petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing.

The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Frederick J. Hebdon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to General Council, Tennessee Valley Authority, ET 11H, 400 West Summit Hill Drive, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 3, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 4th day of January 1995.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Sr. Project Manager, Project Directorate II–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–535 Filed 1–6–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35187; File No. SR–BSE–94–12]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 to Proposed Rule Change Relating to its Specialist Performance Evaluation Program

December 30, 1994.

I. Introduction

On October 3, 1994, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') submitted to 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 extend its Specialist Performance Evaluation Program (''SPEP'' or ''Evaluation Program''), which currently incorporates objective measures of specialist performance, for an additional twelve-month period.[3] On October 6, 1994, the Exchange submitted Amendment No. 1 to the proposed rule change in order to correct certain typographical errors.

The proposed rule change, together with Amendment No. 1, was published for comment in Securities Exchange Act Release No. 34819 (October 11, 1994), 59 FR 52327 (October 17, 1994). No comments were received on the proposal. This order approves proposed rule change, including Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to extend its Specialist Performance Evaluation

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] The Commission initially approved the BSE's SPEP pilot program in Securities Exchange Act Release No. 22993 (March 10, 1986), 51 FR 8298 (March 14, 1986) (File No. SR–BSE–84–04). The Commission subsequently extended the pilot program in Securities Exchange Act Release Nos. 26162 (October 6, 1988), 53 FR 40301 (October 14, 1988) (File No. SR–BSE–87–06); 27656 (January 30, 1990), 55 FR 4296 (February 7, 1990) (File No. SR–BSE–90–01); 28919 (February 26, 1991), 56 FR 9990 (March 8, 1991) (File No. SR–BSE–91–01); and 30401 (February 24, 1992), 57 FR 7413 (March 2, 1992) (File No. SR–BSE–92–01). The BSE was permitted to incorporate objective measures of specialist performance into its pilot program in Securities Exchange Act Release No. 31890 (February 19, 1993), 58 FR 11647 (February 26, 1993) (File No. SR–BSE–92–04) (''February 1993 Approval Order''), at which point the initial pilot program ceased to exist as a separate program. Commission approval of the BSE's current SPEP pilot program expires on December 31, 1994. *See* Securities Exchange Act Release No. 33341 (December 15, 1993), 58 FR 67875 (December 22, 1993) (File No. SR–BSE–93–16) (''December 1993 Approval Order'').

Program to incorporate objective measures of specialist performance.[4] The current pilot program uses the BEACON system [5] to assess how well a specialist handles market and marketable limit orders routed to him for execution. For each specialist, a record of all action taken on relevant BEACON orders is accumulated in a special file, from which the four calculations described below are run.

First, Turnaround Time measures the average number of seconds from the receipt of a guaranteed market or marketable limit order (*i.e.*, for 1299 shares or less) in BEACON until it is executed (in whole or in part), stopped or cancelled.[6] Time continues to accumulate if the specialist just moves an order from the auto-ex screen to the manual one, until that order is executed (in whole or in part), stopped or cancelled.

Second, Holding Orders Without Action measures the number of market and marketable limit orders which are neither executed, stopped nor cancelled within twenty-five seconds. This measure differs from Turnaround Time in that orders of all sizes (including those already counted toward Turnaround Time) are analyzed.[7]

Third, Trading Between the Quote measures the number of market and marketable limit orders that are executed between the best consolidated bid and offer where the spread is greater than 1/8th.

Fourth, Executions in Size Greater than Best Bid and Offer (''BBO'') measures the number of market and marketable limit orders which exceed, and are executed in a size larger than, BBO size.

For each of the above measures, including the revised questionnaire, the specialist receives a raw score. A ten point grading scale is then applied to ranges of raw scores. In computing the overall program score, the measures are assigned the following weights: Turnaround Time, 15%; Holding Orders Without Action, 15%; Trading Between the Quote, 25%; Executions in Size Greater than BBO, 25%; Questionnaire, 20%.

At the same time as it incorporated the objective measures described above, the Exchange also revised the conditions for performance review. For each measure, the Evaluation Program states at what score specialist performance is deemed to be adequate.[8] A specialist who is deficient in the same one objective measure, for two out of three consecutive review periods, is required to appear before the Performance Improvement Action Committee.[9] The purpose of this meeting is to discuss, informally, possible methods of improving the specialist's performance.

