

whether different minimum increments should be applied and the criteria by which the Participants would select securities to be traded in those various minimum increments. Thirty days after submitting their study and recommendation, and absent Commission action, the Participants individually must submit for notice, comment and Commission consideration proposed rule changes to implement their individual choice of minimum increments by which equities and options are quoted and traded on their respective markets.

*It is hereby ordered*, pursuant to Section 11A(a)(3)(B) of the Act,<sup>33</sup> that the Participants act jointly in discussing, developing and submitting to the Commission a Decimals Implementation Plan, as described above. The Participants are ordered to submit to the Commission a Decimals Implementation Plan for the equity and options markets no later than 45 days after the issuance of this Order. In addition, each Participant is ordered to submit for notice, comment and Commission consideration the rule changes necessary to implement the Decimals Implementation Plan no later than 60 days after the issuance of this Order.<sup>34</sup> The Participants are also directed to submit a study and recommendation, as described in this Order, 30 days after the phase-in period. In addition, absent Commission action, 30 days following the submission of the study, each Participant must submit rule changes implementing their individual choice of minimum pricing increments for their respective markets for notice, comment and Commission consideration.

This Order will be effective until such time as the implementation of decimal pricing is completed.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42348; File No. SR-CHX-99-26]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc., Relating to Listing of Trust Issued Receipts

January 18, 2000.

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> notice is hereby given that on December 2, 1999, the Chicago Stock Exchange, Inc. ("CHX" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade a trust issued receipt based on the stocks of selected biotechnology companies, Biotech HOLDERS, pursuant to unlisted trading privileges ("UTP"). The text of the proposed rule change is available at the Office of the Secretary, CHX 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 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 III 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

On October 22, 1999, the Commission approved a new CHX rule, Article

XXVIII,<sup>3</sup> Rule 27, which provides listing standards for trust issued receipts. At the same time, the Commission authorized the Exchange to list and trade Internet HOLDERS, a particular type of trust issued receipt.<sup>4</sup> As noted in that approval order, the Exchange must consult with the Commission prior to listing and trading other similarly structured products, including trust issued receipts based on other industries. The Exchange now proposes to list and trade a new type of trust issued receipt, Biotech HOLDERS, pursuant to unlisted trading privileges.

As noted in the CHX's earlier submission, trust issued receipts provide investors with a flexible, cost-effective way to purchase, hold and transfer the securities of one or more specified companies. Except for the individual securities that are deposited in the Biotech HOLDERS trust, this trust issued receipt is structurally identical to the Internet HOLDERS that the Commission has already approved for listing and trading on the Exchange.

###### i. Trust Issued Receipts Generally

*Description.* Trust issued receipts are negotiable receipts which are issued by a trust representing securities of issuers that have been deposited and are held on behalf of the holders of the trust issued receipts. Trust issued receipts allow investors to hold securities investments from a variety of companies in a single, exchange-traded instrument that represents their beneficial ownership of each of the deposited securities, evidenced by the receipts. Holders may cancel their trust issued receipts at any time to receive the deposited securities.

The initial offering price for a trust issued receipt will be established on the dates the receipts are priced for sale to the public. The amounts of deposited securities for each round lot of 100 trust issued receipts will be determined at the beginning of the marketing period and will be disclosed in the prospectus to investors.

<sup>3</sup> All references in this filing should be to Article XXVIII, not XXVII, pursuant to telephone conversation between Ellen J. Neely, Vice President and General Counsel, CHX, and Heather Traeger, Attorney, Division of Market Regulation, SEC, on December 21, 1999.

<sup>4</sup> Securities Exchange Act Release No. 42056 (October 22, 1999), 64 FR 58870 (November 1, 1999).

<sup>33</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>34</sup> Although Commission staff may be consulted in discussing the proposed Decimals Implementation Plan, staff presence at joint discussions is not required by this Order. In issuing this Order, the Commission does not address: (a) any joint or other conduct that occurred prior to the issuance of this Order, and (b) any joint or other conduct occurring after the date of this Order that is not ordered or requested by this Order.

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

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

Beneficial owners of the receipts have the same rights and privileges as they would have if they beneficially owned the deposited securities outside of the trust issued receipt program. For example, holders of the receipts have the right to instruct the trustee to vote the deposited securities evidenced by the receipts; will receive reports, proxies and other information distrusted by the issuers of the deposited securities to their security holders; and will receive dividends and other distributions if any are declared and paid by the issuers of the deposited securities to the trustee, net of any applicable taxes and fees.

