

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,<sup>15</sup> 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.<sup>16</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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

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[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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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.<sup>3</sup> 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 Design**<sup>4</sup>

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.<sup>5</sup>

On June 30, 1995, the 25 stocks in the Index ranged in capitalization from DM 3.656 billion (\$2.648 billion)<sup>6</sup> 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

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

<sup>2</sup> 17 CFR 240.19b-4 (1994).

<sup>3</sup> 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.

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

<sup>5</sup> 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.

<sup>6</sup> 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.

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

<sup>16</sup> 17 CFR 200.30-3(a)(12) (1994).

AG Holdings) accounted for 12.94% of the total weighting of the Index, while the smallest (Kaufhof) accounted for 0.92%. The top 5 stocks accounted for 44.56% of the total weighting on that date.

For the period from January 1, 1995 through June 30, 1995, average daily volume in Germany 25 Index stocks ranged from a low of approximately 87,629 shares to a high of 2.53 million shares traded per day, with a mean daily trading volume for all the stocks in the Index during that period of 523,501 shares traded per day.

The Exchange represents that the Index is composed of ten (10) broad industry groupings, such as chemicals, automobile and insurance companies, among others, which reflect the industry composition of the German equity market.

#### Calculation

The CBOE states that the Germany 25 Index will reflect changes in the capitalization of the component stocks relative to the capitalization on a base date. The base date for the Index is June 30, 1995, at which time the Index was given a value of 200 by the CBOE. The Index value of 200 was reached by multiplying the price of each stock by the number of listed shares,<sup>7</sup> obtaining the sum of these values for all component stocks, and then dividing by a divisor determined to give the Index a value of 200. The CBOE states that the Germany 25 Index will be calculated by CBOE or its designee based on the most recent closing prices of the component stocks as reported by the FSE.

#### Maintenance

The Index will be maintained and calculated by the Exchange. To maintain continuity of the Index, the Exchange will adjust the Index to reflect certain events relating to the component stocks. For example, the Exchange will adjust the Index divisor to reflect cash dividends paid on the component securities. The Exchange will make this adjustment because German companies usually pay their dividends only once per year (generally in May or June). If not adjusted, the annual dividend payment would result in a significant drop in the Index value at the time when the dividends are paid. The divisor will be adjusted immediately prior to each ex-dividend date so that the Index level will not be affected by the dividend payment. A similar adjustment will be applied when a company issues new shares for which the shareholders have preemptive

rights, or when other intra-year events, such as mergers and spinoffs, occur.

Index replacements, other than those described above, will only be made if a component must be removed from the Index because of a merger or takeover. In that case, the next eligible component will be added, *i.e.*, the German security with the highest market capitalization not then included in the Index that satisfies the criteria set forth above.

#### Index Warrant Trading

The proposed Index Warrants will be direct obligations of their issuer subject to cash-settlement in U.S. dollars, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (if not exercisable prior to such date). The holder of an Index Warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Index value has declined below a pre-stated cash settlement value. Conversely, holders of an Index Warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Index value has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the Index Warrants would expire worthless.

Currently,<sup>8</sup> the trading hours of the Exchange and the FSE do not overlap.<sup>9</sup> The Exchange, therefore will disseminate the value of the Index based on the most recent closing prices of the component stocks as reported by the FSE. After the close of the FSE, however, trading continues in the 25 stocks comprising the Index on the FSE's Integrated Stock Exchange Trading and Information System ("IBIS").<sup>10</sup> The trading hours of IBIS and the Exchange currently overlap from the opening of trading at the CBOE until 10:00 a.m., Chicago time. During this period, the Exchange will calculate and disseminate an "indicative" Germany 25 Index level based on the most recent prices of the component

<sup>8</sup> See *supra* note 4. Telephone conversation between Eileen Smith, Director, Product Development, Research Department, CBOE, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on August 17, 1995.

<sup>9</sup> The FSE's trading hours are from 10:30 a.m. to 1:30 p.m., Frankfurt time (3:30 a.m. to 6:30 a.m., Chicago time).

<sup>10</sup> According to the Exchange, the Deutsche Börse AG, the holding company for the FSE, states that IBIS is a screen-based trading and information system that is available for trading from 8:30 a.m. to 5:00 p.m., Frankfurt time (1:30 a.m. to 10:00 a.m., Chicago time). The CBOE represents that IBIS, as part of the FSE, is subject to the same rules and regulations as floor trading on the FSE. According to the Exchange, IBIS began operating in April, 1991.

stocks as reported by IBIS.<sup>11</sup> When trading on IBIS has concluded (10:00 a.m. Chicago time), the Exchange will disseminate the last "indicative" Index level. To avoid any confusion, the "indicative" Index level will have a different ticker symbol from the actual Index level.

#### Warrant Listing Standards and Customer Safeguards

The Exchange has established generic listing standards for index warrants which are contained in CBOE Rule 31.5E.<sup>12</sup> The Exchange also has established certain sales practice rules for the trading of index warrants which are contained in Chapter IX of the Exchange's Rules. The Exchange represents that the listing and trading of index warrants on the Germany 25 Index will be subject to these guidelines and rules.

