

amendment in the **Federal Register**. Amendment No. 2 clarifies the proposal to indicate who will be responsible for maintaining the index. In addition, Amendment No. 2 clarifies that David D. Jones will not divulge information relating to the maintenance of the Index before that information becomes public. Amendment No. 3 clarifies that the percentage of each component's market value represented in the Index is based on the percentage of a component's revenues derived from its activities in the death care sector of the economy. Finally, Amendment No. 4 clarifies that, to determine the percentage of a components' revenues that are derived from its activities in the death care industry, David D. Jones and the Exchange will look at the components' financial statements.

As a result, the Commission does not believe that Amendment Nos. 2, 3, or 4 raise any new regulatory issues. Further, the Commission notes that the original proposal was published for the full 21-day comment period and no comments were received by the Commission. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)<sup>30</sup> of the Act, to approve Amendment Nos. 2, 3, and 4 to the Exchange's proposal on an accelerated basis.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 2, 3, and 4, including whether they are consistent with the Act. 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 the 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 at the Commission's Public Reference Room. 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-97-33 and should be submitted by November 17, 1998.

<sup>30</sup> 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).

#### V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>31</sup> that the proposed rule change (SR-AMEX-97-33) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>32</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40566; File No. SR-CBOE-98-42]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Exchange Fees

October 19, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 23, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" 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 CBOE. 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 CBOE proposes to amend its fee schedule relating to the filing of annual financial statements by Exchange market-makers who are required to file annual financial statements pursuant to Rule 17a-5(d) under the Act.<sup>2</sup>

The text of the proposed rule change is available at the Office of the Secretary, CBOE 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 CBOE 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 CBOE 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 purpose of the proposed rule change is to change the fee schedule for CBOE market-makers who must file with the Exchange annual financial statements pursuant to Rule 17a-5(d) under the Act and CBOE Rule 15.5. In 1991, the Exchange established a \$25 filing fee for this "FOCUS" report.<sup>3</sup> The Exchange has discovered in the intervening years that a great deal of staff time must be devoted to reviewing and sometimes correcting the filings that are made with the Exchange. Consequently, to offset the cost of staff review of these filings, the Exchange has determined to raise the filing fee to \$100 for those CBOE market-makers who make their annual filing by hard copy. The Exchange has, however, recently provided members the opportunity to file their FOCUS reports electronically through the WinJammer system. Because the staff is able to review and process filings such quicker if they are submitted electronically, the Exchange is not proposing to change the fee for those market-makers who submit their annual financial statements electronically over the WinJammer system. The filing fee for electronic filers, therefore, will remain at \$25.

##### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>5</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

<sup>31</sup> 15 U.S.C. 78s(b)(2).

<sup>32</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.17a-5(d).

<sup>3</sup> Securities Exchange Act Release No. 29482 (July 24, 1991), 56 FR 36180 (July 31, 1991).

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

*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**

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and subparagraph (e)(2) of Rule 19b-4 thereunder.<sup>7</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.<sup>8</sup> 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 the 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-98-42 and should be submitted by November 17, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-40568; File No. SR-CSE-98-02]

**Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Relating to Regulatory Jurisdiction and Proceedings**

October 19, 1998.

**I. Introduction**

On July 7, 1998, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to update and clarify the Exchange's rules concerning disciplinary jurisdiction and practice. Amendment No. 1 was submitted to the Commission on July 30, 1998.<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on August 31, 1998.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposal, as amended.

**II. Description of the Proposal**

The CSE proposes to clarify and codify the Exchange's disciplinary jurisdiction by amending and renumbering the rules found in Chapter VIII of the Exchange Rules. According to the CSE, the proposed rule change is not intended to expand the Exchange's existing grant of regulatory jurisdiction, but rather to codify existing Exchange practices.<sup>5</sup>

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, the Exchange added Section 6(b)(6) of the Act as a statutory basis for the proposed rule change. The Exchange also set forth the procedure, under proposed CSE Rule 8.3, to be utilized upon the rejection of a letter of consent by the Business Conduct Committee. Finally, the Exchange clarified language in proposed CSE Rule 8.1(a). Letter from Adam Gurwitz, Vice President Legal, CSE, to Kelly McCormick, Attorney, Division of Market Regulation, Commission, dated July 30, 1998 ("Amendment No. 1").

<sup>4</sup> Exchange Act Release No. 40356 (August 24, 1998) 63 FR 46259 (August 31, 1998).

<sup>5</sup> The proposal renumbers a number of existing rules to accommodate for the addition of new rules. The rule numbers referenced in this order correlate to the rules as proposed.

**CSE Rule 8.1**

Subsection (a) of proposed CSE Rule 8.1 provides for the Exchange's general regulatory jurisdiction and authority and states that the Exchange's jurisdiction extends to any violation of the Act, as amended, the rules and regulations promulgated thereunder, any provision of the Exchange's Articles of Incorporation, By-Laws or rules, any interpretation thereof, of any resolution or order of the Board of Trustees or appropriate Exchange committee (hereinafter collectively referred to as the "Rules"). In addition, proposed CSE Rule 8.1(a) states that any violation of the Rules, after notice and an opportunity for a hearing, be addressed by expulsion, suspension, limitation of activities, functions and operations, fine, censure, suspension or bar from association with a member or any other fitting sanction.

Proposed CSE Rule 8.1(a) also clarifies that individual Exchange members as well as responsible parties or persons associated with a member organization may be charged with violations of the Rules committed by employees or member organizations. Similarly, member organizations may be charged with violations committed by individuals. This provision is designed to ensure adequate supervision by members of their employees. The Exchange also explained that discipline for the failure to supervise is common in the industry and the proposed rule change merely clarifies the Exchange's existing authority.

Proposed CSE Rule 8.1(b) provides that members and associated persons remain subject to the Exchange's disciplinary jurisdiction upon termination of membership or association for violations that occurred prior to such termination. The Exchange notes that this proposed subsection expresses long-standing industry practice and prevents members and associated persons from avoiding disciplinary actions simply by terminating their membership or association with a member.

Finally, CSE Rule 8.1(c) clarifies that summary suspensions or other actions taken pursuant to Chapter VII of the Exchange Rules are not considered disciplinary actions. Accordingly, the provisions of Chapter VIII are not applicable to such Chapter VII actions.

**CSE Rule 8.2**

Proposed CSE Rule 8.2, addressing complaints and investigations, adds new subsections (c) through (f). Subsection (c) sets forth that a member or person associated with a member has

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(e)(2).

<sup>8</sup> In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 17 CFR 200.30-3(a)(12).