

which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended 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, 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, and to General Council, Tennessee Valley Authority, ET 11H, 400 West Summit Hill Drive, Knoxville, Tennessee, 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 August 21, 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.

Dated at Rockville, Md., this 22nd day of August 1995.

For the Nuclear Regulatory Commission.
David E. LaBarge, Sr.,
*Project Manager, Project Directorate II-3,
Division of Reactor Projects-I/II, Office of
Nuclear Reactor Regulation.*
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36123; File No. SR-Amex-95-33]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to a One-Year Extension of the Pilot Program for Specialist Participation in the After-Hours Trading Facility in Portfolio Depository Receipts and Investment Trust Securities Based on Stock Indexes

August 18, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 31, 1995, the American Stock Exchange, Inc. ("Amex" 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 Exchange requests permanent approval of its pilot program for specialist participation in the after-hours trading facility in portfolio depository receipts and investment trust securities based on stock indexes. In the alternative, the Exchange is proposing a one-year extension of the pilot program. The text of the proposed rule change is available at the Amex 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 self-regulatory organization 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 self-regulatory organization 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 April 21, 1993, the Exchange submitted to the Commission, pursuant to section 19(b)(1) of the Act, and Rule 19b-4 thereunder, a proposed rule change concerning its After-Hours Trading ("AHT") facility.¹ As originally filed, the proposed rule change requested permanent approval of Amex's pilot After-Hours Trading facility, and approval on a pilot basis for specialists in investment trust securities based on stock indexes to participate in the AHT facility. On January 4, 1994, the Amex amended the filing to request a three-month extension of the AHT pilot until April 30, 1994.² On February 1, 1994, the Commission approved the three-month extension without approving the portion of the proposed rule change that would allow specialists in investment trust securities to participate for their own accounts in the AHT facility.³ On May 2, 1994, the Commission granted permanent approval to that portion of the rule proposal concerning the Amex's After-Hours Trading facility, not including the specialist participation request.⁴

On August 3, 1993, the Exchange amended the filing to request that specialists in Portfolio Depository Receipts ("PDRs") also be permitted to participate in the AHT facility.⁵ On July 5, 1994, the Exchange amended the proposed rule change to eliminate the migration of limit orders for PDRs and investment trust securities from the specialist's limit order book to the AHT facility.⁶

The proposed rule change to permit specialist participation in the AHT facility in PDRs and investment trust securities was published for comment in Securities Exchange Act Release No.

34316 (July 5, 1994), 59 FR 35547 (July 12, 1994). No comments were received on the proposal. The proposed rule change was approved as a pilot program in Securities Exchange Act Release No. 34611 (Aug. 29, 1994), 59 FR 45739 (Sept. 2, 1994). The pilot is scheduled to expire on August 29, 1995.

The Exchange now seeks permanent approval for amendments to Rules 1300 (Applicability of 1300 Series) and 1302 (After-Hours Trading Orders) to permit specialists in PDRs and investment trust securities listed pursuant to Section 118B of the Exchange's Company guide⁷ to participate in the AHT facility to "clean-up" order imbalances by entering an order for the specialist's account. For example, if there were single sided orders to buy 10,000 and sell 20,000 SPDRs immediately prior to the 5:00 p.m. close of the AHT facility, the specialist is permitted under the Exchange's pilot program to enter an order for its account to buy up to 10,000 SPDRs in order to eliminate the sell side order imbalance.

The Exchange also seeks permanent approval for amendments to Rule 1302(b) to eliminate the migration of limit orders for PDRs and investment trust securities from the specialist's limit order book to the AHT facility. (Amex Rule 1302(b) would provide, with respect to equity securities other than PDRs and investment trust securities, that a regular way good 'til canceled order that is designated as After-Hours eligible, that is on the specialist's limit order book, and that is executable at the closing price or better, shall migrate from the specialist's limit order book to the AHT program.)

