

3. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and are held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a charter normally performed by the bank itself.

4. Applicants submit that their request for exemptive relief for deduction of the mortality and expense risk charge from the assets of the Accounts in connection with the issue and sale of the Contracts would promote competitiveness in the variable annuity contract market by eliminating the need for redundant exemptive applications, thereby reducing Applicants' administrative expenses and maximizing the efficient use of their resources. Applicants further submit that the delay and expense involved in having repeatedly to seek exemptive relief would impair their ability effectively to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection. Thus, Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the 1940 Act.

5. Applicants represent that the 1.25% mortality and expense risk charge under the Contracts is within the range of industry practice for comparable annuity contracts. This representation is based upon Applicants' analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the manner in which charges are imposed, the existence of charge level or annuity-rate guarantees, and the markets in which the Existing Contracts are offered. Applicants represent that Phoenix Home Life will maintain at the offices of its actuarial department, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

6. Applicants represent that they will, prior to offering Future Contracts, conclude that the mortality and expense risk charges under such contracts (which cannot exceed in amount the mortality and risk charges under the Existing Contracts) will be within the range of industry practice for comparative contracts. PHLV will maintain at the offices of its actuarial department, and make available to the Commission upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of the comparative survey resulting in that conclusion.

7. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge under the Existing contracts, all or a portion of such profit may be available to pay distribution expenses not reimbursed by the CDSC. PHLV has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Accounts and the owners of Existing Contracts. The basis for that conclusion is set forth in a memorandum which will be maintained by PHLV at the offices of its actuarial department and will be made available to the Commission.

8. Applicants acknowledge that, if a profit is realized from a mortality and expense risk charge under Future Contracts, all or a portion of such profit may be available to pay distribution expenses not reimbursed by a CDSC. Applicants represent that they will, prior to offering Future Contracts, conclude that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Future Accounts and the owners of such Future Contracts. The basis for that conclusion will be set forth in a memorandum which will be maintained by PHLV at the offices of its actuarial department and will be made available to the Commission.

9. Applicants also represent that the Accounts will invest only in underlying funds that have undertaken to have a board of directors, a majority of whom are not interested persons of any such funds within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any plan under Rule 12b-1 under the 1940 Act to finance distribution expenses.

#### Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly

intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-14747 Filed 6-15-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-21127; 811-6286]

#### **BITS Trust; Notice of Application**

June 9, 1995.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANT:** BITS Trust.

**RELEVANT 1940 ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

**FILING DATE:** The application on Form N-8F was filed on May 10, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 3, 1995, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street NW., Washington, D.C. 20549. Applicant, 400 South LaSalle Street, Chicago, Illinois 60605.

**FOR FURTHER INFORMATION CONTACT:** H.R. Hallock, Jr., Special Counsel, at (202) 942-0564, or C. David Messman, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

#### **Applicant's Representations**

1. Applicant, a registered unit investment trust, filed its notification of

registration on Form N-8A on March 8, 1991. Applicant never filed a registration statement under section 8(b) of the 1940 Act or under the Securities Act of 1933.

2. On March 11, 1991, Applicant filed an application under section 6(c) of the 1940 Act for an exemption from various provisions thereof that were necessary in light of its organizational structure. Applicant stated that it intended to organize separate trusts in series form and to register units of each trust series for listing and trading on the Chicago Board Options Exchange, Inc. The stated purpose for this type of investment product was to make available to investors an instrument that closely tracked the underlying component shares of a stock index and traded like a share of common stock. The Standard & Poor's 500 Composite Price Index was to serve as the underlying index for the first trust series. By letter dated November 19, 1991, the SEC granted Applicant's request for withdrawal of the application.

3. Applicant has never issued or sold any securities and has no security holders. Applicant has never engaged, and does not propose to engage, in business activities of any kind.

For the Commission, by the Division of Investment Management, under delegated authority.

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

[FR Doc. 95-14746 Filed 6-15-95; 8:45 am]  
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[Release No. 34-35832; File No. SR-CHX-95-13]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Technical Correction of Its Rule Regarding Letters of Guarantee**

June 9, 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 May 30, 1995, the Chicago Stock Exchange, Incorporated ("CHX" 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, pursuant to Rule 19b-4 of the Act, proposes to amend Rule 9 of Article XI by redesignating one of the two rules that is currently designated as Article XI, Rule 9 as Article XI, Rule 10.

**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 IV 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**

In SR-CHX-95-03, the CHX codified into CHX Article XI, Rule 9 a requirement that non self-clearing brokers procure a letter of guaranty prior to trading.<sup>1</sup> However, the codification inadvertently misnumbered this rule as Article XI, Rule 9.<sup>2</sup> The purpose of the proposed change is to correct this inadvertent error by renumbering the rule requiring non self-clearing brokers to procure a letter of guaranty prior to trading as Rule 10 of Article XI.

The proposed rule change is consistent with Section 6(b)(5) of the Act because it is designed to promote just and equitable principles of trade, to remove impediments, and to 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 Exchange believes the proposed rule change will impose no burden on competition.

<sup>1</sup> Securities Exchange Act Release No. 35550 (Mar. 30, 1995), 60 FR 17376.

<sup>2</sup> A preexisting Article XI, Rule 9 was approved January 27, 1995. See Securities Exchange Act Release No. 35287 (Jan. 27, 1995), 60 FR 6743 (approving SR-CHX-94-28).

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

The foregoing rule change is concerned solely with the administration of the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule changes 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 furtherance of the purposes of the act.

**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, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Chicago Stock Exchange. All submissions should refer to File No. SR-CHX-95-13 and should be submitted by July 7, 1995.

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

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

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