

shall have the American-style exercise feature; (2) allows for the trading of FLEX Equity options on Fund Shares; (3) permits the Exchange to list options on Funds Shares covering 100 or 1000 Fund Shares or both; (4) sets strike prices for both 100 and 1000 share contracts to bracket the Fund Shares price at one point intervals up to a share price of \$200; and (5) makes various non-substantive references to "Exchange-Traded Fund Shares" throughout Amex's Rules, where appropriate. The Commission finds that these changes are not controversial because they do not alter the fundamental nature of the proposal.

Amendment No. 4 provides the Exchange with the flexibility to list Fund Shares pursuant to the uniform option listing standards in Rule 915 and Commentary .01, in lieu of obtaining a commitment from the unit investment trust or management investment company to issue Fund Shares even though some or all of the securities needed to be deposited have not been received. The Commission believes that this strengthens the proposal because the uniform option listing standards help to ensure that the Fund Shares underlying the options are actively traded, with substantial public float and number of holders. That portion of Amendment No. 4 that addresses comprehensive surveillance sharing agreements has been replaced and superseded by Amendment No. 5.

The Commission also believes that Amendment No. 5, concerning surveillance requirements, strengthens the Amex's proposal. Amendment No. 5, provides a clear, objective standard for determining the comprehensive surveillance requirements for trading options on Fund Shares where the underlying index or portfolio contains non-U.S. stocks.

The Commission finds that Amendment No. 6 also strengthens the Amex's proposal. Amendment No. 6 provides that the Amex will apply narrow-based margin to options on Fund Shares which are based on a narrow-based index or portfolio of securities. This requirement should ensure that purchasers of options on Fund Shares based on a narrow-based index or portfolio post sufficient margin to address any concerns associated with the potentially increased volatility inherent in a narrow-based index.

Finally, the Commission notes that no comments were received on the original Amex proposal, which was subject to full 21-day comment period. Accordingly, the Commission believes that there is good cause, consistent with Section 6(b)(5) of the Act, to approve

Amendment Nos. 3, 4, 5, and 6 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 3, 4, 5 and 6 to the proposed rule change, including whether the Amendments 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 in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 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-96-44 and should be submitted by July 31, 1998.

For the foregoing reasons, the Commission finds that the Amex's proposal to list and trade options and FLEX Equity Options on Fund Shares is consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>38</sup> that the proposed rule change (File No. SR-Amex-96-44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>39</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40166; File No. SR-CBOE-97-03]

### Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Options on Interests in Listed, Open-End, Indexed Investment Companies

July 2, 1998.

#### I. Introduction

On January 22, 1997, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), 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> filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to adopt rules to permit the trading of options on securities representing interest in open-end, exchange-listed investment companies that hold a portfolio of securities comprising or based on a broad-based stock index ("Exchange-Traded Fund Shares" or "Fund Shares"). Notice of the proposal appeared in the **Federal Register** on March 5, 1997.<sup>3</sup> No comment letters were received on the proposed rule change.<sup>4</sup> On January 12, 1998, the Exchange filed Amendment No. 2 to the proposal.<sup>5</sup> On May 18, 1998, the CBOE

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

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

<sup>3</sup> See Securities Exchange Act Release No. 38342 (February 26, 1997), 62 FR 10098.

<sup>4</sup> On May 2, 1997, the CBOE filed an amendment to the proposed rule change. See Letter from Michael L. Meyer, Esq., Schiff Hardin & Waite, to Howard L. Kramer, Senior Associate Director, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated May 2, 1997 ("Amendment No. 1"). Amendment No. 1 made no changes to the proposal, but merely clarified the Exchange's original filing. Amendment No. 1 is no longer relevant, and has been replaced and superseded by Amendment Nos. 2 and 3.

