3. Each of the Funds will hold a meeting of shareholders to vote on approval of the New Agreements for the Funds on September 30, 1998, or within the 120 day period following the commencement of the Interim Period (but in no event later than February 28, 1999).

4. Liberty and the Advisor will bear the costs of preparing and filing the application, and Liberty will bear any costs relating to the solicitation of shareholder approval necessitated by the Acquisition.

5. The New Advisor will take all appropriate actions to ensure that the scope and quality of advisory and other services provided to the Funds during the interim Period will be at least equivalent, in the judgment of the Boards, including a majority of the Independent Board Members, to the scope and quality of services previously provided. In the event of any material change in personnel providing services pursuant to the New Agreements caused by the Acquisition, the New Advisor will apprise and consult with the Boards to assure that the Boards, including a majority of the Independent Board Members, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–25132 Filed 9–18–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23437; 812–10744]

Z-Seven Fund, Inc.; Notice of Application

September 15, 1998.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application under section 23(c)(3) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 23(c) of the Act.

SUMMARY OF THE APPLICATION: The requested order would permit the Z-Seven Fund, Inc. (the ''Company'') to repurchase 698,210 of its common shares from Agape Co., S.A. (''Agape'') in exchange for cash.

FILING DATES: The application was filed on August 7, 1997, and amended on September 14, 1998.

HEARING OF NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 8, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1819 South Dobson Road, Suite 109, Mesa, Arizona 85202–5656.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. The Company, a Maryland corporation, is registered under the Act as a closed-end management investment company. The Company has one class of common shares which are traded on The NASDAQ Stock Market and the Pacific Exchange.

2. Agape, a Panamanian corporation, owns approximately 27% or 698,210 of the Company's issued and outstanding shares (''Shares''). Agape purchased the Shares in December 1992 pursuant to a purchase agreement (''Purchase Agreement'') between Agape and the Company. The Purchase Agreement gave Agape the right, after the first anniversary of Agape's purchase, to require the Company to register, at the Company's expense, the Shares for resale to the public (''Registration Rights''). On November 27, 1996, Agape informed the Company of its desire to liquidate its interest in the Company and requested that the Company consider a repurchase of the Shares at their net asset value (''NAV'') in exchange for Agape waiving its Registration Rights.

3. At special meetings of the board of directors of the Company (''Board'') on January 8, 1997, June 5, 1997, and July 29, 1998, the Board discussed the advantages and disadvantages associated with: (a) the sale of the Shares with a help of a broker/dealer; (b) the repurchase by the Company of the Shares at a negotiated price (''Repurchase''); and (c) the registration of the Shares for sale in brokerage or other open market transactions. The Board considered, among other things, the likely effect of each alternative on: (a) the market price of the Company's common shares; (b) Company's expense ratio; (c) the trading market for the Company's common shares; (d) the Company's total assets; and (e) the Company's expenses. The Board also considered the amount of time it would take to sell the Shares.

4. The Board approved the Repurchase on the following terms: (a) the Repurchase would be effected in four different transactions over a period of eighteen months; (b) the purchase price for the Shares would be one-half of one percent below the NAV of the Shares as determined at the time of each Repurchase transaction, provided that no Repurchase transaction would occur unless the Company's shares are trading at or above NAV; and (c) Agape and the Company would issue joint press releases announcing each Repurchase transaction.

5. The first Repurchase transaction will be for 200,000 shares and will occur two months after the order requested in the application is granted. The three subsequent Repurchase transaction will be for 150,000 shares, 150,000 shares, and 198,210 shares, respectively, and will occur at six-month intervals thereafter. The specific timing of each Repurchase transaction will be determined by the Company, provided the shares are trading at or above NAV. If a Repurchase transaction cannot be completed because the shares are trading at a discount from NAV, the Repurchase period will be extended and the Repurchase will be completed as soon as the discount disappears.[1]

6. The Company intends to raise cash for the Repurchase through the orderly liquidation of its portfolio securities as is necessary as of the time of each Repurchase transaction. The Company

[1] The Company has disclosed to shareholders, in its most recent annual report, that it was seeking an order from the Commission to repurchase the Shares from Agape over an 18-month period following receipt of the order, at a price of one-half of one percent below NAV at the time of each Repurchase transaction.

does not believe that the liquidation would disrupt the Company's portfolio for the remaining shareholders and states that the planned and longer term nature of the Repurchase would allow the Company appropriate time to plan for the necessary sale of portfolio securities.

Applicant's Legal Analysis

1. Section 23(c) of the Act prohibits a registered closed-end investment company from purchasing its own securities other than on a securities exchange or pursuant to a tender offer. Section 23(c)(3) also allows purchases to be made under such other circumstances as the Commission may permit by order for ''the protection of investors to insure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased.''