*Creation of a Trust.* Trust issued receipts are issued by a trust created pursuant to a depository trust agreement. After the initial offering, the trust may issue additional receipts on a continuous basis when an investor deposits the requisite securities with the trust. An investor in trust issued receipts will be permitted to withdraw his or her deposited securities upon delivery to the trustee of one or more round-lots of 100 trust issued receipts and to deposit such securities to receive trust issued receipts.

#### ii. *Creation of Biotech HOLDERS<sup>5</sup>*

The Biotech HOLDERS trust was formed under a depository trust agreement, dated November 18, 1999, among the Bank of New York, as trustee, Merrill Lynch, Pierce, Fenner & Smith Incorporated, other depositors and the owners of the trust issued receipts. The Biotech HOLDERS trust will hold shares of common stock issued by 20 specified companies that are generally considered to be involved in various segments of the biotechnology industry. The specific share amounts for each round-lot of 100 Biotech HOLDERS were determined as of October 27, 1999, as that the initial weightings of each underlying security approximated the relative market capitalization of the specified companies, subject to a maximum weight of 20%.

The deposited securities underlying the Biotech HOLDERS are: Amgen, Inc. (AMGN), Genentech, Inc. (DNA), Biogen, Inc. (BGEN), Immunex Corporation (IMNX), PE Corp.—PE Biosystems Group (PEB), MedImmune, Inc. (MEDI), Chiron Corporation (CHIR), Genzyme Corporation (GENZ), Gilead Sciences, Inc. (GILD), Sepracor Inc. (SEPR), IDEC Pharmaceuticals

Corporation (IDPH), QLT Photo Therapeutics Inc. (QLTI), Millenium Pharmaceuticals, Inc. (MLNM), BioChem Pharma Inc. (BCHE), Affymetrix, Inc. (AFFX), Human Genome Sciences, Inc. (HGS), ICOS Corporation (ICOS), Enzon, Inc. (ENZ), Celera Genomics (CRA) and Alkermes, Inc. (ALKS).

The twenty companies represented by the securities in the portfolio underlying the Biotech HOLDERS trust were required to meet the following minimum criteria: (1) each company's common stock must be registered under Section 12 of the Exchange Act; (2) the minimum public float of each company included in the portfolio must be at least \$150 million; (3) each security must be either listed on a national securities exchange or traded through the facilities of Nasdaq and must be a reported national market system security; (4) the average daily trading volume for each stock must be at least 100,000 shares during the preceding 60-day trading period; (5) the average daily dollar value of the shares traded during the preceding 60-day trading period must be at least \$1 million; and (6) the initial weighting of each security in the portfolio must be based on market capitalization; however, any security that represents more than 20% of the receipt value on the date the weighting is determined, must be reduced to no more than 20% of the receipt value.

In addition, each of the companies whose common stock is included in Biotech HOLDERS also met the following criteria when they were selected on October 27, 1999: (1) the market capitalization for each company was equal to or greater than \$840 million; (2) the average daily trading volume for each security was at least 200,000 shares over the 60 trading days prior to and including October 27, 1999; (3) the average daily dollar value of the shares traded for each company during the sixty-day trading period prior to and including October 27, 1999 was at least \$7.5 million; and (4) each company was traded on a national securities exchange or Nasdaq/NM for at least ninety days prior to October 27, 1999.

#### iii. *Criteria for Initial and Continued Listing of Biotech HOLDERS*

*Initial Listing.* Under Article XXVIII, Rule 27, the Exchange must establish a minimum number of trust issued receipts that is required to be outstanding on the date trading begins on the Exchange. The Exchange anticipates that a minimum of 150,000 Biotech HOLDERS will be required to be outstanding when CHX trading begins. The Exchange understands that approximately 4.5 million Biotech

HOLDERS were outstanding on November 24, 1999, the date the receipts were first traded on the Amex.

