

Act⁵ in general and furthers the objectives of Section 6(b)(5)⁶ in particular in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. The CBOE expects other self-regulatory organizations to make similar amendments to their rules.

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.

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, including whether the proposed rule is consistent with the Act. Persons making written submissions should file 6 copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 in the Commission's Public Reference Room. Copies of such filing will also be

available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-27 and should be submitted by December 29, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Johathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42187; File No. SR-CBOE-99-58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Adopt a Stated Policy that Clarifies the Maintenance Rules Governing the Replacement of Component Stocks in the Dow Jones High Yield Select Ten Index

November 30, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 28, 1999, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 Exchange. 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 Exchange seeks to adopt a stated policy that clarifies the maintenance rules governing the replacement of component stocks in the Dow Jones High Yield Select Ten Index ("Index"). The Exchange currently lists and trades option on the Index.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 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 Exchange 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

In December 1997, the Commission approved a CBOE proposal to list and trade options on the Index ("Index Options Filing").³ The Index is comprised of the ten highest yielding stocks in the Dow Jones Industrial Average ("DJIA"), as determined at the end of each calendar year.

As part of the Index Options Filing, the Exchange represented that if it became necessary to remove a component from the Index the component would be replaced by the highest yielding DJIA component stock not already included in the Index. In making this representation, the Exchange intended to specify the action it would take if the shares of an Index component company became unavailable for trading due to a corporate action (e.g., takeover or merger) or bankruptcy. However, the Exchange did not address situations where a company is removed from the DJIA for discretionary reasons, but its outstanding shares nevertheless remain available for trading.

The recent changes to the DJIA components, which resulted in the removal of four Index components from the DJIA, highlighted an ambiguity in CBOE's existing rules that govern the replacement of component stocks in the Index. Specifically, if an Index component is removed from the DJIA during the calendar year for discretionary reasons, must that Index component be immediately replaced, or may the component remain in the Index until the Index is reconstituted at the end of the calendar year? The Exchange believes that this proposed rule change will help clarify the maintenance

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

³ See Securities Exchange Act Release No. 39453 (Dec. 16, 1997), 62 FR 67101 (Dec. 23, 1997).

standards governing the composition of the Index, and is necessary because the Index Options Filing did not explain what action the Exchange might take in the event that discretionary changes were made to the DJIA.

The "Dogs of the Dow" investment strategy, upon which the Index is based, generally requires that the portfolio of ten stocks selected from DJIA at the beginning of a calendar year be held for the entire year, even if certain of those ten stocks are removed from the DJIA before the end of the year. The Exchange represented that mutual funds employing the Dogs of the Dow investment strategy indicated that they will leave their ten stock portfolios unchanged through the end of 1999. Moreover, market participants have informed the Exchange that they expect the composition of the Index to remain unchanged despite the recent DJIA component changes.

In the Index Options Filing, the Exchange stated that the Index would be reconstituted annually using the ten highest yielding stocks in the DJIA, as determined at the end of each calendar year. From the time it first listed options on the Index, the Exchange did not intend to revise the Index before year end if discretionary changes were made to the DJIA components. Therefore, the Exchange seeks to adopt the stated policy specifying that Index components removed from the DJIA during the calendar year for discretionary reasons will not be replaced in the Index until the Index is reconstituted at year end.

The Exchange believes that it is in the best interest of investors for the Exchange to act consistently with the investment community at-large in applying the Dogs of the Dow investment strategy to determine the Index portfolio. Thus, the Exchange did not revise the composition of the Index when the DJIA component changes took effect on November 1, 1999. The four DJIA components that were replaced (Chevron, Goodyear Tire & Rubber, Sears Roebuck, and Union Carbide) will remain in the Index until the Index is reconstituted after the end of 1999.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act⁴ in that it promotes just and equitable principles of trade, and removes impediments to and perfects the mechanisms of a free and open market. The Exchange further believes that clarification of the maintenance standards governing the

Index will help provide for fair and orderly maintenance of the Index.⁵

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

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

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

Because the foregoing proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange, it has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(1) thereunder.⁷ 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submissions, 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 persons, 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

⁵ In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(1).

Section, Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-99-58 and should be submitted by December 29, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42189; File No. SR-CHX-99-12]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Stock Exchange, Inc. To Modify the Recommended Fine Schedule for the Submission of Late Financial and Operational Reports

December 1, 1999.

I. Introduction

On August 30, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend to recommended fine schedule for the submission of late financial and operational reports. The proposal was amended on October 5, 1999.³ Notice of the proposed rule change appeared in the **Federal Register** on October 25, 1999.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to change the fine schedule applicable for violations of Exchange Article XI, Rule 4, regarding the submission of late financial and operational reports. The failure to file required financial and operational reports in a timely manner subjects members to a sanction under

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Angelo Evangelo, Senior Attorney, Market Regulation, CHX, to John Roeser, Attorney, Division of Market Regulation, Commission, dated October 1, 1999 ("Amendment No. 1").

⁴ See Securities Exchange Act Release No. 42025 (October 18, 1999), 64 FR 25091.

⁴ 15 U.S.C. 78f(b)(4).