

pre-opening notifications because these would continue to be sent in accordance with the terms of the ITS Plan which is not being altered.

2. Basis

The Exchange believes that the proposal is consistent with Section 6(b)⁶ of the Act, in general, and Section 6(b)(5)⁷ of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customer, issuers, brokers or dealers.

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 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

Written comments on the proposed rule change were neither solicited nor received.

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 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, 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, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR-Amex-99-16 and should be submitted by March 20, 2000.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42439; File No. SR-CBOE-99-60]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Maintenance Standards for the Dow Jones High Yield Select Ten Index

February 18, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 9, 1999, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

FEBRUARY 18, 2000. I. SELF-REGULATORY ORGANIZATION'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The CBOE proposes to clarify certain procedures regarding the maintenance

of the Dow Jones High Yield Select 10 Index, a narrow-based index previously approved by the Commission³ as the underlying index for options contracts that are currently listed and trading on the Exchange.

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, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE currently lists and trades European-style, cash-settled options on the Dow Jones High Yield Select 10 Index ("Index"), and equal weighted index composed of the ten highest yielding stocks from the 30 stocks in the Dow Jones Industrial Average. The Index was designed to replicate a popular contrarian strategy that assumes that the ten highest yielding stocks in the DJIA are oversold and therefore, undervalued relative to the other stocks in the average. The Index is reconstituted annually and the stocks comprising the index are retained for a full year.

Normally, the Index represents a subset of the DJIA. However, Dow Jones can, at its discretion, change the components of the DJIA at any time, and in some cases remove stocks that also happen to be components of the Index. The strategy upon which the Index is based, and the convention followed by investors and money managers, calls for the portfolio to be held for a full year even if certain components are no longer part of the DJIA.

The maintenance procedures set forth in SR-CBOE-97-63 state that if it becomes necessary to remove a stock from the Index, it will be replaced by the stock in the DJIA which has the highest yield of the stocks not already in the Index. This passage was intended to describe the actions that CBOE would

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Release No. 34-39453 (December 16, 1997), 62 FR 67101 (December 23, 1997) (order approving SR-CBOE-97-63).

take if the shares of an Index component became unavailable for trading, either due to a corporate action such as a takeover or merger, or due to bankruptcy. However, no distinction was made between this type of component change and a discretionary component change in the Dow Jones Industrial Average, in which the shares of a company removed from the DJIA continue to trade.

CBOE, therefore, proposes to clarify its maintenance procedures under which component changes can be made to the Index. Specifically, if it becomes necessary to remove a stock from the Index in the event that its shares cease to trade and a proxy for those shares is not available, it will be replaced by the stock in the DJIA that has the highest yield of the stocks not already in the Index. If a stock is removed from the DJIA at the discretion of Dow Jones, but its shares continue to trade, that stock will remain in the Index until the time of the annual re-balancing.

2. Statutory Basis

The CBOE believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) ⁴ of the Act in that it is designed to remove impediments to a free and open market and to protect investors and the public interest.

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

The CBOE 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 Effective of the Proposed Rule Change and Timing for Commission Act

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 person 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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change between 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 provision 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-99-60 and should be submitted by March 20, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. ⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42443; File No. SR-CBOE-99-27]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Customer Communications

February 18, 2000.

I. Introduction

On June 18, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") ¹ and Rule 19b-4 ² thereunder, a proposed rule change. In its proposal, CBOE seeks to permit the use of non-standardized worksheets in

customer communications. Notice of the proposal was published in the **Federal Register** on December 8, 1999.³ The Commission received no comment letters on the filing and this order approves the proposal.

II. Description of the Proposal

CBOE proposes to amend Exchange Rule 9.21 ("*Communications to Customers*"), which governs communications between Exchange members and their customers and other members of the public, to eliminate the requirement that standard forms of options worksheets be uniform within a member organization (*i.e.*, for specific types of options and strategies). Following the recommendations of the Commission's Special Study of the Options Market,⁴ the options exchanges amended their rules to require uniform options worksheets. In 1991, the options exchanges further amended and clarified their rules by publishing the *Guidelines for Options Communications* ("*Guidelines*"),⁵ which explained the customer communications rules of the options exchanges and the interpretations of these rules. Among other things, the Guidelines helped clarify the options exchanges' rules about using options worksheets and stated, in part, that "[s]tandard forms of worksheets must be uniform within a particular member organization. * * *" CBOE now proposes to remove this requirement.

CBOE notes that the proposal will allow a member organization or its associated person to tailor worksheets to specific prospective or existing clients, to utilize worksheets that may be commercially available, or to use Exchange or other industry developed worksheets. Member organizations may still decide to require within their written supervisory procedures that options worksheets be standardized within their respective organizations. However, CBOE states that worksheets will continue to be subject to the content and approval requirements of material deemed sales literature, as required by existing Exchange Rule 9.21.

³ See Securities Exchange Act Release No. 42186 (November 30, 1999), 64 FR 68707.

⁴ See Report of the Special Study of the Options Market, Chapter V, page 130 (December 22, 1978); Securities Exchange Act Release No. 15575 (Feb. 22, 1979) (Order implementing certain recommendations contained in the Commission's Special Study of the Options Market).

⁵ See Securities Exchange Act Release No. 29682 (September 13, 1991), 56 FR 47973 (September 23, 1991) (File Nos. SR-Amex-90-38; SR-CBOE-90-27; SR-NASD-91-02; SR-NYSE-90-51; and SR-PSE-90-41).

¹ 17 CFR 200.30-3(a)(12).

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78f(b)(5).