*Continued Listing.* Under applicable listing standards, the Exchange will consider the suspension of trading in, or removal from listing of, Biotech HOLDERS when any of the following circumstances arise: (1) if the trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of the trust issued receipts for 30 or more consecutive trading days; (2) if the trust has fewer than 50,000 receipts issued and outstanding; (3) if the market value of the receipts issued and outstanding is less than \$1,000,000; or (4) if any other event occurs, or any other condition exist, which, in the opinion of the Exchange, makes further trading on the Exchange inadvisable. These flexible criteria allow the Exchange to avoid delisting trust issued receipts (leading to a possible termination of the trust) because of relatively brief fluctuations in market conditions that may cause the number of holders to vary.

The Exchange will not, however, be required to suspend or delist from trading, based on the above factors, any trust issued receipts for a period of one year after the initial listing of those trust issued receipts for trading on the Exchange.

If the number of companies represented by the deposited securities drops to less than nine, and each time thereafter the number of companies is reduced, the Exchange will consult with the Commission to confirm the appropriateness of continued listing of the trust issued receipts.

#### iv. *Exchange Rules and Procedures Applicable to the Trading of Biotech HOLDERS*

Trust issued receipts, including Biotech HOLDERS, are considered "securities" under the Rules of the Exchange and are subject to all applicable trading rules, including the provisions of Article XX, Rule 40 ("ITS 'Trade-Throughs' and 'Locked Markets'"), which prohibit CHX members from initiating trade-throughs for ITS securities, as well as rules governing priority, parity and precedence of orders, market volatility-related trading halt provisions and responsibilities of the assigned specialist firm.<sup>6</sup> Exchange equity margin rules will apply.

<sup>6</sup> There are two exceptions to this general principle. First, because trust issued receipts are traded only in round lots (or round-lot multiples), the Exchange's rules relating to odd-lot executions will not apply. Additionally, the Exchange understands that the Commission has provided an

Continued

<sup>5</sup> This section of the CHX's submission, as well as other sections, contains information about Biotech, HOLDERS. This information is based upon descriptions included in the Biotech HOLDERS prospectus, the American Stock Exchange ("Amex") submissions relating to its proposal to list and trade Biotech HOLDERS and the Commission's order approving the Amex proposal.

Biotech HOLDs will trade in the minimum fractional increments described in CHX Article XX, Rule 22. To the extent that Biotech HOLDs are also traded on the Amex, those receipts will trade at a minimum variation of  $\frac{1}{16}$ th of \$1.00 trust issued receipts selling at or above \$.25 and  $\frac{1}{32}$ nd of \$1.00 for those selling below \$.25. If the trust issued receipts are traded on any other exchange or are exclusively listed on the CHX, different minimum fractional increments may apply.

The Exchange's surveillance procedures for Biotech HOLDs will be similar to the procedures used for portfolio depository receipts and will incorporate and rely upon existing CHX surveillance systems.

Prior to the commencement of trading of Biotech HOLDs and any other trust issued receipt, the Exchange will distribute a circular to its members and member organizations alerting them to the unique characteristics of trust receipts, including the fact that trust issued receipts are not individually redeemable. The circular will also confirm that trust issued receipts are subject to the Exchange's rule relating to trading halts due to extraordinary market volatility (Article IX, Rule 10A) and that the underlying securities included in the trust are subject to the Exchange's rule which allows Exchange officials to halt trading in specific securities, under certain circumstances (Article IX, Rule 10(b)). The circular will advise members that, in exercising the discretion described in Article IX, Rule 10(b), appropriate Exchange officials may consider a variety of factors, including the extent to which trading is not occurring in an underlying security and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

#### v. Disclosure to Customers

As with Internet HOLDs, the Exchange will require its members to provide all purchasers of newly issued Biotech HOLDs and other trust issued receipts with a prospectus for that series of trust issued receipts. The Exchange also notes that, under federal securities laws, all investors in trust issued receipts who purchase in the initial offering are required to receive a prospectus and that any person purchasing a trust issued receipt directly from the trust (by delivering the

underlying securities to the trust) is also required to receive a prospectus.

#### vi. Trading of Biotech HOLDs

*General Information.* Trust issued receipts are unleveraged instruments and therefore do not possess many of the attributes of stock index options. The Exchange believes that the level of risk involved in the purchase and sale of trust issued receipts is almost identical to the risk involved in the purchase or sale of the common stocks presented by the receipt.

