differential Put Option) over the life of the option, regardless of the absolute performance of the designated index or stock.

For example, an investor may feel that pharmaceutical companies will outperform the broader market over the next several months, but is unsure whether the overall market will move higher or lower. If the investor were to buy an at-the-money standardized Pharmaceutical Index (''DRG'') call option and the Index declined, the option would expire worthless even if the Index declined by a much smaller percentage than the overall market. On the other hand, if the investor were to purchase an at-the-money Index Differential Call Option on the relative perforce of the Pharmaceutical Index versus the Standard & Poor's 500 Stock Index (''S&P 500''), a benchmark measure of large capitalization stock broad market performance, and DRG declined by a smaller percentage than the S&P 500, the Index Differential Call Option would have a positive value at expiration. Conversely, an investor who believes that DRG will underperform the S&P 500 may purchase at-the-money Index Differential Put Options, perhaps to hedge a portfolio of pharmaceutical stocks against such market underperformance. If DRG

[3] 17 CFR 200.30–3(a)(29).

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

[2] 17 CFR 240.19b–4.

[3] *See* Letter to Michael Walinskas, Division of Market Regulation, Commission, from Claire P. McGrath, Amex, dated April 20, 1998 (''Amendment No. 1''). Amendment No. 1 amends the portion of the proposal that refers to settlement values for Differential Index Options where the designated or benchmark security is traded through the Nasdaq system. Amendment No. 1 provides that the price of a Nasdaq security used in determining the settlement value of a Differential Index Option will be equal to the first reported regular-way sale that occurs after the best bid and best offer for that security are unlocked and uncrossed and is greater than or equal to the best bid and less than or equal to the best offer at the time of the reported sale. For designated and benchmark indices, the settlement value of the Differential Index Option will continue to be used on the settlement value for standardized options on the index. Amendment No. 1 also indicates the Exchange's intent to trade flexible exchange-traded options on Differential Index options.

[4] *See* Letter to Richard Strasser, Division of Market Regulation, Commission, from Claire P. McGrath, Amex, dated September 2, 1998 (''Amendment No. 2''). Amendment No. 2 provides information as to what the Exchange will do to make adjustments in value for differential index options contracts when certain corporate events take place in the case of Equity Differential and Paired Stock Differential options, or when significant action has been taken by the publisher of an index in the case of Index Differential options. Amendment No. 2 also clarifies that Differential Index options will open for trading at 10:00 a.m. Furthermore, Amendment No. 2 states that transactions may be effected until 4:15 p.m. for Index Differential options where both the designated and benchmark indexes are broad stock index groups, unless the Board of Governors has established different hours of trading for certain Differential Index options. Amendment No. 2 also provides that, in consultation with the Commission, the Exchange will establish the appropriate option position limit for a Differential Index option, where the Exchange chooses as either a designated or benchmark index, a broad-based index that has been approved by the Commission for index warrant trading only. The position limit for a differential option using a narrow-based index warrant will be established using Amex's narrow-based index option rules. Amendment No. 2 also clarifies that the restrictions of Amex Rule 909I(b) will apply to designated or benchmark stock in Equity Differential or Paired Stock Differential options. Lastly, Amendment No. 2 provides the proposed rule language allowing for flexible exchange-traded options to be traded on Differential Index options.