The Exchange also seeks permanent approval for amendments to Rule 1302 to permit specialists in PDRs and investment trust securities to participate in a coupled closing price order so long as the other side of the order is not for an account in which a member or member organization has a direct or indirect interest.⁸ For example, under the pilot program, the specialist in SPDRs is permitted to agree prior to the 4:15 close of the regular trading session for such securities to take the other side of a customer order to buy or sell SPDRs for execution in the AHT facility as a

closing price coupled order. The Exchange believes that such capability tends to conform the trading of PDRs and investment trust securities to the practices of the "basket" market for equities where it is customary for a dealer to agree prior to the close of the regular trading session to take the contra side of a customer basket order at the closing index value.

The Exchange believes that permanent approval of the Exchange's pilot program that permits specialists in PDRs and investment trust securities to participate in the AHT facility in order to "clean-up" order imbalances and effect closing price coupled orders would benefit investors by providing additional liquidity to the listed cash market for derivative securities based upon well known market indexes. The market price of these securities is based upon transactions largely effected in markets other than the Amex. The Exchange states that the specialist in the Amex listed derivatives has no unique access to market sensitive information regarding the market for the underlying securities or closing index values. The Exchange, therefore, believes that specialist participation in the AHT facility in PDRs and investment trust securities in the manner described above does not raise any market integrity issues. In addition, should a customer not care for an execution at the closing price, the rules of the Exchange's AHT facility permit cancellation of an order up to the close of the AHT session at 5:00 p.m.⁹ (Orders in the AHT facility are not executed until the 5:00 p.m. close of the After-Hours session.) A customer, therefore, has approximately 40 minutes to determine if an execution at the closing price suits its needs, and may cancel its order if it believes that the closing price does not suit its objectives.

As an alternative to permanent approval of the rule changes described above, the Exchange requests that the Commission extend the pilot for an additional one year term. Although the specialists on the Exchange made little or no use of the pilot program, the Exchange believes that the Commission should extend the pilot for an additional one year term because specialists have expressed interest in using the AHT for SPDRs and have indicated that the ability to participate in the AHT facility provides them with additional ability to meet customer demand that comes into the market late in the trading session.¹⁰

¹ File No. SR-Amex-93-15.

² See letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Sandra Sciole, Special Counsel, SEC, dated December 23, 1993.

³ See Securities Exchange Act Release No. 33561 (Feb. 1, 1994), 59 FR 5789 (Feb. 8, 1994).

⁴ See Securities Exchange Act Release No. 33993 (May 2, 1994), 59 FR 23902 (May 9, 1994).

⁵ See letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Diana Luka-Hopson, SEC, dated August 3, 1993.

⁶ See letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Sandra Sciole, Special Counsel, SEC, dated July 1, 1994.

⁷ The Exchange currently lists two Portfolio Depository Receipts, viz., Standard and Poor's Depository Receipts on the S&P 500 and MidCap Indexes ("SPDRs"); and two investment trust securities pursuant to Section 118B of the Exchange's Listing Guidelines: LOR Index Trust SuperUnits and LOR Money Market SuperUnits.

⁸ As amended, Amex Rule 1300(e)(i) defines, "closing price" as the price established by the last regular way sale on the Exchange prior to the official closing of the 9:30 a.m. to 4:15 p.m. trading session, as determined by the Exchange.

⁹ See Amex Rule 1302(d).

¹⁰ See letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Jennifer Choi, SEC, dated August 14, 1995.

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 manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

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

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

No written comments were solicited or received with respect to the proposed rule change.

III. 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 Exchange. All submissions should refer to File No. SR-Amex-95-33 and should be submitted by September 18, 1995.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

For the reasons set forth below, the Commission finds that approval of the Exchange's proposed rule change, for a temporary period ending on August 29, 1996, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the

requirements of Section 6(b)¹¹ and Section 11A¹² of the Act. The Commission believes that the proposed rule change is consistent with Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, further investor protection and the public interest. The Commission also believes that the proposal is consistent with Section 11(b) of the Act and Rule 11b-1 thereunder,¹³ which allow exchanges to promulgate rules relating to specialists to maintain fair and orderly markets.

