

impediments to and perfect the mechanism of a national market system.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>23</sup> that the proposed rule change (SR-BSE-94-12) is approved on a pilot basis until December 31, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>24</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35178; File No. SR-CBOE 94-34]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Establishment of Uniform Listing and Trading Guidelines for Stock Index and Currency Warrants**

December 29, 1994.

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> notice is hereby given that on September 29, 1994, 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 self-regulatory organization. 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 adopt rules governing stock index and currency warrants.<sup>3</sup> On December 21, 1994, the CBOE amended certain surveillance related matters addressed in the filing. (See footnote 6 *infra*.)

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 CBOE 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 CBOE 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 October 19, 1990, the Commission approved SR-CBOE-90-08 authorizing the Exchange to list and trade stock, warrants and other securities.<sup>4</sup> This filing proposes rules governing customer protection and margin requirements for stock index warrants, currency index warrants and currency warrants and position limits for stock index warrants. This filing incorporates the results of numerous communications with the Commission staff and other exchanges, including comments contained in a letter from Sharon Lawson to Joanne Moffic-Silver dated January 28, 1993 ("Lawson letter"). This filing also makes certain changes in the listing criteria for stock index and currency warrants and makes clear that certain rules applicable to currency warrants would apply equally to currency index warrants.

**Position Limits.** The Exchange is proposing position limits for stock index warrants that, in general, are approximately 75%, in terms of underlying dollar value, of the current position limits for index options. Existing Exchange Rule 4.13, Reports Related to Position Limits, and Rule 4.14, Liquidation of Positions, are made applicable to transactions in stock index warrants.

**Customer Protection.** Modifications are proposed to Exchange Rule 30.50, Doing Business With the Public, to incorporate references to proposed new Rule 30.52. In addition, Interpretation .02 is being deleted as unnecessary in that, subject to certain "grandfather" provisions identified below, rules applicable to domestic index warrants will apply equally to warrants on foreign indexes.

Proposed new Rule 30.52, Special Requirements for Stock Index Warrants, Currency Index Warrants and Currency Warrants, sets out various customer protection rules applicable to stock index, currency index and currency warrants. In addition to the rules actually set forth therein, Rule 30.52 makes the following existing options customer protection rules applicable to stock index, currency and currency index warrants.

Rule 9.2 Registration of Options

Principals

Rule 9.6 Registration of Branch Offices

Rule 9.7 Account Approval

Requirements

Rule 9.8 Supervision Requirements

Rule 9.9 Suitability Requirements

Rule 9.10 Discretionary Account

Requirements

Rule 9.21 Requirements for Customer Communications

Rule 9.23 Record-keeping

Requirements for Customer

Complaints

**Margin.** The Exchange's proposed margin requirements for customers having positions in index warrants, currency index warrants and currency warrants are included in proposed new Rule 30.52. In general, the proposed margin requirements for long and short positions in stock index warrants and currency index warrants are the same as margin requirements for positions in stock index options and the margin requirements for long and short positions in currency warrants are the same as those for currency options. CBOE believes that such requirements are more appropriate than applying stock margin treatment to such warrants.

CBOE's proposed margin rule also follow the proposals of the other exchanges in providing spread margin offsets between offsetting warrants and between warrants and listed options on the same underlying interest and providing special margin treatment for "covered writing positions" (*i.e.*, "short" stock index warrant positions covered by positions in all the stocks comprising the index).<sup>5</sup> Nevertheless, CBOE believes that a broker-dealer carrying such positions must bear in mind that special characteristics of warrants—such as pricing differences, the necessity of borrowing to make

<sup>5</sup> Although the Exchange has conformed its proposed rule to those of other exchanges by including these provisions giving special margin treatment to covered writing positions, the Exchange strongly believes that such provisions should not be approved for any exchange unless the Commission concurrently approves the same margin treatment for covered writing of stock index call options and stock index put options.