<sup>5</sup> See Letter from Michael L. Meyer, Esq., Schiff Hardin & Waite to Howard L. Kramer, Senior Associate Director, OMS, Division, Commission, dated January 9, 1998 ("Amendment No. 2"). In Amendment No. 2 the Exchange proposes to revise the listing standards for Fund Shares set forth in Interpretation and Policy .06 under Rule 5.3 to require, in addition to other criteria, either: (1) that the underlying Fund Shares or units must satisfy the same criteria and guidelines under CBOE rules that apply to determine the eligibility for listing options on underlying equity securities; or (2) that the issuer is obligated to issue Fund Shares in a specified aggregate number in return for a cash deposit in an amount equal to the value of the securities that comprise the index or portfolio represented by the Fund Shares. In addition, Amendment No. 2 provides that the same tiered

<sup>38</sup> 15 U.S.C. 78s(b)(2).

<sup>39</sup> 17 CFR 200.30-3(a)(12).

filed Amendment No. 3 to the proposed rule change.<sup>6</sup> Finally, on June 24, 1998, the Exchange filed a technical amendment to the filing.<sup>7</sup> This order approves the Exchange's proposal, and Amendment Nos. 2 and 3 on an accelerated basis.

## II. Description of the Proposal

The purpose of the proposed rule change is to provide for the trading of options on Fund Shares. As noted above, Fund Shares are exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies ("Funds") that hold securities based on an index or a portfolio of securities. Fund Shares are issued in exchange for an "in kind" deposit of a specified portfolio of securities, together with a cash payment, in minimum size aggregations or multiples thereof ("Creation Units"). The size of the applicable Creation Unit size aggregation is set forth in the Fund's prospectus, and varies from one series of Fund Shares to another, but generally is of a substantial size (e.g., value in excess of \$450,000 per creation unit). A fund, generally, will issue and sell Fund Shares in Creation Unit size through a principal underwriter on a continuous basis at the net asset value per share next determined after an order to purchase Fund Shares and the appropriate securities are received. Following issuance, Fund Shares are traded on an exchange like other equity securities, and equity trading rules apply. Likewise, redemption of Fund Shares is made in Creation Unit size and "in kind," with a portfolio of securities and cash exchanged for Fund Shares that have been tendered for redemption.

The CBOE proposes to trade options on Fund Shares pursuant to the same rules and procedures that apply generally to trading in options on equity securities, except that some special

position and exercise limits that apply to options on individual equity securities will apply to options on Fund Shares. Finally, Amendment No. 2 removed certain continued listing standards that were in the original filing.

<sup>6</sup> See Letter form Joseph Levin, Vice President, Research, CBOE, to Howard L. Kramer, Senior Associate Director, OMS, Division, Commission, dated May 14, 1998 ("Amendment No. 3"). In Amendment No. 3 the Exchange proposes a new surveillance sharing standard for options on Fund Shares that include non-U.S. stocks in the index portfolio upon which Fund Shares are based. In addition, Amendment No. 3 includes continued listing standards for options on Fund Shares, which are discussed herein.

<sup>7</sup> See Letter from Michael L. Meyer, Esq., Schiff Hardin & Waite, to James T. McHale, Special Counsel, OMS, Division, Commission, dated June 23, 1998 ("Amendment No. 4"). Amendment No. 4 merely corrects an erroneous cross-reference in Interpretation and Policy .08 to Rule 5.4.

listing criteria are proposed to apply to this category of options. Options on Fund Shares will be physically-settled and will have either the European-style or American-style exercise feature, as specified.<sup>8</sup>

The listing and maintenance standards proposed for options on Fund Shares are set forth in proposed Interpretation and Policy .06 under CBOE Rule 5.3 and in Interpretation .10 under CBOE Rule 5.4, respectively. Pursuant to the proposed initial listing standards, CBOE only will list options on Fund Shares that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as national market securities. In addition, the initial listing standards require that either: (1) the Fund Shares meet the uniform options listing standards in CBOE Rule 5.3 and Interpretation and Policy .01 thereunder, which include minimum public float, trading volume, and share price of the underlying security in order to list the option;<sup>9</sup> or (2) the Exchange-Traded Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the Fund is obligated to issue Fund Shares in a specified aggregate number even though some or all of the securities needed to be deposited have not been received by the Fund.<sup>10</sup>

In addition, the initial listing standards require that: (1) any Fund Share with non-US stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% of more of the weight of the index; and (3) stocks for

<sup>8</sup> Telephone conversation between Michael L. Meyer, Esq., Schiff Hardin & Waite, and James T. McHale, Special Counsel, OMS, Division, Commission, on June 30, 1998.

