

equity trading rules will apply, including Exchange rules relating to priority, parity and precedence and the obligations of specialists. The provisions of Amex Rule 411 (Duty to Know and Approve Customers) apply to customer transactions in Portfolio Depository Receipts, and would therefore apply to Trust units transactions; no enhanced suitability standards are applicable to such securities.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. The Exchange believes that PDRs, generally, and Trust shares specifically, have the potential to benefit the markets by providing an alternate trading instrument, such as those encouraged by the Division of Market Regulation in its report, "The October 1987 Market Break," that may help temper market volatility and reduce stress on individual index component stocks during unusual market conditions.

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

The Exchange does not believe that the proposed rule change 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. 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. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR-Amex-98-34 and should be submitted by January 19, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40808; File No. SR-CBOE-98-52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Inc. Relating to a Change in the Frequency of the Rebalancing of the Dow Jones High Yield Select 10 Index

December 18, 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 December 18, 1998 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 CBOE.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The CBOE proposes to change the frequency of its rebalancing of the Dow Jones High Yield Select 10 Index ("Index"), a narrow-based index on which the Exchange has received approval to trade options.⁴ In addition, the CBOE proposes to amend Rule 24.9(c) to provide for additional quarterly index expiration dates for the options ("QIX").⁵

The text of the proposed rule change is available at the Office of the Secretary, CBOE 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 IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

I. Purpose

The CBOE proposes to change the frequency of its rebalancing of the Dow Jones High Yield Select 10 Index, a narrow-based index on which the Exchange received approval to trade

³ The CBOE originally submitted the proposal on November 19, 1998. On December 18, 1998, the CBOE submitted a letter from Stephanie C. Mullins, Attorney, CBOE, to Katherine England, Assistant Director, Division of Market Regulation, Commission (December 18, 1998) ("Amendment No. 1"). In Amendment No. 1, the CBOE proposes to amend Rule 24.9(c) to provide for additional quarterly index expiration dates for the options. Because this filing was filed pursuant to Section 19(b)(3)(A) of the Act, it must be complete at the time it is filed. Therefore, the date of the amendment is deemed the date of the filing of the proposal.

⁴ See Securities Exchange Act Release No. 39453 (December 16, 1997) 62 FR 67101 (December 23, 1997) (notice of filing and immediate effectiveness of SR-CBOE-97-63).

⁵ See note 3, *supra*.

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

options last year.⁶ In the filing seeking initial approval of the Index, the Exchange represented that it would rebalance the Index quarterly on expiration Fridays in March, June, September, and on the last business day in December. Although the Exchange has not yet begun to trade options on the Index, it intends to do so in the near future. In preparing to trade options on the Index, the Exchange has determined to rebalance the Index only on the last business day in December. According to the CBOE, this change in the frequency of rebalancing would make the Index correspond more closely with the methodology used by firms that currently employ similar strategies with respect to the Dow Jones Industrial Average. The Exchange believes that this change might help to attract order flow in the options.

In addition, the CBOE proposes to establish quarterly expiration dates for the Index on the last business day of each quarter. These expiration dates would be in addition to the monthly expiration dates that the CBOE established in the original filing. The reason for this amendment is due to firm and customer demand. The CBOE represents that customers have requested the additional quarterly expiration days because the portfolio underlying the Index is reconstituted on the last business day each year. By allowing quarterly expiration, the CBOE believes that option holders would be able to better track the performance of the Index because the waiting period between standard expiration and rebalancing of the Index portfolio would be eliminated.

⁶ The Commission notes that the listing and trading of options on the Index was immediately effective upon filing under Rule 19b-4 and was submitted pursuant to the CBOE's generic narrow-based index option listing standards. See CBOE Rule 24.2. Under these listing standards, the CBOE can list and trade narrow-based index options provided that the index complies with certain requirements. If the index is capitalization-weighted, the standards require that the index be rebalanced quarterly. The CBOE represented that the proposed Index would comply with this requirement when it initially sought approval of the listing and trading of the options. The CBOE now proposes to rebalance the Index annually, rather than quarterly. The Commission notes that before modifying the frequency of rebalancing of the Index, the Exchange sought the Commission's approval pursuant to Rule 19(b). Telephone conversation between Eileen Smith, Director, Research Department, CBOE, and Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, on November 6, 1998.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁷ in general and furthers the objectives of Section 6(b)(5)⁸ in particular in that it will permit trading in options based on the Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

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 Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from November 19, 1998, the date on which it was filed, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and subparagraph (e)(6) of Rule 19b-4 thereunder.¹⁰ Although Rule 19b-4(e)(6) requires that an Exchange submit a notice of its intent to file at least five days prior to the filing date, the Commission notes that in this case, this requirement was waived at the CBOE's request for the proposed rule change and Amendment No. 1 thereto.

The Commission notes that under Rule 19b-4(e)(6)(iii), Amendment No. 1 does not become operative for 30 days after date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The CBOE requests a waiver of this 30 day period. In Amendment No. 1, the CBOE states that it seeks to have the entire product launched together, with the QIXs available on the Index at the same

time the rest of the product is launched on January 4, 1999. The CBOE also represents in Amendment No. 1 that it has an exclusive license to trade options on the Index, and is proposing to permit four additional opportunities for expiration. The Exchange believes the additional expiration dates would give investors a more widely traded strategy. For the reasons discussed above, the Commission finds the waiver of the 30 day period for Amendment No. 1 is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule, as amended, 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. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-98-52 and should be submitted by January 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(e)(6).

¹¹ 17 CFR 200.30-3(a)(12)