

adopted in 1988. Given the growth of U.S. equity markets since 1988, however, the NASD increasingly is concerned that circuit breakers may be activated based on smaller percentage moves in the Dow Jones Industrial Average ("DJIA").<sup>5</sup> Accordingly, it is the intention of the NASD to reevaluate whether the 250- and 400-point thresholds contained in the circuit breakers are appropriate. Nevertheless, the NASD believes it is appropriate at this time to extend the effectiveness of the Policy Statement.

The NASD believes the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Specifically, by extending the effectiveness of the Policy Statement, market participants will be afforded a reasonable opportunity to assess and rationally react to extreme market conditions. In addition, extension of the Policy Statement will help to ensure that circuit breakers are coordinated across all equity and equity-related markets.

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

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

<sup>5</sup> Specifically, when the 250- and 400-point circuit breakers were implemented in October 1988, a 250-point move in the DJIA was approximately 11.7 percent of the Index and a 400-point move was approximately 18.7 percent of the Index. However, given the expansion and growth of U.S. equity markets since 1988, 250- and 400-point movements in the NASD now represent a much smaller percentage move in the Index. Specifically, with the NASD at 5,000, a 250-point move represents 5 percent of the Index and a 400-point move represents 8 percent of the Index.

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

The NASD requests that the Commission find good cause to accelerate the effectiveness of the proposed rule change pursuant to Section 19(b)(2) of the Act so that the effectiveness of the Policy Statement can continue uninterrupted. The NASD notes that its other proposals to extend the Statement have been subject to the full notice and comment period and that the Commission has received no adverse comments on the Statement. Accordingly, because the NASD believes that there are no changes to the Policy Statement that would necessitate the solicitation of public comment prior to Commission approval, because no adverse comments have been received in response to prior extensions of the Statement, and because the Policy will otherwise expire on December 31, 1995, the NASD requests that the Commission accelerate the effectiveness of the proposed rule change prior to the 30th day after its publication in the Federal Register.

#### *IV. Discussion*

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of Section 15A and the rules and regulations thereunder. Since the Commission approved the NASD's proposal in 1988, the Dow Jones Industrial Average has not experienced a one day market decline that would trigger a market halt. Nevertheless, the Commission continues to believe that circuit breaker procedures are desirable to deal with potential strains that may develop during periods of extreme market volatility, and accordingly, the Commission believes that the pilot program should be extended. The Commission also believes that circuit breakers represent a reasonable means to retard a rapid one day market decline that could have a destabilizing effect on the nation's financial markets and participants in these markets. Finally, the Commission believes that the proposed changes to the Policy Statement are minor and not of a nature to affect its operation.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register because there are no material changes being made to the current provisions, which originally

were subject to the full notice and comment procedures, and accelerated approval would enable Policy Statement to continue uninterrupted. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with Sections 15A and 19(b) of the Act.<sup>6</sup>

#### *V. 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 submissions, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by January 3, 1996.

#### *VI. Conclusion*

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-NASD-95-57) is hereby approved until December 31, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Margaret H. McFarland,

*Deputy Secretary.*

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<sup>6</sup> The Commission reaffirms its request that the NASD implement its Policy Statement by implementing a trading halt as quickly as practicable whenever the New York Stock Exchange and other equity markets have suspended trading. See Securities Exchange Act Release No. 27370, *supra* note 4.

<sup>7</sup> 17 U.S.C. 78s(b)(2) (1988).

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1994).

[Release No. 34-36558; File No. SR-OCC-95-13]

**Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Adjustments of Options for Ordinary Stock Dividends**

December 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 19, 1995, The Options Clearing Corporation ("OCC") 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 primarily by OCC. On October 16, 1995, OCC filed an amendment to the proposed rule change.<sup>2</sup> The Commission is publishing this notice to solicit comments from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change will revise OCC's By-Laws to adopt a general rule of not adjusting options for ordinary stock dividends or distributions on the underlying security and will delete references to the review by the Commission of options adjustment decisions made by an OCC adjustment panel.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B),

and (C) below, of the most significant aspects of such statements.<sup>3</sup>

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

Under the proposed rule change, OCC will amend Article VI, Section 11 of its By-Laws governing adjustments on options for ordinary stock dividends declared on the underlying security. Article VI, Section 11 sets forth general rules concerning adjustment that OCC may make to the standardized terms of option contracts when certain events occur. A specific adjustment is determined by the vote of an adjustment panel comprised of two designated representatives of each exchange that lists such option and the designee of OCC's Chairman. OCC's designee only votes in the case of a tie.

Currently, Article VI, Section 11(d) contains a general rule requiring that equity option contracts be adjusted in the case of a stock dividend, stock distribution, or stock split where one or more whole shares of the underlying security is issued with respect to each outstanding share. The adjustment is made by reducing the strike price and increasing each option contract by the same number of additional option contracts as the number of shares issued with respect to each outstanding share. The unit of trading stays the same. However, Section 11(c) states that there will be no adjustment for ordinary cash dividends. This is because ordinary cash dividends generally are paid on a quarterly basis and adjusting outstanding options each time a dividend is paid could create a massive proliferation of option series that would dilute market liquidity and would overtax price reporting and other systems.