<sup>9</sup> Specifically, Interpretation and Policy .01 to Rule 5.3 requires the underlying security to have a public float of 7,000,000 shares, 2000 holders, trading volume of 2,400,000 shares in the preceding 12 months, a share price of \$7.50 for the majority of the business days during the three calendar months preceding the date of the selection, and that the issuer of the underlying security is in compliance with the Act.

<sup>10</sup> Provided the person obligated to deposit the securities has undertaken to deliver the securities as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus. See Amendment No. 3, *supra* note 6.

which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% of more of the weight of the index.<sup>11</sup>

The Exchange's proposed maintenance standards provide that if a particular series of Exchange-Traded Fund Shares should cease to trade on an exchange or as national market securities in the over-the-counter market, there will be no opening transactions in the options on the Fund Shares, and all such options will trade on a liquidation-only basis. In addition, the CBOE will consider the suspension of opening transactions in any series of options of the class covering Fund Shares if: (1) the options fail to meet the uniform equity option maintenance standards in paragraphs (a), (b), (c), and (d) of Interpretation and Policy .01 to Rule 5.4,<sup>12</sup> when the options were listed pursuant to the equity option listing standards of Rule 5.3 and Interpretation and Policy .01 thereunder;<sup>13</sup> (2) following the initial twelve-month period beginning upon the commencement of trading of the Fund Shares on a national securities exchange or as national market securities through the facilities of a national securities association there are fewer than 50 record and/or beneficial holders of Fund Shares for 30 or more consecutive trading days, when options on Fund Shares were listed pursuant to clause (D)(y) under Interpretation and Policy .06 of Rule 5.3;<sup>14</sup> or (3) the value of the index or portfolio of securities on which the Fund Shares are based is no longer calculated or available.

Reflecting the indexed nature of the underlying portfolios of the Fund

<sup>11</sup> See Amendment No. 3, *supra* note 6.

<sup>12</sup> Specifically, paragraphs (a), (b), (c) and (d) of Interpretation and Policy .01 to Rule 5.4 provide that an underlying security will not meet the Exchange's requirements for continued listing when, among other things: (1) there are fewer than 6,300,000 publicly-held shares; (2) there are fewer than 1600 holders; (3) trading volume was less than 1,800,000 shares in the preceding twelve months; and (4) the share price of the underlying security closed below \$5 on a majority of the business days during the preceding 6 months.

<sup>13</sup> See Amendment No. 2, *supra* note 5. The Commission notes that even if options on Fund Shares were not listed under the uniform equity option listing standards, initial listing standards for the underlying Fund Shares typically require a minimum number of Fund Shares to be outstanding before trading in a series of Fund Shares may commence. In addition, the CBOE has represented that although there is no comparable public float maintenance standard for the underlying Fund Shares, as a practical matter there can never be trading in a series of Fund Shares in which there is less than one Creation Unit outstanding, since Fund Shares only may be created and redeemed in Creation Unit size, and if the last outstanding Creation Unit should ever be redeemed, the series (and the options on that series) will cease to trade.

<sup>14</sup> See Amendment No. 4, *supra* note 7.

Shares on which options are proposed to be traded, the Exchange proposes to amend Interpretation and Policy .01 under Exchange Rule 5.5 to provide that the minimum strike price intervals for these options will be \$2.50 where the strike price is \$200 or less, and \$5.00 where the strike price is over \$200. These are comparable to the strike price intervals provided in Interpretation and Policy .01 under Exchange Rule 24.9, as applicable to broad-based index options having strike prices at about the level expected for options on Fund Shares.