Under the pilot program, specialists in PDRs and investment trust securities listed pursuant to Section 118B of the Exchange's Listing Guidelines may participate in the AHT facility to clean up order imbalance by entering an order for their own account. The pilot program also allows specialists in PDRs and investment trust securities to participate in a coupled closing price order as long as the other side of the order is not for an account in which a member or member organization has a direct or indirect interest. Moreover, the pilot program eliminates the migration of limit orders for PDRs and investment securities from the specialist's limit order book to the AHT facility to prevent the potential for manipulation or misuse of specialists' information regarding which limit orders are eligible for execution in the AHT facility.

In the pilot approval order, the Commission believed that the rule change permitting specialists in PDRs and investment trust securities to participate in the AHT facility by entering an order for the specialist's account to eliminate order imbalances should assist specialists in their obligation to minimize temporary disparity between supply and demand.¹⁴ Moreover, the Commission agreed with the Exchange that permitting specialists in PDRs and investment trust securities to participate in the AHT facility to "clean-up" order imbalances and effect closing price coupled orders would benefit investors by providing additional liquidity to the listed cash market for derivative securities based upon well known market indexes. The Commission also believed that the Amex's rule change strikes a reasonable balance between the

Exchange's need to accommodate the needs of investors by increasing liquidity in the listed cash market for derivative securities based on market indexes and the need to prevent the potential for manipulation or misuses of information. Therefore, although Amex specialists will know which limit orders are eligible for execution in the AHT facility, they will not be able to use this information to their advantage because Rule 1302(b) is being amended to eliminate the migration of limit orders for PDRs and investment trust securities from the specialist's limit order book to the AHT facility.

The Commission initially approved the Amex rule change for a one-year pilot period to provide the Commission and the Exchange an opportunity to monitor the operation of the amendments to Rules 1300 and 1302. In this regard, the Commission requested that the Exchange submit a report and analysis regarding the operation of the pilot program. The Exchange, however, did not submit a report to the Commission because specialists on the Exchange made little or no use of the pilot program.

Therefore, the Commission believes that it would be appropriate to allow the Exchange to continue the pilot program for an additional one-year period to afford the Exchange and the Commission an opportunity to evaluate the operation of the pilot program and evaluate whether there are additional issues that need to be addressed. The Exchange should monitor the operation of the amendments to Rules 1300 and 1302 and assure the Commission that the specialists are properly executing their responsibilities.

The Commission, therefore, requests that the Exchange submit a report to the Commission by May 1, 1996, describing its experience with the pilot program. At a minimum, this report should contain the following information (broken down by month): (1) Trading volume (trades and number of shares of PDRs and investment trust securities) in the after-hours session; (2) the number of trades, if any, of (a) single-sided orders, and (b) coupled buy and sell orders which specialists executed in the after-hours session; (3) the number of shares, if any, of (a) single-sided orders, and (b) coupled buy and sell orders which specialists executed in the after-hours session; and (4) the number, if any, of single-sided orders that remained unexecuted at the end of the after-hours session. In addition, the Commission expects the Exchange to monitor closely the trading of PDRs and investment trust securities in the AHT facility to ensure that trading in these

¹¹ 15 U.S.C. 78(f) (1988 & Supp.V. 1993).

¹² 15 U.S.C. 78(k) (1988).

¹³ 17 CFR 240.11b-1 (1994).

¹⁴ See Securities Exchange Act Release No. 34611 (Aug. 29, 1994), 59 FR 45739 (Sept. 2, 1994).

issues is not subject to any patterns of manipulation or trading abuses or unusual trading activity. Finally, the Commission requests that the Amex keep the Commission apprised of any technical problems that may arise regarding the operation of the pilot program.