The Exchange believes that trust issued receipts will not trade at a material discount or premium to the assets held by the issuing trust. The Exchange represents that the arbitrage process—which provides the opportunity to profit differences in prices of the same or similar securities (e.g., the trust issued receipts and the portfolio of deposited securities), increases the efficiency of the markets and serves to prevent potentially manipulative efforts—should promote correlative pricing between the trust issued receipts and the deposited securities. If the price of trust issued receipts deviates enough from the portfolio of deposited securities to create a material discount or premium, and arbitrage opportunity is created allowing the arbitrageur to either buy trust issued receipts at a discount, immediately cancel them in exchange for the deposited securities and sell the shares in the cash market at a profit, or sell the trust issued receipts short at a premium and buy the securities represented by the receipts to deposit in exchange for the trust issued receipts to deliver against the short position. In both instances, the arbitrageur locks in a profit and the markets move back into line.

*Issuance and Cancellation of Biotech HOLDs.* A round lot of 100 Biotech HOLDs represents a holder's individual and undivided beneficial ownership interest in the whole number of securities represented by the receipt. The trust will issue and cancel, and an investor may obtain, hold, trade and surrender, Biotech HOLDs only in a round lot of 100 trust issued receipts and round-lot multiples.<sup>7</sup> Nevertheless, the bid and asked prices will be quoted on a per receipt basis. The trust will

issue additional receipts on a continuous basis when an investor deposits the required securities with the trust.

An investor may obtain trust issued receipts by either purchasing them on an exchange or by delivering to the trustee, during normal business hours, the underlying securities evidencing a round lot of trust issued receipts. The trustee will charge investors an issuance fee of up to \$10 for each round lot of 100 trust issued receipts. An investor may cancel trust issued receipts and withdraw the deposited securities by delivering a round lot or round-lot multiple of the trust issued receipts to the trustee, during normal business hours. The trustee will charge investors a cancellation fee of up to \$10 for each round lot of 100 trust issued receipts. Lower charges may be assigned based on the volume, frequency and size of issuances and cancellations. According to the prospectus, the trustee expects that, in most cases, it will deliver the deposited securities within one business day of the withdrawal request.

*Maintenance of the Biotech HOLDs Portfolio.* Except when a reconstitution event occurs, as described below, the securities represented by a trust issued receipt will not change.<sup>8</sup> According to the Biotech HOLDs prospectus, under no circumstances will a new company be added to the group of issuers of the underlying securities.

*Reconstitution Events.* As described in the Biotech HOLDs prospectus, the securities underlying the trust issued receipts will be automatically distributed to the beneficial owners of the receipts in four circumstances, called "reconstitution events":

(1) If the issuer of the underlying securities no longer has a class of common stock registered under Section 12 of the Act, then its securities will no longer be an underlying security and the trustee will distribute the shares of that company to the owners of the trust issued receipts;

(2) If the Commission finds that an issuer of underlying securities should be registered as an investment company under the Investment Company Act of 1940, and the trustee has actual knowledge of the Commission's finding, then the trustee will distribute the shares of that company to the owners of the trust issued receipts;

exemption from the short sale rule, Rule 10a-1 under the Act, for transactions in Internet HOLDs. 17 CFR 240.10a-1. To the extent that this exemption also applies to Biotech HOLDs, the Exchange will issue a notice to its members detailing the terms of the exemption.

<sup>7</sup> Because Internet HOLDs may be acquired, held or transferred only in round-lot amounts (or round-lot multiples) of 100 receipts, orders for less than a round lot (but not around-lot multiple) will be filled to the extent of the largest round-lot multiple, rejecting the remaining odd lot. For example, an order 50 trust issued receipts will be rejected and an order for 1,050 trust issued receipts will be executed in part (1,000) and rejected in part (50).

<sup>8</sup> Even if a reconstitution event does not occur, the number of each security represented in a receipt may change due to certain corporate events such as stock splits or reverse stock splits on the deposited securities and the relative weightings among the deposited securities may change based on the current market price of the deposited securities.

(3) If the underlying securities of an issuer cease to be outstanding as a result of a merger, consolidation or other corporate combination, the trustee will distribute the consideration paid by and received from the acquiring company to the beneficial owners of the trust issued receipts, unless the merger, consolidation or other corporate combination is between companies whose securities are already included in the trust issued receipts as underlying securities and the consideration paid is additional underlying securities, in which case the additional securities will be deposited into the trust; and

(4) If an issuer's underlying securities are delisted from trading on a national securities exchange or Nasdaq and are not listed for trading on another national securities exchange or through Nasdaq within five business days from the date the securities are delisted.