Margin requirements are proposed for options on Fund Shares at the same levels that apply to options generally under Exchange Rule 12.3, except that, reflecting the broad-based nature of the index or portfolio underlying Fund Shares, minimum margin must be deposited and maintained equal to 100% of the current market value of the option plus 15% (instead of 20%) of the market value of equivalent units of the underlying security value. In this respect, the margin requirements proposed for options on Fund Shares are comparable to margin requirements that currently apply to broad-based index options under Exchange Rule 24.11(b)(i).<sup>15</sup>

CBOE believes it has the necessary systems capacity to support the additional series of options that would result from the introduction of options on Fund Shares, and it has been advised that the Option Price Reporting Authority ("OPRA") also has the capacity to support these additional series.<sup>16</sup>

### III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(15).<sup>17</sup> Specifically, the Commission believes that providing for the listing and trading of standardized options on Exchange-Traded Fund Shares should give investors a better means to hedge their positions in the underlying Fund Shares. Further, the Commission believes that pricing of the underlying Fund Shares may become more efficient and market makers in these shares, by

virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on Fund Shares likely will engender the same benefits to investors and the market place that exist with respect to options on common stock,<sup>18</sup> thereby serving to promote the public interest, remove impediments to a free and open securities market, and promote efficiency, competition, and capital formation.<sup>19</sup>

As a general matter, the Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on Fund Shares, can commence trading on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. With regard to position and exercise limits, the Commission finds that it is appropriate to adopt the tiered approach used in setting position and exercise limits for standardized stock options. This approach should serve to minimize potential manipulation and market impact concerns. Accordingly, because options on Fund Shares will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options on Fund Shares.

The Commission also believes that it is appropriate to permit the CBOE to list and trade options on Exchange-Traded Fund Shares given that these options must meet specific requirements related to the protection of investors.<sup>20</sup> First,

<sup>18</sup> Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such new product is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

<sup>19</sup> 15 U.S.C. 78c(f).

<sup>20</sup> The Commission notes, and CBOE has verified, that holders of options on Fund Shares who exercise and receive the underlying Fund Shares must receive, like any purchaser of Fund Shares, a product description or prospectus, as appropriate. Telephone Conversation between Michael L. Meyer, Esq., Schiff Hardin & Waite, and James T. McHale,

the Exchange's listing and delisting criteria for options on Fund Shares are adequate. With regard to initial listing, the proposal requires that either: (1) The underlying Fund Shares meet the CBOE's uniform options listing standards; or (2) the Exchange-Traded Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the Fund is obligated to issue Fund Shares in a specified aggregate number even though some or all of the securities needed to be deposited have not been received by the Fund.<sup>21</sup> This listing requirement should ensure that there exists sufficient supply of the underlying Fund Shares so that a short call writer, for example, will have the ability to secure delivery of the Fund Shares upon exercise of the option.

In reviewing the CBOE's proposal, as originally submitted, the Commission had been concerned with the ability to produce Fund Shares upon exercise of the option. The Commission believes the CBOE has adequately addressed these concerns through the adoption of the listing standards set forth above. In particular, options listed pursuant to the uniform options listing standards will have to meet the options maintenance listing standards which require, among other things, that a minimum number of Fund Shares be outstanding to continue trading the options.<sup>22</sup> The alternative listing criteria, noted above, should also help to ensure that the underlying Fund Shares will be available upon exercise by requiring the Fund to allow market participants to create Fund Shares even though some or all of the necessary securities needed to be deposited are not available.<sup>23</sup> Although there is no absolute assurance that market participants will go ahead and create Fund Shares in the event a short call writer needs to purchase Fund Shares to meet an exercise notice, it is likely that arbitrage opportunities will create an incentive to do so. Further, in the event there are not enough Fund Shares to meet exercise requirements, as with other physically-settled equity options, the Options Clearing Corporation

Special Counsel, OMS, Division, Commission, on June 30, 1998.

<sup>21</sup> Provided the person obligated to deposit the securities has undertaken to deliver the securities as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus.

<sup>22</sup> See *supra* note 12.

<sup>23</sup> See *supra* note 21.

<sup>15</sup> The Commission notes that the CBOE's proposal is limited to trading options on Fund Shares comprising or based on a broad-based index or portfolio.

<sup>16</sup> See memorandum from Joseph Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated January 21, 1997.

<sup>17</sup> 15 U.S.C. 78f(b)(5).

("OCC") has rules that would apply to such situations.

