

Agreements within the meaning of Section 2(a)(4) of the 1940 Act. Upon assignment, each of the Prior Agreements terminated by its own terms and pursuant to Section 15(a).

4. Rule 15a-4 under the 1940 Act provides, in pertinent part, that if an investment advisor's investment advisory contract is terminated by assignment, the investment advisor may continue to act as such for 120 days at the previous compensation rate if a new contract is approved by the board of directors of the investment company, and if the investment advisor or a controlling person of the investment advisor does not directly or indirectly receive money or other benefit in connection with the assignment. Applicants concede that they may not rely on Rule 15a-4 because American Brands, a controlling person of The Franklin, received a benefit in connection with the assignment of the Prior Agreements because American Brands received substantial consideration from American General for the sale of the stock of the indirect parent of The Franklin.

Conditions for Relief

1. Applicants represent that the Interim Agreements have substantially identical terms and conditions, including identical investment management fees, as the Prior Agreements.

2. Applicants represent that to mitigate the erroneous release and payment of the escrowed funds to The Franklin following the Owners' approval of the Interim Agreements, The Franklin repaid to an escrow account the amount released and paid plus an amount representing interest that would have been earned on the funds between the dates of payment and release and the date of the funds were repaid to the escrow account. Applicants further represent that the funds will not be released from the escrow account until two conditions are met: approval by the Owners of the Interim Agreements; and granting by the Commission of the order sought in the application.

3. The Franklin will pay all costs of preparing and filing the application and the costs of holding all annual meetings of the Owners at which approval of the Interim Agreements was sought, including the costs of proxy solicitation.

4. The Franklin will take all appropriate steps to ensure that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the boards of the Funds, to the scope and quality of services previously provided.

In the event of any material change during the Interim Period in the manner of or the personnel providing services pursuant to the Interim Agreements, The Franklin will apprise and consult with the boards of the Funds to ensure the boards are satisfied that the services provided will not be diminished in scope or quality.

5. Applicants represent that, pursuant to the terms of the stock purchase agreement, American General and American Brands agreed to: (a) Use, and to cause The Franklin to use, reasonable efforts, for a period of three years after the sale, to have boards, 75% of which are comprised of persons who are not "interested persons", within the meaning of the 1940 Act, of The Franklin, American General or American Brands; and (b) to refrain from any transaction that would impose an unfair burden on the Funds.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36361; International Series Release No. 866; File No. SR-CBOE-95-57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to the Rebalancing Date for the Japanese Export Stock Index

October 11, 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 October 11, 1995, the Chicago Board Options Exchange, Incorporated ("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 Exchange. 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 proposes to modify its policy concerning the date of the annual rebalancing of the Japanese Export Stock

Index ("Japan Export Index" or "Index") such that the Index will be rebalanced as of the last trading day of March each year. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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 Exchange recently received approval from the Commission to list and trade index warrants on the Japan Export Index.³ In that filing, the Exchange proposed to rebalance the Index on the last trading day of the calendar year. The Exchange now proposes to rebalance the Index on the last trading day of March, and not the last trading day of the calendar year. The Exchange believes that this change will better correlate the Index rebalancing with the fiscal year end for the majority of the Index components. The majority of the Japanese public companies comprising the Index have a fiscal year from April 1 to March 31. The Exchange also notes that as of the date of this filing, warrants on the Index have not yet begun trading.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

³ See Securities Exchange Act Release No. 26253 (September 19, 1995), 60 FR 49654 (September 26, 1995) (SR-CBOE-95-41).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

The Exchange does not believe that the proposed rule change will impose any 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change 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 NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR-CBOE-95-57 and should be submitted by November 7, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36354; File No. CBOE-95-28]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Responsibility for Performing Functions of the ITS Clerks

October 10, 1995.

