

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43484; File No. SR-BSE-00-17]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Fortune Indexes

October 26, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on October 12, 2000, the Boston Stock Exchange, Inc. ("BSE" 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 of the proposed rule change.

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

The BSE intends to trade, via Unlisted Trading Privileges ("UTP"), Index Fund Shares based on the Fortune 500 and Fortune e-50 Indexes pursuant to Rule 19b-4(e) under the Act.<sup>3</sup> Accordingly, the BSE proposes to amend Chapter XXIV-B, *Index Fund Shares*, by adding Section 6, *Fortune Indexes*, to set forth various disclaimers of liability and warranties in connection with these Indexes and trading in Index Fund Shares. The text of the proposed rule change is available at the principal office of the BSE 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 BSE 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

The BSE intends to trade, via UTP, Index Fund Shares based on the Fortune 500 and Fortune e-50 Indexes ("Indexes"), pursuant to rule 19b-4(e) under the Act.<sup>4</sup> Therefore, the BSE proposes to amend Chapter XXIV-B, *Index Fund Shares*, by adding Section 6, *Fortune Indexes*, to set forth various disclaimers of liability and warranties in connection with the Indexes and trading in Index Fund Shares. The proposed rule would state, among other things, that the Indexes are licensed for use by the Exchange in connection with the Index fund Shares; that the Index Fund Shares have not been passed on by Fortune for suitability for a particular use; and that the Index Fund Shares are not sponsored, endorsed, sold, or promoted by Fortune. The proposed rule would also state that Fortune does not warranty the accuracy or completeness of the Indexes or the data included therein, results to be obtained from use of the Indexes or such data, or fitness for a particular use with respect to the Indexes or such data.

##### 2. Statutory Basis

The BSE believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Sections 6(b)(5)<sup>6</sup> in particular, 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. The BSE also states that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

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

The BSE does not believe that the proposed rule would 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.

### 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 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-BSE-00-17 and should be submitted by November 24, 2000.

#### 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 the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>7</sup> Specifically, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act<sup>8</sup> because it will facilitate transactions in securities by setting forth certain disclaimers of liability with respect to Index Fund Shares based on the Fortune 500 and Fortune e-50 Indexes that will trade on the Exchange.<sup>9</sup>

The BSE has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act<sup>10</sup> for approving the proposed rule change

<sup>7</sup> In reviewing the proposed rule change, the Commission considered its potential impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> The Commission notes that it has previously approved a proposed rule change submitted by the BSE under Exchange Act Rule 19b-4, 17 CFR 240.19b-4(e), that established generic listing standards for Index Fund Shares that would permit the trading of, among other things, shares of the Fortune 500 and FORTUNE e-50 Indexes funds pursuant to UTP. See Exchange Act Release No. 34-42988 (June 28, 2000), 65 FR 42021 (July 7, 2000).

<sup>10</sup> 15 U.S.C. 78S(B)(2).

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

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

<sup>3</sup> 17 CFR 240.19b-4(e).

<sup>4</sup> 17 CFR 240.19b-4(e).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

prior to the thirtieth day after publication of the proposal in the **Federal Register**.<sup>11</sup> The Commission does not believe that this proposal raises any new regulatory issues and notes that the proposed rule change is nearly identical to others that have been previously approved by the Commission.<sup>12</sup> Therefore, the Commission finds that there is good cause for approving the proposed rule change prior to the thirtieth day after publication of the proposal in the **Federal Register**.

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-BSE-00-17), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43483; File No. SR-CHX-00-33]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Trading of the streetTRACKS<sup>SM</sup> Dow Jones Global Titans Index Fund

October 25, 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>

<sup>11</sup> In its initial submission to the Commission, the BSE inadvertently requested that the Commission grant accelerated *effectiveness* to the proposed rule change. The BSE has indicated that, instead, it requested accelerated *approval* of the proposal. Telephone conversation between Esther Radovsky, Listings Analyst, BSE, and Michael Gaw, Attorney-Adviser, Division of Market Regulation, Commission, on October 24, 2000.

<sup>12</sup> See, e.g., Exchange Act Release No. 34-41664 (July 27, 1999), 64 FR 42424 (August 4, 1999) (approval of BSE rule change to, among other things, adopt certain disclaimers of liability with respect to Nasdaq-100 Index Fund Shares); Exchange Act Release NO. 34-41119 (February 26, 1999), 64 FR 11510 (March 9, 2000) (approval of Amex rule change to, among other things, adopt certain disclaimers of liability with respect to Nasdaq-100 Index Fund Shares); Exchange Act Release No. 34-35534 (March 24, 1995), 60 FR 16686 (March 31, 1995) (approval of Amex rule change to, among other things, adopt certain disclaimers of liability with respect to S&P MidCap 400 Index Fund Shares).