Second, the Commission believes that the surveillance standard developed by the CBOE for options on Fund Shares is adequate to address the concerns associated with the listing and trading of such securities. Specifically, the CBOE has proposed that: (1) Any Fund Share with non-US stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index.<sup>24</sup>

As a general matter, the Commission believes that comprehensive surveillance agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the context of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions. In evaluating the current proposal, the Commission believes that requiring comprehensive surveillance agreements to be in place between the CBOE and the primary markets for foreign securities that represent 50% or more of the weight of the underlying index or portfolio upon which Fund Shares are based, as well as the other conditions discussed above, provides an adequate mechanism for the exchange of surveillance sharing information necessary to detect and deter possible market manipulations. Although the Commission recognizes that up to 50% of the portfolio's value may not be covered by comprehensive surveillance agreements, the other requirement will ensure that a significant percentage of the portfolio is not made up of securities from uncovered countries.

<sup>24</sup> The Exchange uses the term "comprehensive surveillance agreement" to mean an agreement which requires that the parties provide each other, upon request, information about market trading, clearing activity and the identity of the ultimate purchasers and sellers of securities. Telephone conversation between Michael L. Meyer, Esq., Schiff Hardin & Waite, and James T. McHale, Special Counsel, OMS, Division, Commission, on June 30, 1998.

Further, as to the domestically-traded Fund Shares themselves and the domestic stocks in an underlying index or portfolio upon which Fund Shares are based, the Intermarket Surveillance Group ("ISG")<sup>25</sup> Agreement will be applicable to the trading of options on Fund Shares.

Finally, the Commission believes that requiring minimum margin of 100% of the current market value of the option plus 15% of the market value of the underlying security value ("broad-based margin") for options on Fund Shares is appropriate. The Commission notes that this margin requirement is comparable to margin requirements that currently apply to broad-based index options, and that the CBOE's proposal is limited to trading options on Fund Shares comprising or based on a broad-based index or portfolio. Accordingly, the Commission believes that broad-based margin is appropriate for options on Fund Shares.

The Commission finds good cause for approving Amendment Nos. 2, and 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 2 strengthens the proposal by: (1) providing that either the Fund Shares underlying the options satisfy the listing standards for options on underlying equity securities or the Fund has agreed to issue Fund Shares even though some or all of the securities needed to be deposited have not been received, thus ensuring a minimum level of liquidity; and (2) adopting standardized equity option position and exercise limits. Amendment No. 2 also removed certain continued maintenance standards, but these requirements were added back to CBOE's rules with Amendment No. 3.

The Commission also believes that Amendment No. 3, concerning surveillance requirements, strengthens the CBOE's proposal. Amendment No. 3 provides a clear, objective standard for determining the comprehensive surveillance requirements for trading options on Fund Shares where the underlying index or portfolio contains non-U.S. stocks. In addition, Amendment No. 3 strengthens the Exchange's proposal by including

<sup>25</sup> ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The members of ISG include all of the registered National Securities Exchanges and the National Association of Securities Dealers, Inc. ("NASD"). In addition, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) are affiliate members of ISG.

contained listing standards for options on Fund Shares.

Finally, the Commission notes that no comments were received on the original CBOE proposal, which was subject to the full 21-day comment period. Accordingly, the Commission believes that there is good cause, consistent with Section 6(b)(5) of the Act, to approve Amendment Nos. 2 and 3 to the proposed rule change on an accelerated basis.

Amendment No. 4 merely corrects an erroneous cross-reference in Interpretation and Policy .08 to Rule 5.4.<sup>26</sup>

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 2 and 3 to the proposed rule change, including whether such Amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NE., Washington, DC 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 in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. 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-97-03 and should be submitted by July 31, 1998.

For the foregoing reasons, the Commission finds that the CBOE's proposal to list and trade options on Fund Shares is consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>27</sup> that the proposed rule change (File No. SR-CBOE-97-03), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>28</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 98-18413 Filed 7-9-98; 8:45 am]

**BILLING CODE 8010-01-M**

<sup>26</sup> Because Amendment No. 4 is technical in nature, it is not subject to a notice and comment requirement.

<sup>27</sup> 15 U.S.C. 78s(b)(2).

<sup>28</sup> 17 CFR 200.30-3(a)(12).