<sup>23</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>24</sup> 17 CFR 200.30-3(a)(12) (1991).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1991).

<sup>3</sup> Currency warrants, as used in this filing, may refer to warrants on individual currencies (or cross currencies) or to warrants on a specific currency index group ("currency index warrants.")

<sup>4</sup> Securities Exchange Act Release No. 28556, 55 FR 43233 (Oct. 26, 1990).

delivery on short sales, and the issuer credit risk associated with long warrants—may cause these margin requirements to be insufficient to fully cover the risk of such positions in certain circumstances, and broker-dealers must therefore be prepared to call for additional margin when appropriate. CBOE further believes that each exchange listing stock index, currency index or currency warrants should draw the attention of its member firms to this issue in connection with the adoption of these margin rules.

In accordance with the Lawson letter, the proposed rules would be applicable only to warrants issued after the effective date of this filing. Warrants issued prior to that date would remain subject to rules then in effect.

**Applicability of Other Exchange Rules.** Appendix A to Chapter XXX, which is a cross-reference table to other rules of the Exchange that are applicable to securities otherwise covered in Chapter XXX, is being updated to reflect the applicability of certain options rules (*i.e.*, customer protection rules including, but not limited to, options account approval, suitability, etc.) to stock index warrants, currency index warrants and currency warrants.

**Listing Criteria.** The listing criteria for stock index warrants and currency warrants are being amended to reflect the comments contained in the Lawson letter and to make clear that they apply to currency index warrants. In particular, issuers would be required to have a minimum tangible net worth in excess of \$150 million. In addition, the aggregate original issue price of all of a particular issuer's warrant offerings (combined with offerings by its affiliates) that are listed on a national securities exchange or that are National Market securities traded through NASDAQ would not be permitted to exceed 25 percent of the issuer's net worth. Finally, opening prices for all U.S. traded securities will be used to determine an index's settlement value where 25 percent or more of the value of the index is represented by securities whose primary trading market is in the U.S.

**Trading Halts or Suspensions.** Proposed new Rule 30.36 makes the provisions in Rule 24.7 concerning trading halts or suspensions in stock index options applicable to stock index warrants.

**Specific Warrant Issues.** It is the Exchange's understanding that, upon approval of the foregoing amendments, no rule filing pursuant to Section 19(b) of the Act will be required in order for the Exchange to list specific issues of warrants on a board-based index that is

the underlying index for warrants or standardized options that have previously been listed or approved for listing by the Commission on a national securities exchange or national securities association.

Initial and maintenance listing standards for stock index warrants will require that no more than 20% of the securities in the underlying index, by weight, may be comprised of foreign securities that are not subject to comprehensive surveillance sharing agreements between the CBOE and the primary exchange on which the foreign security (including a foreign security underlying an ADR) is traded.<sup>6</sup> Prior to trading stock index or currency warrants, the Exchange will distribute a circular to its membership providing guidance regarding member firm compliance responsibilities (including suitability recommendations) when handling transactions in index or currency warrants.<sup>7</sup>

## 2. Statutory Basis

The Exchange believes 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 and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The Exchange believes the proposed rule change will impose no burden on competition.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or

<sup>6</sup> Telephone conversation between James R. McDaniel, Schiff Hardin & Waite, and Stephen M. Youhn, SEC, on December 21, 1994 ("Amendment No. 1"). The Exchange proposes that the "20% test" be applied in the same manner as that contained in Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994) (Commission approval order allowing the expedited trading approval of certain narrow-based index options).

<sup>7</sup> Telephone conversation between James R. McDaniel, Schiff Hardin & Waite, and Stephen M. Youhn, SEC, on December 22, 1994.

within such other 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 the 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. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. 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-94-34 and should be submitted by January 30, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

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

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[Release No. 34-35186; File No. SR-DTC-94-16]

## Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Clarifying the Depository Trust Company's Policy on Depository-to-Depository Services and Fees

December 30, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1993).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).