For the Nuclear Regulatory Commission. **Eric S. Beckjord**,

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[FR Doc. 95–639 Filed 1–10–95; 8:45 am] BILLING CODE 7590–01–M

# SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35194; File No. SR-NYSE-94-47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to an Extension of the Hedge Exemption Pilot Program

January 5, 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 December 9, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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

The NYSE proposes to amend NYSE Rule 704, "Position Limits," to extend until May 17, 1995, the Exchange's pilot program for position limit exemptions for certain hedged (1) equity option positions; and (2) broad-based index option positions.<sup>1</sup>

The text of the proposals are available at the Office of the Secretary, NYSE, 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

#### (a) Purpose

On March 14, 1990, the Commission approved, on a pilot basis, amendments to NYSE Rule 704 providing (1) an exemption from equity option position limits for certain equity option positions that are fully hedged and (2) an exemption from the broad-based index option position limits for certain hedged broad-based index option positions.<sup>2</sup>

On July 12, 1991, the Commission approved both (1) an expansion of the scope of the exemptions to include short positions in the underlying hedged portfolio and to allow the underlying hedged portfolio to include securities that are readily convertible into common stock, and (2) an extension of the termination date of the pilot program <sup>3</sup>

On September 14, 1993, the Commission approved both (1) an expansion of the equity option position limit hedge exemption to include "securities readily converted into or economically equivalent to that number of shares of such stock" as the basis for the exemption and (2) an extension of the termination date of the pilot program.<sup>4</sup>

On November 17, 1993, the Commission approved an extension of the termination date of the pilot program until November 17, 1994.<sup>5</sup> The Exchange now proposes to extend the pilot program for six months to May 17, 1995

Early in 1995, the Exchange plans to submit to the Commission a report on the pilot program covering the period ending December 31, 1994. In addition, for the duration of the pilot program, the NYSE will continue to monitor on a daily basis (1) the use of the exemptions to determine if the positions are being maintained in accordance with all

conditions and requirements and (2) the effects of the exemptions on the market.

# (b) Basis

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statements on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on the proposed rule change. The Exchange has nor received any unsolicited written comments from members or other interested parties.

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

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the pilot program until May 17, 1995, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)thereunder.<sup>6</sup> The Commission concludes, as it did when originally approving the pilot program, that providing for increased position and exercise limits for equity options and stock index options in circumstances where those excess positions are fully hedged with offsetting stock positions will provide greater depth and liquidity to the market and allow investors to hedge their stock portfolios more effectively, without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.

<sup>&</sup>lt;sup>1</sup> Position limits impose a ceiling on the aggregate number of options contracts on the same side of the market that can be held or written by an investor or group of investors acting in concert.

<sup>&</sup>lt;sup>2</sup> See Securities Exchange Act Release No. 27786 (March 8, 1990), 55 FR 9523 (March 14, 1990) (order approving File No. SR–NYSE–89–09).

<sup>&</sup>lt;sup>3</sup> See Securities Exchange Act Release No. 29436 (July 12, 1991), 56 FR 33317 (July 19, 1991) (order approving File No. SR–NYSE–91–19).

<sup>&</sup>lt;sup>4</sup> See Securities Exchange Act Release No. 32901 (September 14, 1993), 58 FR 49073 (September 21, 1993) (order approving File No. SR–NYSE–92–23).

<sup>&</sup>lt;sup>5</sup>See Securities Exchange Act Release No. 33212 (November 17, 1993), 58 FR 62173 (November 24, 1993) (order approving File Nos. SR-Amex-93-38, SR-CBOE-93-52, SR-NYSE-93-42, SR-PSE-93-30, and SR-PHLX-93-46).

<sup>6 15</sup> U.S.C. 78f(b)(5) (1982).