amounts.¹² If necessary, a divisor adjustment is made to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the annual adjustment.

Subject to the maintenance criteria discussed below, the number of shares of each component stock in the Index will remain fixed between annual reviews except in the event of certain types of corporate actions, such as the payment of a dividend (other than an ordinary cash dividend), stock distributions, stock splits, reverse stock splits, rights offerings, distributions, reorganizations, recapitalizations, or similar event with respect to an Index component stock. In a merger or consolidation of an issuer of a component security, if the security remains in the Index, the number of shares of that security will be adjusted, if necessary, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action.13 In the event of a stock replacement, the average dollar value of the remaining Index components will be calculated and that amount invested in the replacement stock, rounded to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B and to the Options Price Reporting Authority ("OPRA").

E. Maintenance of the Index

The Tech 35 Index will be calculated and maintained by the Amex in consultation with Morgan Stanley which may, from time to time, suggest changes in the technology industry categories represented in the Index or changes in the number of component stocks in an industry category to reflect the changing conditions in the technology sector. In addition to the annual rebalancings of the Index discussed above, the Amex will maintain the Index so that if at any time between annual rebalancing the top five component securities, by weight, account for more than one-third of the weight of the Index, the Index will be rebalanced after the close of trading on

the third Friday ("Expiration Friday") in the next month in the March cycle.¹⁴

The Amex will also review the Index securities on a quarterly basis and will replace component securities that fail to meet the following maintenance criteria: ¹⁵ (1) a minimum market capitalization of \$75 million; (2) average monthly trading volume in the component security of at least 500,000 shares during the preceding six month period; (3) a share price greater than \$5.00 for a majority of the trading days during the preceding three month period; 16 and (4) at least 90% of the Index components, by weight, must satisfy the Exchange's options eligibility requirements in Rule 915. In addition, the Exchange expects to maintain the Index with 35 components, however, in the event that the Exchange determines to increase the number of components in the Index to more than 46 or decrease the number of components to less than 24, the Exchange must obtain prior approval from the Commission pursuant to Section 19(b) of the Act.¹⁷

At the beginning of each calendar quarter, Morgan Stanley will provide the Amex with a current list of 45 replacement stocks from which to draw in the event that a component in the Index must be replaced due to merger, takeover, failure to satisfy the above maintenance criteria, or other similar event (each a "Replacement List"). The Amex will be required to hold each Replacement List for a three month 'seasoning period'' before that Replacement List can be used by the Amex for selecting replacement securities for the Index.18 The Amex will publicly distribute the Replacement Lists as soon as practicable following receipt from Morgan Stanley.¹⁹ In addition to the requirements discussed above for initial inclusion in the Index, a security must have a share price of at least \$7.50 at the time it is added to a Replacement List.²⁰ Moreover, a security selected from a Replacement List to be added to the Index must also have a share price of at least \$7.50, as

¹⁷ See Amendment No. 1, *supra* note 4. The Commission notes that in the event that the number of components in the Index is changed to any number other than 35, the Amex must contact the Commission to determine whether a rule filing pursuant to Section 19(b) of the Act will be required to change the name of the Index.

¹⁸ See Letter from Robin Roger, Vice President and Counsel, Morgan Stanley, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated September 18, 1995 ("Morgan Stanley Letter").

¹⁹ See Amendment No. 3, supra note 6. ²⁰ See Amendment No. 1, supra note 4. well as meet the other criteria for inclusion in the Index, at the time it is publicly announced as a replacement.²¹

The stocks on each Replacement List will be selected and ranked by Morgan Stanley based on a number of criteria, including conformity to Exchange Rules 915 and 916, which set forth the criteria for the initial and continued listing of standardized options on equity securities, trading liquidity, market capitalization, ability to borrow shares, and share price. The replacement stocks will be categorized by Morgan Stanley by industry within the technology sector and ranked within their category based on the aforementioned criteria. The replacement stock for a security being removed from the Index will be selected solely by the Amex from the most recent "seasoned" Replacement List based on industry category and liquidity.²²

In addition, Morgan Stanley will advise the Exchange regarding the handling of unusual corporate actions which may arise from time to time. Routine corporate actions (e.g., stock splits, routine spinoffs, etc.) which require straightforward index divisor adjustments will be handled by the Exchange's staff without consultation with Morgan Stanley. All stock replacements and unusual divisor adjustments caused by the occurrence of extraordinary events such as dissolution, merger, bankruptcy, nonroutine spin-offs, or extraordinary dividends will be made by Exchange staff in consultation with Morgan Stanley, although Amex ultimately will select the actual replacement stock from the Replacement List without Morgan Stanley's assistance. All stock replacements and the handling of nonroutine corporate actions will be announced at least ten business days in advance of such effective change, whenever practicable. As with all options currently trading on the Amex, the Exchange will make this information available to the public through the dissemination of information circulars.

F. Expiration and Settlement

The Index value for purposes of settling outstanding Index options and Index LEAPS contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of National Market securities traded through Nasdaq, the first reported sale

¹² In certain circumstances, the Index will be rebalanced prior to the end of a calendar year. *See infra* Section II.E. (Maintenance of the Index).

¹³ See Amendment No. 1, supra note 4.

¹⁴ See Amendment No. 1, supra note 4. ¹⁵ Id.

¹⁶ See Amendment No. 3. supra note 6.

²¹ *Id. See Also* Amendment No. 4, *supra* note 7. ²² The Amex will ensure that at the time of selection it will only select securities that continue to meet the eligibility requirements discussed above. *See* Amendment No. 4, *supra* note 7.