2. Applicant states that the Repurchase permits the Company to satisfy its contractual obligation to Agape and will have less of an effect on the market value of the common shares than registering the Shares for resale on the open market. Applicant also asserts that their terms of the Repurchase were developed in response to Agape's Registration Rights under the Purchase Agreement and were not influenced by Agape's status as an affiliated person of the Company.[2] Applicant also states that the Repurchase price will be one-half of one percent lower than NAV; thus there will be no dilution of the other shareholders' net interest in the Company. Applicant also states that because there will be no Repurchase transaction if the NAV per share exceeds market value per share, the price received by Agape will be no higher than the market price (the price that may be obtained by other shareholders that wish to sell their shares.) Applicant thus asserts that the Repurchase does not unfairly discriminate against the shareholders of the Company. Applicant also asserts that for the reasons discussed above, the Repurchase is in the best interests of the Company and its shareholders.

[2] Agape is an affiliated person of the Company because it owns more than 5% of the Company's voting securities. *See* section 2(a)(3) of the Act. Agape is presumed to control the Company by virtue of owning 25% or more of the Company's voting securities. *See* section 2(a)(9) of the Act. The Company states that Agape represented in the Purchase Agreement that it was not investing in the Company for the purpose of exercising or obtaining control of the Company and that it was not the intention of Agape to directly or indirectly exercise a controlling influence over the management or policies of the Company. Agape does not have a representative on the Company's Board.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–25131 Filed 9–18–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40440; File No. SR–CBOE–98–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2 and 3 by Chicago Board Options Exchange, Inc. Relating to Floor Official Fining Authority

September 14, 1998.

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 May 28, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'') or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change. The proposed rule change, as amended, is described in Items I, II, and III below, which Items have been prepared by the Exchange. The CBOE filed Amendment No. 1 to its proposal with the Commission on July 8, 1998,[3] Amendment No. 2 on August 27, 1998 [4] and Amendment No. 3 on September 9, 1998.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the CBOE made the following changes to its proposal: (1) amended Exchange Rule 6.61 to consolidate summary fine authority under Exchange Rule 17.50; (2) clarified the meaning of the term ''service personnel'' as used in the proposal; (3) clarified that greater fines may be applicable for more serious behavior; (4) conformed the amount of the fines payable for failing to supervise a visitor and failing to abide by floor official determination or floor official request for information as stated in the text of the proposal with the amount of the fines identified in the proposed Regulatory Circular to Exchange members; (5) made minor technical changes to the language of the amended rules; and (6) clarified the Exchange's deletion of its use of the term ''member organization'' in the Exchange Rules. *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Gail Marshall-Smith, Special Counsel, Division of Market Regulation (''Division''), Commission, dated July 7, 1998 (''Amendment No. 1'').

[4] In Amendment No. 2, the CBOE made technical changes to the language of the amended rules. *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Terri L. Evans, Attorney, Division, Commission, dated August 26, 1998 (''Amendment No. 2'').

[5] In Amendment No. 3, the CBOE made technical changes to the Exchange's proposed rule language and concurred with the recommendations made by the Commission regarding the expansion of the discussion on the proposed rule change. *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Terri L. Evans, Attorney, Division, Commission, dated September 8, 1998.

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

The Exchange proposes to modify certain Exchange rules and a related regulatory circular to consolidate most Floor Official fining authority governed by Exchange Rule 17.50, Imposition of Fines for Minor Rule Violations (''Summary Fine Rule''), under one regulatory circular. The text of the proposed rule change and regulatory circular follows: new text is italicized; deleted text is bracketed.

CHAPTER I—Definitions

Definitions

RULE 1.1. When used in these Rules, unless the context otherwise requires:

(a) through (jj) No Change.

Joint Venture Participant

(kk) The term ''joint venture participant'' means a member or non-member of the Exchange who is qualified to execute in person transactions in joint venture contracts in a trading crowd on the floor of the Exchange. A non-member joint venture participant shall be treated as a member for purposes of Rules 6.7 and 6.20(a), (b), [and] (c), *and (d)* and *Rule 6.20* Interpretation*s* and Policies .01 and .04 (iv), (v), and (vi) unless otherwise specified.

(ll) through (ww) No Change.

. . . Interpretations and Policies

.01 No Change.

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CHAPTER VI—Doing Business on the Exchange Floor

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Section B: Member Activities on the Floor

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Admission to and Conduct on the Trading Floor; Member Education

RULE 6.20. (a) Admission to *Trading* Floor. Unless otherwise provided in the Rules, no one but a member or an Order Book Official designated by the Exchange pursuant to Rule 7.3 shall make any transaction on the floor of the Exchange. Admission to the *floor* [Floor] shall be limited to members, employees of the Exchange, clerks employed by members and registered with the