As described in the prospectus, if a reconstitution event occurs, the trustee will deliver the underlying security to the investor as promptly as practicable after the date that the trustee has knowledge of the occurrence of a reconstitution event.

**Termination of the Trust.** As described in the Biotech HOLDRs prospectus, the trust will terminate on the earliest of the following occurrences: (1) If the trust issued receipts are delisted from the Amex and are not listed for trading on another national securities exchange or through Nasdaq within five business days from the date the receipts are delisted; (2) if the trustee resigns and no successor trustee is appointed by the initial depositor within 60 days from the date the trustee provides notice to the initial depositor of its intent to resign; (3) if 75% of the beneficial owners of outstanding trust issued receipts (other than Merrill Lynch, Pierce, Fenner & Smith Incorporated) vote to dissolve and liquidate the trust; or (4) December 31, 2039. If a termination event occurs, the trustee will distribute the underlying securities to beneficial owners as promptly as practicable after the termination event.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act<sup>9</sup> 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 market system, and, in general, to protect investors and the public interest.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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

The Exchange does not believe that the proposed rule will impose any inappropriate 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 either solicited or received.

## III. 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 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 Exchange. All submissions should refer to File No. SR-CHX-99-26 and should be submitted by [insert date 21 days from date of publication].

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

### *A. Generally*

The Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>10</sup> and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds, as it did in the orders approving the listing and trading of trust issued receipts generally, and Internet HOLDRs and Biotech HOLDRs specifically,<sup>11</sup> that the proposal to list

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> See Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999) (approving listing and trading of trust issued receipts and Internet HOLDRs on the Amex); Securities Exchange Act Release No. 42159 (November 19, 1999), 64 FR 66947 (November 30, 1999) (approving listing and trading of Biotech

and trade Biotech HOLDRs will provide investors with a convenient and less expensive way of participating in the securities markets. The proposal should advance the public interest by providing investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a single security replicating the performance of a broad portfolio of biotechnology stocks at negotiated prices throughout the business day. Accordingly, the Commission finds that the proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.<sup>12</sup>

The Commission believes that trust issued receipts will provide investors with an alternative to trading a broad range of securities on an individual basis, and will give investors the ability to trade trust issued receipts representing a portfolio of securities continuously throughout the business day in secondary market transactions at negotiated prices. Trust issued receipts will allow investors to: (1) Respond quickly to changes in the overall securities markets generally and for the industry represented by a particular trust; (2) trade, at a price disseminated on a continuous basis, a single security representing a portfolio of securities that the investor owns beneficially; (3) engage in hedging strategies similar to those used by institutional investors; (4) reduce transaction costs for trading a portfolio of securities; and (5) retain beneficial ownership of the securities underlying the trust issued receipts.

Although trust issued receipts are not leveraged instruments, and, therefore, do not possess any of the attributes of stock index options, their prices will be derived and based upon the securities held in their respective trusts. Accordingly, the level of risk involved in the purchase or sale of trust issued receipts is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for trust issued receipts is based on a basket of

HOLDRs on the Amex); and Securities Exchange Act Release No. 42056 (October 22, 1999), 64 FR 58870 (November 1, 1999) (approving listing and trading of trust issued receipts and Internet HOLDRs on the CHX pursuant to UTP).

<sup>12</sup> In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

securities.<sup>13</sup> Nevertheless, the Commission believes that the unique nature of trust issued receipts raises certain product design, disclosure, trading, and other issues.

#### *B. Trading of Trust Issued Receipts—Listing and UTP*

The Commission finds that the CHX's proposal to trade Biotech HOLDRs meets all of the specific criteria and listing standards that were approved in the Amex order approving the listing and trading of Biotech HOLDRs, pursuant to UTP.<sup>14</sup> Biotech HOLDRs are equity securities that will be subject to the full panoply of CHX rules governing the trading of equity securities on the CHX, including, among others, rules governing the priority, parity and precedence of orders, responsibilities of the specialist, account opening and customer suitability requirements, and the election of a stop or limit order.<sup>15</sup>

In addition, the delisting criteria allows the CHX to consider the suspension of trading and the delisting of a trust issued receipt if an event occurred that made further dealings in such securities inadvisable. This will give the CHX flexibility to delist trust issued receipts if circumstances warrant such action. CHX's proposal also provides procedures to halt trading in trust issued receipts in certain enumerated circumstances.