On May 19, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend one of its Intermarket Trading System ("ITS" or "System") rules, CBOE Rule 30.75, which relates to the exchange trading of stocks, warrants and other non-option securities. The Exchange subsequently filed Amendment No. 1 to the proposed rule change on July 6, 1995.³ Notice of the proposed rule change and Amendment No. 1 was published for comment and appeared in the Federal Register on August 17, 1995.⁴ No comment letters were received on the proposal. This order approves the CBOE proposal as amended.

Description of the Proposal

CBOE Rule 30.75 ("Transmission and Reception of System Messages; Exchange Liability"), governs the transmission and reception of obligations and commitments to trade, pre-opening notifications, and responses

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange corrects a typographical error in the defined term "ITS Clerk" as it appears in Rule 30.75 and in the two proposed interpretations and policies thereunder, and clarifies the use of that term in proposed Interpretation and Policy .02 under Exchange Rule 30.75. The purpose of this amendment is to make it clear that the defined term "ITS Clerk" refers only to Exchange employees acting as such, and not to employees of a Designated Primary Market-Maker who may be performing the functions of ITS Clerks as contemplated by proposed Interpretation and Policy .01 under Exchange Rule 30.75. See Letter from Michael L. Meyer, Esq., Schiff Hardin & Waite, to James T. McHale, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated July 6, 1995 ("Amendment No. 1"). August 17, 1995. No comment letters were received on the proposal. This order approves the CBOE proposal as amended.

⁴ See Securities Exchange Act Release No. 36085 (August 10, 1995), 60 FR 42927 (August 17, 1995).

thereto over the ITS.⁵ Currently, Exchange Rule 30.75 requires the Exchange to provide ITS Clerks to send and receive ITS messages. The Exchange proposes to amend Paragraph (a) of the Rule to clarify that the Exchange will not be obligated to provide ITS Clerks, except as provided in the interpretations to the Rule.

Proposed interpretation .01 to Exchange Rule 30.75 would require employees of Designated Primary Market-Makers ("DPMs")⁶ to send and receive commitments and obligations to trade, pre-opening notifications, and responses thereto over the System. Further, the interpretation makes it clear that the Exchange will not be liable for the acts, errors, or omissions of these DPM employees.⁷

A second interpretation to the Rule makes it clear that the Exchange will provide Exchange-employed ITS Clerks for products that are traded at posts that have order book officials ("OBOs"), and will not provide ITS Clerks for products for which a DPM has been appointed. The Exchange also would be required to provide the services of ITS Clerks for products for which DPMs make markets when the circumstances (such as fast markets) warrant. Two Floor Officials would be able to require the Exchange to provide its ITS Clerks for particular circumstances.

The Exchange believes this rule change is warranted because it is possible that some of its Chapter 30 products, which the Exchange may trade in the future, may be assigned to DPMs. As such, the Exchange believes it would be most efficient for the DPM that is assigned to the product that is

⁵ ITS is a subsystem of the National Market System approved by the Commission pursuant to Section 11A of the Act, 15 U.S.C. 78k-1. ITS facilities intermarket trading in exchange-listed equity securities based on the current quotation information emanating from the linked markets. Participants of ITS include the American Stock Exchange, the Boston Stock Exchange, CBOE, the Chicago Stock Exchange, the Cincinnati Stock Exchange, the New York Stock Exchange, the Pacific Stock Exchange, the Philadelphia Stock Exchange, and the National Association of Securities Dealers.

⁶ A DPM is a member or member organization which has been appointed by the Exchange's Modified Trading System ("MTS") Committee to perform market-making and certain other functions with respect to a designated options class or classes or with respect to a product traded on the Exchange pursuant to Chapter 30. Among other things, a DPM is required to disseminate accurate market quotations, honor market quotations, be regularly present at the trading post, and perform the functions of an Order Book Official, *i.e.*, he must maintain and keep current the customer limit order book.

⁷ Rule 30.75 currently does provide for limited liability of the Exchange for losses caused by the errors or omissions of the Exchange's own employees, *i.e.*, ITS Clerks.

⁴ 17 CFR 200.30-3(a)(12).