

that apply to index options under CBOE Chapter 12. Thus, the margin requirements for options on Fund Shares that represent interest in funds that hold securities based upon a narrow-based index or portfolio must have options margin that equals at least 100 percent of the current market value of the contract plus 20 percent of the market value of equivalent units of the underlying security value.

Lastly, the CBOE believes it has the necessary systems capacity to support the additional series of options that would result from the introduction of Fund Shares representing narrow-based indices or portfolios, and it has been advised that the Options Price Reporting Authority ("OPRA") also has the capacity to support these additional series.⁷

2. Statutory Basis

By providing investors with a better means to hedge their positions in the underlying units within the framework of CBOE's regulated market place and providing investors with an alternative market center in which to trade these products, thereby increasing competition, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act⁸ 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.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19(b)-4(f)(6) thereunder because the

proposed rule change has been properly designated by the CBOE as effecting a change that: (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 the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest.¹⁰ At any time within 60 days of the filing of the proposed rule change, 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 the furtherance of the purposes of the Act.¹¹

The Exchange has requested that the rule change be accelerated to become operative immediately upon filing of the proposal to expeditiously provide investors with the a better means to hedge their positions in the underlying Fund Shares based on narrow-based indexes or portfolios, as well as an alternative market center in which to trade these products, thereby increasing competition.¹² In addition, the Exchange noted that options on narrow-based indexes are currently trading on the Amex.¹³ The Commission finds that accelerating the operative date of the rule change is consistent with the protection of investors and the public interest, and thus designates July 24, 2000 as the operative date of this filing.¹⁴

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, 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-CBOE-00-31 and should be submitted by August 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 00-20261 Filed 8-9-00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43105; File No. SR-NYSE-00-24]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Revising the Exchange's FORM AP-1 Application

August 2, 2000.

I. Introduction

On May 25, 2000, the New York Stock Exchange, Inc., ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the Exchange's FORM AP-1 (the "Form") Application. The proposed rule change was published for comment in the **Federal Register** on June 27, 2000.³ No comments were received on the proposal. This order approves the NYSE's proposal.

II. Description of the Proposal

NYSE Rule 304(h) requires that "[a]ny person who controls a member or member organization, or who engages in a securities or kindred business and is controlled by or under common control with a member or member organization but is not a member or allied member

¹⁰ As required under Rule 19b-4(f)(6)(iii), the CBOE provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

¹¹ 15 U.S.C. 78s(b)(3)(C).

¹² Telephone conversation between Angelo Evangelou, Attorney, Legal Division, CBOE, and Heather Traeger, Attorney, Division of Market Regulation, SEC, on July 28, 2000.

¹³ See *supra* note 6.

¹⁴ 17 CFR 240.19b-4(f)(6). For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 42971 (June 21, 2000), 65 FR 39644.

⁷ See Letter from Joe Corrigan, Executive Director, OPRA, to William Speth, Director of Research, CBOE, dated July 14, 2000.

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

or an employee of a member organization shall apply for approval by the Exchange as an approved person. . . .” The approval process requires that certain pertinent information about the approved person Applicant be provided to the Exchange for review. FORM AP-1 is used by Applicants who are entities and FORM U-4 is completed by natural person Applicants.

The Exchange is proposing several revisions to FORM AP-1, which will require additional information and otherwise enhance its effectiveness for reviewing, approving, and monitoring Approved Persons.

The proposed substantive revisions to FORM AP-1:

- require greater detail regarding both the nature of an Applicant’s business and the Applicant’s relationship with the member organization (items 7A and 9A–C of the Form);
- require the Applicant, promptly upon request, to provide the Exchange with updated financial and other information (Instruction Sheet, No. 8);
- require the Applicant, if a registered broker-dealer, to submit a copy of its most recent FOCUS Report (Instruction Sheet, No. 10);
- continue the effectiveness of the Applicant’s FORM AP-1 agreements with the Exchange notwithstanding that the named member or member organization has changed its name or legal form (p. 4 of the Form, 5th paragraph); and
- require that a copy of a complete organization chart of Applicant and its affiliates be provided (Instruction Sheet, No. 9).

The proposed revisions (Form items 7A and 9A–C) will provide Exchange staff with more detailed information regarding the relationship between the member organization and approved person, enabling a more thorough evaluation of the Applicant (*e.g.*, the Form asks for a general description of the Applicant’s business and requires Applicant to indicate specifically how it controls, is controlled by or under common control with the member or member organization).

The proposed revisions clarify circumstances under which an Applicant must file financial statements (Instruction Sheet, No. 8). Item 12 of the Form asks the Applicant to submit to the Exchange its most recent balance sheet and income or profit and loss statement if the Applicant (a) Controls the member organization; (b) is a subsidiary of the member organization for purposes of NYSE Rule 321 or its obligations or liabilities are guaranteed, endorsed or assumed by the member

organization (under NYSE Rule 322); or (c) is a “Material Associated Person” as the term is used in Rule 17h-1T under the Act. The Exchange believes that in most cases there is no regulatory purpose served by requiring submission of financial statements of persons under common control unless, as previously indicated, the person is a “Material Associated Person.” The Exchange, however, reserves the right to request current financial statements from applicants under common control. The Form also provides clarification that when financial statements are required to be submitted, they must be current, and clarification of the Exchange’s right to request updated financial and other information. Approved person Applicants that are registered broker-dealers must submit copies of their most recent FOCUS report (Instruction Sheet, No. 10).

The revised Form contains a new provision which states that the Applicant agrees that the statements, warranties, representations and undertakings in the Form will continue to apply notwithstanding a change to the member organization’s name, form of organization, or legal status (but retains same SEC B/D number). This will eliminate the need for more frequent re-filings of FORM AP-1 (*see* page 4 of the Form, 5th paragraph).

To clarify the relationship between the Applicant and the member organization, a complete organization chart of the Applicant and its affiliates must be submitted with the Form (Instruction Sheet, No. 9). An organization chart may also identify other entities which should be approved persons.

Certain additional changes are proposed in response to suggestions made by Commission staff. They include the addition of a question (item 7B of the Form) to elicit the identity of any “foreign financial regulatory authority” to which the Applicant may be subject. They also include highlighting (on the Instruction Sheet) the responsibility of the Applicant to disclose whether it, or any person associated therewith, is subject to a statutory disqualification, and noting on the instruction Sheet (No. 8) that any required financial statements must be submitted in English.

Several formatting revisions have also been made, such as italicizing defined terms and providing space for evidencing Exchange staff processing, which make the Form clearer and easier to use.

III. Discussion

The Commission finds that the proposal is consistent with the requirements of the Act of the rules and regulations thereunder applicable to a national securities exchange.⁴ Specifically, the Commission believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act⁵ because it is designed to prevent fraudulent and manipulative acts and practices, promotes just and equitable principles of trade, and, in general, protects investors and the public interest, in that it will enhance the process by which the Exchange reviews, approves, and monitors Approved Persons. The Commission believes that by providing more meaningful and detailed information for the Exchange’s review, the proposed revisions to the NYSE’s FORM AP-1, Application will enable the Exchange to make a better-informed decision concerning approval of applicants. The Commission also believes that such additional information on the application should improve the utility of the form in connection with the Exchange’s regulatory oversight responsibilities.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-NYSE-00-24) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43098; File No. SR-NYSE-99-46]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. to Amend Exchange Rule 104 (“Dealings by Specialists”)

July 31, 2000.

I. Introduction

On November 16, 1999, the New York Stock Exchange, Inc. (“NYSE” or

⁴ In approving this rule, the Commission has considered the proposed rule change’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).