Moreover, in approving this proposal, the Commission notes the Exchange's representation that Biotech HOLDRs will not trade at a material discount or premium in relation to the overall of the trusts' assets because of potential arbitrage opportunities. The Exchange represents that the potential for arbitrage should keep the market price of a trust issued receipt comparable to the overall value of the deposited securities.

Furthermore, the Commission believes that the Exchange's proposal to trade trust issued receipts in minimum fractional increments of 1/16th of \$1.00 is consistent with the Act. The Commission believes that such trading should enhance market liquidity, and should promote more accurate pricing,

tighter quotations, and reduced price fluctuations. The Commission also believes that such trading should allow customers to receive the best possible execution of their transactions in trust issued receipts.

Finally, the CHX has developed surveillance procedures for trust issued receipts that incorporate and rely upon existing CHX surveillance procedures governing equities. The Commission believes that these surveillance procedures are adequate to address concerns associated with listing and trading of Biotech HOLDRs, including any concerns associated with purchasing and redeeming round-lots of 100 receipts. Accordingly, the Commission believes that the rules governing the trading of trust issued receipts provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.

#### *C. Disclosure and Dissemination of Information*

The Commission believes that the Exchange's proposal will ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risks of trading trust issued receipts. The prospectus will address the special characteristics of Biotech HOLDRs, including a statement regarding their redeemability and method of creation. The Commission notes that all investors in Biotech HOLDRs who purchase in the initial offering will receive a prospectus. In addition, anyone purchasing Biotech HOLDRs directly from the trust (by delivering the underlying securities to the trust) will also receive a prospectus. Finally, all CHX member firms who purchase Biotech HOLDRs from the trust for resale to customers must deliver a prospectus to such customers.

The Commission also notes that upon the initial listing of any trust issued receipts, the Exchange will issue a circular to its members explaining the unique characteristics and risks of this type of security. The circular also notes the Exchange members' prospectus delivery requirements, and highlights the characteristics of Biotech HOLDRs. The circular also will inform members of Exchange policies regarding trading halts in Biotech HOLDRs.

#### *D. Accelerated Approval*

CHX has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that the Exchange's proposal to trade Biotech

HOLDRs pursuant to UTP privileges, will provide investors with a convenient and less expensive ways of participating in the securities markets. The Commission believes that the proposed rule change could produce added benefits to investors through the increased competition between other market centers trading the products. Specifically, the Commission believes that by increasing the availability of trust issued receipts, and in particular Biotech HOLDRs, as an investment tool, the CHX's proposal should help provide investors with increased flexibility in satisfying their investment needs. This is achieved by allowing investors to purchase and sell a single security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day. The Commission notes, however, that, notwithstanding approval of the listing standards for Biotech HOLDRs, other similarly structured products, including trust issued receipts based on other industries, will require review by the Commission prior to being traded on the Exchange. Moreover, additional series cannot be listed by the Exchange prior to contacting Division staff. In addition, the CHX may be required to submit a rule filing prior to trading a new issue or series on the Exchange.

As noted above, the Commission has approved the listing and trading of Biotech HOLDRs at the Amex, under rules that are substantially similar to CHX Article XXVIII, Rule 27. The trading requirements of trust issued receipts at the CHX are substantially similar to the trading requirements of trust issued receipts at the Amex. The Commission published those rules in the **Federal Register** for the full notice and comment period. No comments were received on the proposed rules, and the Commission found them consistent with the Act.<sup>16</sup> The Commission believes that the trading of this product raises no new regulatory issues and, except for the composition of securities deposited in trust, the Biotech HOLDRs are structurally the same as the Internet HOLDRs trust issued receipts previously approved by the Commission by listing and trading on the Amex and CHX. Accordingly, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof in the **Federal Register**.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the

<sup>13</sup> The Commission has concerns about continued trading of the trust issued receipts whether listed or pursuant to UTP, if the number of component securities falls to a level below nine securities, because the receipts may no longer adequately reflect a cross section of the selected industry. Accordingly, the CHX has agreed to consult the Commission concerning continued trading, once the trust has fewer than nine component securities, and for each subsequent loss of a security thereafter.