The Exchange has submitted to the Commission a proposed rule change to amend its listing criteria for stock index warrants.<sup>13</sup> The Exchange represents that the Generic Warrant Listing Standards will be applicable to the listing and trading of currency and index warrants generally, including Germany 25 Index warrants. If the listing of Index Warrants is approved prior to Commission approval of the Generic Warrant Listing Standards, the CBOE represents that it will require that (1) these warrants be sold only to accounts approved for the trading of standardized options<sup>14</sup> and (2) index options margin will be applied.<sup>15</sup> Finally, prior to the commencement of trading, the Exchange will distribute a circular to its membership calling attention to certain compliance responsibilities when handling transactions in Index Warrants.<sup>16</sup>

#### Surveillance

The Exchange expects to apply its existing index warrant surveillance procedures to Index Warrants. In

<sup>11</sup> The Exchange intends to calculate the "indicative" Index with the same method of calculation as described above for the actual Index.

<sup>12</sup> See *supra* note 3.

<sup>13</sup> These proposed standards will govern all aspects of the listing and trading of index warrants, including, position and exercise limits, reportable positions, automatic exercise, settlement, margin, and notification of early exercise. See Securities Exchange Act Release No. 35178 (December 29, 1994), 60 FR 2409 (January 9, 1995) (notice of File No. SR-CBOE-94-34) ("Generic Warrant Listing Standards").

<sup>14</sup> See CBOE Rule 9.7.

<sup>15</sup> Telephone conversation between Eileen Smith, Director, Product Development, Research Department, CBOE, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on August 17, 1995.

<sup>16</sup> *Id.*

<sup>7</sup> See *supra* note 5 and accompanying text.

addition, the CBOE states that the German legislature recently adopted new laws regarding insider trading that also provide for the creation of an independent regulatory authority.<sup>17</sup> The Exchange understands that these developments will facilitate the effective coordination between the Commission and the appropriate German regulatory authorities of warrant trading on the Germany 25 Index because they will enhance the surveillance of trading in the stocks comprising the Index.<sup>18</sup> In addition, the Exchange will continue to pursue its own independent surveillance sharing agreement with the Deutsche Börse AG (the holding company that owns the FSE) and/or the FSE.<sup>19</sup>

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>20</sup> in particular, in that it is designed to permit trading in warrants based on the Germany 25 Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices, 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 to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

Written comments on the proposed rule change were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer 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

<sup>17</sup>The Commission notes that this new regulatory body, the Bundesaufsichtsamt für den Wertpapierhandel, was established in January 1995.

<sup>18</sup>Telephone conversation between Eileen Smith, Director, Product Development, Research Department, CBOE, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on August 8, 1995.

<sup>19</sup>*Id.*

<sup>20</sup>15 U.S.C. 78f(b)(5) (1988).

(ii) as to which the Exchange consents, the Commission will:

- (a) By order approve such 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, NW., Washington, DC 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 in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. 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-95-40 and should be submitted by September 18, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-21271 Filed 8-25-95; 8:45 am]

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[Release No. 34-36124; File No. SR-CBOE-95-42]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To Add Two Position and Exercise Limit Tiers for Qualifying Equity Option Classes and To Expand the Equity Option Hedge Exemption**

August 18, 1995.

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 August 7, 1995, the Chicago Board Options Exchange ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the

<sup>21</sup> 17 CFR 200.30-3(a)(12) (1994).

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

<sup>2</sup> 17 CFR 240.19b-4 (1994).

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 CBOE proposes to amend Rule 4.11 (Position Limits) and Rule 4.12 (Exercise Limits) for equity options to add two upper position and exercise limit tiers for those equity option classes that meet certain criteria for high liquidity in the underlying stocks. In addition, CBOE proposes to expand the current equity option hedge exemption from twice to three times the standard or base position limit. 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*

In 1994, the CBOE and the American Stock Exchange initiated discussions with Commission staff on the effect of increasing the number of position and exercise limit<sup>3</sup> tiers for equity options

<sup>3</sup>Position limits impose a ceiling on the aggregate number of option contracts on the same side of the market that an investor, or investors acting in concert, can hold or write. Similarly, exercise limits impose a ceiling on the aggregate long positions in option contracts that an investor, or investors acting in concert, can or will have exercised within five consecutive business days.

The equity option position limits provided in Exchange Rule 4.11 are set at 4,500 or 7,500 or 10,500 contracts, and were increased to these levels in December 1993. Inadvertently, according to the Exchange, the corresponding exercise limits in Exchange Rule 4.12 were not increased at the same time from the Previous 3,000 or 5,500 or 8,000 contract levels. The CBOE has proposed to increase the exercise limits accordingly, and to make other amendments to the equity option position and exercise limit rules. See Securities Exchange Act Release No. 35759 (May 24, 1995), 60 FR 28432