Article VI, Section 11(j) grants authority to the adjustment panel to make such exceptions to any of the general adjustment rules as it deems to be appropriate. Recently, two adjustment panels exercised their exception authority and determined not to adjust outstanding option contracts to reflect a stock dividend. In both instances, the issuer evidenced a pattern of declaring a small stock dividend in conjunction with a quarterly cash dividend. In determining not to adjust the options, each adjustment panel considered the provision in the Options Disclosure Document that states a stock dividend may be treated as an ordinary cash dividend by an adjustment panel if

the issuer of the underlying security announces or exhibits a policy of declaring regular stock dividends that do not individually exceed 10% of the market value of the underlying security.

The adjustment panels involved in making the two recent adjustments have requested that OCC amend its By-Laws to provide for a general rule that no adjustment will be made to reflect ordinary stock dividends. As a result, OCC is proposing to define in its By-Laws ordinary stock dividends as dividends that are paid on a quarterly basis by the issuer of the underlying security and that do not individually exceed ten percent of the market value of the underlying security. Because the proposed change only will apply to recurrent stock dividends, OCC anticipates that it will apply only in a small number of cases. OCC believes that formalizing a policy of not adjusting for recurrent stock dividends will eliminate potential problems associated with the creation of an undesirable proliferation of options series as well as eliminate the need to convene adjustment panels to make discretionary determinations for such dividends on a case-by-case basis.

OCC also proposes to amend its By-Laws to clarify when cash dividends will be considered ordinary. Under the proposal, cash dividends that do not exceed ten percent of the market value of the underlying security will be deemed to be ordinary whether or not they are paid on an ordinary basis.

Finally, pursuant to a request from Commission staff, OCC proposes to delete language from Article VI, Section 11 that provides for Commission review of the determinations made by an OCC adjustment panel.

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>4</sup> and the rules and regulations thereunder because the proposal will provide for the prompt and accurate settlement of options transactions and will provide for the safeguarding of related securities and funds.

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

OCC 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*

Written comments were not and are not intended to be solicited with respect

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

<sup>2</sup> The original filing required that dividends or distributions (i) not exceed ten percent of the market value of the underlying security and (ii) be paid on a regular basis in order to be deemed "ordinary." OCC amended its proposal with respect to cash dividends by eliminating the requirement that cash dividends of less than ten percent be paid on a regular basis in order to be deemed ordinary for purposes of determining whether to adjust the option. OCC also amended the proposal to require that stock dividends of less than ten percent of the market value of the underlying security be paid on a quarterly basis, as opposed to regularly, in order to be deemed ordinary. Letter from Jacqueline R. Luthringhausen, OCC, to Jerry W. Carpenter, Associate Director, Division of Market Regulation, Commission (October 11, 1995).

<sup>3</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>4</sup> 15 U.S.C. 78.q-1 (1988).

to the proposed rule change and none were received.

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

Within thirty-five 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 ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC 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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, 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 Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR-OCC-95-13 and should be submitted by January 3, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

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[Rel. No. IC-21571; 811-7105]

### CUNA Mutual Funds, Inc.; Notice of Application

December 6, 1995.

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

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

**APPLICANT:** CUNA Mutual funds, Inc.

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

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

**FILING DATE:** The application was filed on July 28, 1995 and amended on October 27, 1995, and December 1, 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 January 2, 1996, and should be accompanied by proof of service on 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 100 East Pratt Street, Baltimore, MD 21202.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Staff Attorney, at (202) 942-0572, or Alison E. Baur, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

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

#### Applicant's Representations

1. Applicant is an open-end diversified management investment company that was organized under the laws of Maryland. Applicant consists of three portfolios, CUNA Mutual U.S. Government Income Fund, CUNA Mutual Cornerstone Fund, and Mutual Tax-Free Intermediate-Term Fund. On October 8, 1993, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on December 30, 1993 and applicant began a public offering thereafter.

2. On March 27, 1995, applicant's board of directors approved the liquidation and dissolution of applicant.

The board of directors approved the liquidation because, among other things, they did not expect assets under management to rise to a level that would allow applicant to operate productively. At all times, affiliated persons of applicant held a majority of the outstanding shares of each portfolio.

3. Between March 17 and March 30, 1995, letters were sent to all public shareholders notifying them of applicant's intent to liquidate all accounts effective May 12, 1995. On May 12, 1995, the remaining public shareholders of each portfolio received cash distributions equal to the net asset value of their accounts as of the close of business on that day. CMC-T.Rowe Price Management, LLC ("CMC"), applicant's administrator and a shareholder of applicant, made the decision to absorb all the expenses and costs of the liquidation and winding up of the business of applicant. Accordingly, applicant's affiliated persons received their distributions after the public shareholders to ensure that all costs and expenses of the liquidation (such as brokerage, taxes, etc.) would be absorbed by the affiliated parties and not the public shareholders. CMC was the sole remaining shareholder on May 26, 1995, and did in fact bear all expenses and costs of winding up the business of applicant. CMC also paid all of applicant's organizational expenses.

4. The liquidation was approved by CMC, the sole remaining shareholder of applicant's stock, on May 26, 1995. On that date, CMC redeemed its shares at net asset value and received applicant's remaining assets.

5. With one exception, all portfolio securities were sold in the usual course. A total of \$2,071.17 in brokerage commissions was incurred. The one exception involved a cross transaction with an affiliated mutual fund which followed the procedures set forth in rule 17a-7 under the Act.<sup>1</sup>

6. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. On June 30, 1995, applicant filed articles of dissolution with Maryland authorities.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

<sup>1</sup> Rule 17a-7 exempts purchase or sales transactions between an investment company and other affiliated investment companies provided that certain conditions are met.

<sup>5</sup> 17 CFR 200.30-3(a)(12) (1994).