<sup>14</sup> See *supra*, note 11.

<sup>15</sup> Trading rules pertaining to the availability of odd-lot trading do not apply because trust issued receipts only can be traded in round-lots.

<sup>16</sup> See *supra*, note 11.

<sup>17</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-CHX-99-26), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-2287 Filed 2-1-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

**DATES:** Submit comments on or before April 3, 2000.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Gregory Diercks, Y2K Loan Program Manager, Office of Financial Assistance, Small Business Administration, 409 3rd Street, S.W., Suite 8100.

**FOR FURTHER INFORMATION CONTACT:** Dorothy Davidson, Accountant, 202-205-7661 or Curtis B. Rich, Management Analyst, 202-205-7030.

#### SUPPLEMENTARY INFORMATION:

*Title:* "Amendments to License Application".

*Form No:* 415C.

*Description of Respondents:* Small Business Investment Companies.

*Annual Responses:* 1,200.

*Annual Burden:* 300.

*Title:* "Request for Information Concerning Portfolio Financing".

*Form No:* 857.

*Description of Respondents:* Small Business Investment Companies.

*Annual Responses:* 2,160.

*Annual Burden:* 2,160.

*Title:* "Request for Information Concerning Portfolio Financing".

*Form No:* 860.

*Description of Respondents:* Small Business Investment Companies.

*Annual Responses:* 1,500.

*Annual Burden:* 750.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 00-2268 Filed 2-1-00; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG-2000-6795]**

#### Towing Safety Advisory Committee

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meetings.

**SUMMARY:** The Towing Safety Advisory Committee (TSAC) and its working groups will meet to discuss various issues relating to shallow-draft inland and coastal waterway navigation and towing safety. All meetings will be open to the public.

**DATES:** TSAC will meet on Thursday, March 16, 2000 from 8 a.m. to 12:30 p.m. The working groups will meet on Wednesday, March 15, 2000, from 9 a.m. to 3:30 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before March 7, 2000. Requests to have a copy of your material distributed to each member of the committee or working groups should reach the Coast Guard on or before March 3, 2000.

**ADDRESSES:** TSAC will meet in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The working groups will begin meeting in the same room and may move to separate spaces designated at that time.

Send written material and requests to make oral presentations to Mr. Gerald P. Miente, Commandant (G-MSO-1), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001. This notice is available on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald P. Miente, Assistant Executive Director, TSAC, telephone 202-267-0229, fax 202-267-4570, or e-mail at: [gmiente@comdt.uscg.mil](mailto:gmiente@comdt.uscg.mil).

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

#### Agenda of Meeting

The agenda tentatively includes the following:

(1) Report of the Voyage Planning Work Group.

(2) Report of the Electronic Charting Work Group.

(3) Report from the Tug Assistance and Remote Anchor Release Work Group.

(4) Report of the Communications Work Group.

(5) Report of the Casualty Analysis Work Group.

(6) Status on Cargo Securing Practices.

(7) Project update on the Interim Rule (IR) "Licensing and Manning for Officers of Towing Vessels".

(8) Project update concerning Current Initiatives Regarding Crew Alertness.

(9) Project update on the Automated Information System (AIS).

(10) Project update on the International Maritime Information Safety System (IMISS).

(11) Discussion on (a) two task statements: Cargo Securing and Barge Structural Failure; and (b) unique features of the harbor services/ship assist sector.

#### Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Assistant Executive Director no later than March 7, 2000. Written material for distribution at a meeting should reach the Coast Guard no later than March 3, 2000. If you would like a copy of your material distributed to each member of the committee or working groups in advance of a meeting, please submit 25 copies to the Assistant Executive Director no later than February 28, 2000.

#### Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Assistant Executive Director as soon as possible.

Dated: January 24, 2000.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 00-2146 Filed 2-1-00; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Proposed Advisory Circular (AC) 23-XX-32, Installation of Terrain Awareness and Warning System (TAWS) Approved Under TSO-C151a for Part 23 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of availability of proposed Advisory Circular (AC) AC 23-XX-32 and request for comments.

**SUMMARY:** This notice announces the availability of and requests comments

<sup>18</sup> 17 CFR 200.30-3(a)(12).