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

notice is hereby given that on October 16, 2000, the Chicago Stock Exchange, Incorporated ("Exchange" or "CHX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. 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 CHX proposes to trade, pursuant to unlisted trading privileges, shares of the streetTRACKS<sup>SM</sup> Dow Jones Global Titans Index<sup>TM</sup> Fund,<sup>3</sup> using the procedures outlined in Rule 19b-4(e) of the Act.

#### 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 CHX 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 CHX 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 August 21, 1996, the Commission approved a new listing standard, Article XXVIII, Rule 24, which allowed the Exchange to list and trade Investment Company Units.<sup>4</sup> In general, Investment Company Units represent an interest in a registered investment company that holds securities based on, or representing an interest in, an index or portfolio of securities.

Over time, the Commission has approved amendments to Article XXVIII, Rule 24, to permit the trading, pursuant to unlisted trading privileges, of investment company lists based on certain Morgan Stanley Capital International Indices ("WEBBS<sup>SM</sup>," now called "iShares<sup>SM</sup> MSCI Index Fund

<sup>3</sup> "streetTRACKS" is a registered service mark of the State Street Corporation. "Dow Jones Global Titans Index" is a trademark of the Dow Jones & Co., Inc.

<sup>4</sup> See Securities Exchange Act Release No. 37589 (August 21, 1996), 61 FR 44370 (August 28, 1996) (SR-CHX-96-12).

Series<sup>SM</sup>) and nine series of Select Sector SPDRs<sup>SM</sup>.<sup>5</sup>

On June 22, 2000, the Commission approved a proposed rule change that added a new interpretation to the CHX's Investment Company Units listing standard.<sup>6</sup> This new provision permits the Exchange to list or trade Investment Company Units under the expedited procedures described in Rule 19b-4(e) under the Act, so long as those securities meet specific standards. The Exchange has used these procedures to trade, pursuant to unlisted trading privileges, several Investment Company Units, including series of the iShares Trust based on domestic stock indices.

Through this filing, the Exchange proposes to trade, pursuant to unlisted trading privileges, shares of the streetTRACKS ("Shares") Dow Jones Global Titans Index Fund (the "Fund"). The Fund is a series of the streetTRACKS Series Trust (the "Trust"), which is an open-end investment company.<sup>7</sup> As described below, these Investment Company Units are structurally similar to the Investment Company Units already approved for trading on the Exchange.

The Exchange has prepared the following information about the Fund based on the streetTRACKS Trust Prospectus (the "Prospectus") and Statement of Additional Information dated September 25, 2000, as well as a submission by the American Stock Exchange, LLC ("Amex"), in which it sought approval to list and trade these securities (the "Amex Submission").<sup>8</sup>

a. *The Dow Jones Global Titans Index.* The Dow Jones Global Titans Index (the "Index") is composed of 50 common stocks, which are chosen by the Dow Jones and Company (the "Dow"). As described in the Prospectus, a stock

<sup>5</sup> See Securities Exchange Act Release Nos. 39117 (September 22, 1997), 62 FR 50973 (September 29, 1997) (SR-CHX-96-14) (WEBBS); and 40950 (January 15, 1999), 64 FR 3730 (January 25, 1999) (SR-CHX-98-31) (Select Sector SPDRs). "WEBBS" was a service mark of the Morgan Stanley Group, Inc. "iShares" is a service mark of the Barclays Global Investors. "MSCI Index Fund" is a trademark of the Morgan Stanley Capital International. "Select Sector SPDR" is a service mark of The McGraw-Hill Companies, Inc.

<sup>6</sup> See Securities Exchange Act Release No. 42975 (June 22, 2000), 65 FR 40712 (June 30, 2000) (SR-CHX-00-14).

<sup>7</sup> State Street Bank and Trust Company, through its State Street Global Advisors division, ("State Street") is the adviser to the Trust and responsible for management of the Fund. State Street is also the administrator, custodian and transfer agent for the Fund and may act as a lending agent for the Trust. State Street Capital Markets, LLC is the distributor of the Fund's Shares. The Depository Trust Company ("DTC") acts an securities depository for the Shares.

<sup>8</sup> See Securities Exchange Act Release No. 43338 (September 25, 2000), 65 FR 59235 (October 4, 2000) (SR-Amex-00-53).