If the specialist does not improve in the next review period, he is referred to the Market Performance Committee. The Market Performance Committee is directed to take such actions as it deems necessary and appropriate to address the deficient score. These actions include suspending a specialist's trading account, suspending his alternate specialist account privilege,[10] or reallocating his specialty stocks.[11]

Finally, the BSE also incorporated modified relative rankings into its Evaluation Program. Exchange staff reviews the performance of any specialists whose scores place them in the bottom ten percent of all BSE units.[12] In addition, a specialist who is deficient on the overall program score, for two out of three consecutive review periods, is required to appear before the Market Performance Committee, with the same possible consequences as above.[13]

The BSE has requested a twelve-month extension of the current pilot program to enable the Exchange to evaluate further the appropriateness of the measures and their respective weights, as well as the effectiveness of the overall evaluation program. The BSE believes that the proposed rule change will promote just and equitable principles of trade and aid in the perfection of a free and open market and a national market system. The Exchange states that the SPEP results weigh heavily in stock allocation decisions and, as a result, specialists are encouraged to improve their market quality and administrative duties.

III. Discussion

The Commission believes that specialists play a crucial role in providing stability, liquidity and continuity to the trading of stocks. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities.[14] To ensure that specialists fulfill these obligations, it is important that the Exchange conduct effective oversight of their performance. The BSE's Specialist Performance Evaluation Program is critical to this oversight.

In its order approving the incorporation of objective measures of performance,[15] the Commission asked the Exchange to monitor the effectiveness of the amended Evaluation Program. Specifically, the Commission requested information about the number of specialists who fell below acceptable levels of performance for each objective measure, the questionnaire and the overall program; and about the specific measures in which each such specialist was deficient. The Commission also requested information about the number of specialists who, as a result of each

[4] *See* February 1993 Approval Order, *supra*, note 3. In addition to the substantive changes discussed below, SPEP was moved to Ch. XV, ¶ 2156 of the BSE Rules.

[5] BEACON is the BSE's automated order-routing and execution system. Of all incoming BEACON orders, SPEP collects data for regular buy and sell market and marketable limit orders only. Thus BEACON orders with qualifiers (*e.g.*, buy minus or sell plus, market-on-close, stop, stop limit, all or none, etc.) and crosses are excluded from analysis.

[6] Data collection starts when the stock opens on the primary market. Blocks of time are excluded in the event of trading halts, BEACON system failure, etc.

[7] The same exclusions apply for Holding Orders Without Action as for Turnaround Time. *See supra*, note 6.

[8] A specialist is deficient in any individual objective measure or the overall program if he scores below certain minimum performance levels, as set forth below. Thus for his performance to be deemed adequate, a specialist must receive the following scores:

Overall Evaluation—at or above weighted score of 5.80

Turnaround Time—below 21.0 seconds (8 points)

Holding Orders Without Action—below 21% (7 points)

Trading Between the Quote—at or above 26% (5 points)

Executions Greater than BBO—at or above 76% (6 points)

Questionnaire—at or above weighted score of 50 (4 points)

[9] In the event a specialist receives a deficient score on the questionnaire alone, the Exchange staff reviews the deficient questionnaire to determine if there is sufficient reason to warrant informing the Performance Improvement Action Committee of potential performance problems.

[10] Alternate specialists provide added liquidity to the market, by promising to trade up to a certain amount of shares, on the request of the primary specialist. A specialist must apply for the privilege of being an alternate.

[11] The possible performance improvement actions are described in the BSE Rules under SPEP's Supplemental Material. This Supplemental Material is intended to provide specialists with adequate notice of the consequences of poor performance. It does not articulate any new substantive standards.

[12] In the event a specialist ranked in the bottom ten percent does not fall below the threshold for the overall program score, the Exchange staff reviews the performance of the specialist to determine if there is sufficient reason to warrant informing the Performance Improvement Action Committee of potential performance problems.

[13] *See supra*, text accompanying notes 10–11.

[14] Rule 11b–1, 17 CFR 240.11b–1 (1991); Ch. XV, ¶ 2155.01 of the BSE Rules.

[15] For a description of the Commission's rationale for approving the incorporation of objective measures of performance into the BSE's SPEP on a pilot basis, *see* February 1993 Approval Order, *supra*, note 3. The discussion in the aforementioned order is incorporated by reference into this order.

condition for review,[16] were referred to the Performance Improvement Action Committee and/or the Market Performance Committee; and about the type of action taken with respect to each such deficient specialist.

In September 1993, and October 1994, the BSE submitted to the Commission monitoring reports regarding its amended Evaluation Program. The reports describe the BSE's experience with the pilot program during 1993 and the first two review periods of 1994. In terms of the overall scope of the Evaluation Program, the Commission continues to believe that objective measures, together with a floor broker questionnaire, should generate sufficiently detailed information to enable the Exchange to make accurate assessments of specialist performance. Based on results from several review periods, the BSE appears to have implemented its BEACON criteria and generated data to assess, in a quantitative way, how well specialists carry out certain aspects (*i.e.*, timeliness of execution, price improvement and market depth) of their responsibilities as specialists.

The Commission also has reviewed the BSE's experience with its minimum adequate performance thresholds. Based on the number of specialists who surpassed acceptable levels of performance for each measure (and on an informal comparison of the floor-wide average to the minimum threshold), it appears that these standards have been helpful in identifying some specialists with potential performance problems, as well as providing an incentive for improved market making performance.