At the conclusion of the pilot period, if there continues to be no specialist activity or interest in the program, the Exchange should reevaluate whether this program should be continued. Any requests to modify this pilot program, to extend its effectiveness, or to seek permanent approval for the pilot program also should be submitted to the Commission by May 1, 1996, as a proposed rule change pursuant to Section 19(b) of the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. This will permit the pilot program to continue on an uninterrupted basis. Moreover, the Exchange proposes to continue using the identical procedures contained in the pilot program as originally approved. In addition, the rule change that implemented the pilot program was published in the **Federal Register** for the full comment period, and no comments were received. Accordingly, the Commission believes that it is consistent with the Act to accelerate approval of the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-Amex-95-33) is approved on a pilot basis until August 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-21229 Filed 8-25-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36121; International Series Release No. 840; File No. SR-CBOE-95-40]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing and Trading of Warrants Based on the CBOE Germany 25 Index

August 18, 1995.

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 August 4, 1995, the Chicago Board Options Exchange (“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. 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 Exchange hereby proposes to list and trade warrants based on the CBOE Germany 25 Index (“Germany 25 Index” or “Index”) pursuant to CBOE Rule 31.5E (“Index Warrants”). The Exchange represents that the Index is broad-based. 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 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

The purpose of the proposed rule change is to permit the Exchange to list and trade warrants based on the Germany 25 Index. The Exchange represents that it is permitted to list and trade index warrants based on certain foreign broad-based stock indexes pursuant to CBOE Rule 31.5E.³ The Exchange is now proposing to list and trade Index Warrants. According to the Exchange, the listing and trading of

warrants on the Germany 25 Index will comply in all respects with CBOE Rule 31.5E.

Index Design⁴

The Germany 25 Index is a capitalization-weighted index consisting of 25 of the largest capitalized German equities traded on the Frankfurt Stock Exchange (“FSE”). The Exchange represents that Index Warrants will provide investors with the ability to gain investment exposure to one of the largest and most industrialized countries in Europe and to hedge existing investments in German securities.

The 25 stocks comprising the Germany 25 Index were selected by the CBOE for their high market capitalization and high degree of liquidity. According to the Exchange, the Index stocks are drawn from a broad base of industries and are representative of the industrial composition of the broader German equity market. Specifically, the Index components are the top 25 German stocks by market capitalization excluding: (1) Stocks with average daily volume less than 50,000 shares per day over the past six months; and (2) preferred stock of an issuer if that issuer also has publicly-traded common stock. The Index will be reviewed annually by the CBOE at the end of May in each year and any composition changes resulting from that review will be implemented after the June expiration in that year.

The Germany 25 Index is weighted by the capitalization (market value) of the component stocks. The capitalization of a particular stock in the Index is calculated by multiplying the listed shares (including common, preferred, and treasury shares) by the price of the stock.⁵

On June 30, 1995, the 25 stocks in the Index ranged in capitalization from DM 3.656 billion (\$2.648 billion)⁶ to DM 51.642 billion (\$37.408 billion). The total capitalization of the stocks in the index on that date was DM 399.1 billion (\$289.1 billion); the mean capitalization was DM 15.96 billion (\$11.564 billion) and the median capitalization was DM 11.144 billion (\$8.072 billion). The largest stock by capitalization (Allianz

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

³ Currently, Rule 31.5E provides that: (1) Issuers of warrants must substantially exceed the Exchange's criteria for the listing of equity issues under CBOE Rule 31.5A and have assets in excess of \$100 million; (2) particular warrant issues must have at least (i) one million warrants outstanding, (ii) a principal amount/aggregate market value of \$4 million, and (iii) 400 public holders; and (3) warrant issues must have a term of one to five years from the date of issuance.

⁴ See File No. SR-CBOE-95-39 (CBOE proposal to list options based on the Germany 25 Index).

⁵ The Commission notes that this varies from the method used to calculate the values of domestic capitalization-weighted indexes, such as the S&P 100 Index. For such domestic indexes, values are determined based solely on the outstanding shares of common stock of each component in the indexes.

⁶ The CBOE represents that dollar values used herein are based on a German mark/U.S. dollar exchange rate of 1.3805 marks per U.S. dollar prevailing on June 30, 1995.

¹⁵ 15 U.S.C. 78s(b)(2) (1988).

¹⁶ 17 CFR 200.30-3(a)(12) (1994).