Finally, based on the information provided in the BSE's monitoring reports, the Commission finds that the Exchange applied its conditions for review fairly and consistently. The Commission continues to believe that, taking the Evaluation Program as a whole, most potential performance problems should be brought to the attention of the appropriate committee. In terms of the BSE's response to the deficiencies it identified, the Commission notes that the monitoring reports only cover a limited time period; accordingly, it is too soon for the Commission to reach any definitive conclusion about the effectiveness of the performance improvement actions. Nevertheless, the BSE should examine its Evaluation Program to ensure that adequate corrective actions are taken with respect to each deficient specialist.

In conclusion, the Commission believes that the BSE has taken a good first step toward developing a more effective Specialist Performance Evaluation Program. Accordingly, the Commission believes that it is appropriate to extend the current pilot program for an additional twelve-month period, expiring December 31, 1995. This twelve-month period will allow the Exchange to respond to the Commission's concerns about the Evaluation Program, as set forth below. First, the Commission suggests that the BSE consider incorporating additional objective criteria, so that the Exchange can conduct and even more thorough analysis of specialist performance.[17] At the same time, the BSE should assess whether each measure, as well as the questionnaire, is assigned an appropriate weight.[18] Moreover, the Commission strongly encourages the Exchange to conduct an ongoing examination of its minimum adequate performance thresholds, in order to ensure that they continue to be set at appropriate levels. The Commission also continues to believe that relative performance rankings that subject the bottom ten percent of all specialists units to review by an Exchange committee are an important part of an effective Evaluation Program. Finally, the BSE should closely monitor the conditions for review and should take steps to ensure that all specialists whose performance is deficient and/or diverges widely from the best units will be subject to meaningful review. In the Commission's opinion, a meaningful review process would ensure that adequate corrective actions are taken with respect to each deficient specialist. The Commission would have difficulty granting permanent approval to an Evaluation Program that did not include a satisfactory response to the concerns described above.

The Commission therefore requests that the BSE submit a report to the Commission, by June 1, 1995, describing its experience with the pilot. At a minimum, this report should contain data, for the last review period of 1994 and the first review period of 1995, on (1) the number of specialists who fell below acceptable levels of performance for each objective measure,[19] the questionnaire and the overall program, and the specific measures in which each such specialist was deficient; (2) the number of specialists who, as a result of the objective measures, appeared before the Performance Improvement Action Committee for informal counseling; (3) the number of such specialists then referred to the Market Performance Committee and the type of action taken; (4) the number of specialists who, as a result of the overall program, appeared before the Market Performance Committee and the type of action taken; (5) the number of specialists who, as a result of the questionnaire or falling in the bottom ten percent, were referred by the Exchange staff to the Performance Improvement Action Committee and the type of action taken (this should include the number of specialists then referred to the Market Performance Committee and the type of action taken by that Committee); and (6) a list of stocks reallocated due to substandard performance and the particular unit involved. Any requests to modify this pilot, to extend its effectiveness or to seek permanent approval for the Evaluation Program should be submitted to the Commission by July 31, 1995, as a proposed rule change pursuant to Section 19(b) of the Act.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the requirements of Sections 6 and 11 of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal is consistent with the Section 6(b)(5)[20] requirement that the rules of the Exchange be 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.

Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act,[21] and Rule 11b–1 thereunder,[22] which allow securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets and to remove

[16] *See supra*, notes 8–13 and accompanying text.

[17] For example, the BSE could develop additional measures of market depth, such as how often the specialist's quote exceeds 500 shares or how often the BSE quote, in size, is larger than the BBO (excluding quotes for 100 shares). Another possible objective criteria could measure quote performance (*i.e.*, how often the BSE specialist's quote, in price, is alone at or tied with the BBO).

[18] In this regard, because of the substantial overlap between Turnaround Time and Holding Orders Without Action, the Commission recommends that the BSE consider either having only one measure in this category (*i.e.*, timeliness of execution) or reducing the weights of the existing measures, which together account for the current Evaluation Program.

[19] For each objective measure, the Commission also requests that the BSE provide the mean and median scores.

[20] 15 U.S.C. 78f(b)(5) (1988).

[21] 15 U.S.C. 78k(b) (1988).

[22] 17 CFR 240.11b–1 (1991).

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

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] 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.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–387 Filed 1–6–95; 8:45 am]

BILLING CODE 8010–01–M

[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''),[1] and Rule 19b–4 thereunder,[2] 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.[3] 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.

[23] 15 U.S.C. 78s(b)(2) (1988).

[24] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] 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.'')

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.[4] 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.

[4] Securities Exchange Act Release No. 28556, 55 FR 43233 (Oct. 26, 1990).

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).[5] 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

[5] 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.