

meaning, administration, or enforcement of an existing rule of the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and subparagraph (e)(1) of Rule 19b-4 thereunder.⁷ The Amex may not list options for trading on the Index prior to 30 days after the date the proposed rule change was filed with the Commission. At any time within 60 days of the filing of such 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, including whether it is consistent with the Act. 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. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-98-47 and should be submitted by February 16, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-1607 Filed 1-22-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40950; File No. SR-CHX-98-31]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Trading of Select Sector SPDRs[®]

January 15, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ notice is hereby given that on December 18, 1998, the Chicago Stock Exchange, Inc. ("CHX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the CHX. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The CHX proposes to trade, pursuant to unlisted trading privileges ("UTP") and the listing standards of CHX Article XXVIII, Rule 24, nine series of Select Sector SPDRs[®] by adding a new interpretation and policy .03 to Article XXVIII, Rule 24 and amending interpretation and policy .05 of Article XX, Rule 22.²

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 CHX 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 CHX has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² "S&P"[®], "Standard & Poor's 500"[®], "Standard & Poor's Depository Receipts"[®] and "SPDRs"[®], and "Select Sector SPDR"[®] are trademarks of the McGraw-Hill Companies, Inc.

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

1. Purpose

CHX Article XXVIII, Rule 24 provides for the listing and trading of units representing an interest in a registered investment company ("Units") that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic index.³ The Exchange currently trades, pursuant to unlisted trading privileges, several series of World Equity Benchmark Shares[™] ("WEBS[™].")⁴ based on Morgan Stanley Capital International foreign stock indices pursuant to the standards set forth in Article XXVIII, Rule 24.⁵ WEBS are currently listed and traded on the American Stock Exchange ("AMEX") under AMEX Rules 1000A *et seq.*,⁶ which rules are substantially the same as CHX Article XXVIII, Rule 24.

The CHX proposes to trade, pursuant to UTP and the listing standards of CHX Article XXVIII, Rule 24, nine series of Select Sector SPDRs by adding a new interpretation and policy .03 to Article XXVIII, Rule 24 and amending interpretation and policy .05 of Article XX, Rule 22.⁷ The Select Sector SPDRs, described below, are issued by an open-end management investment company.⁸

(a) Select Sector SPDRs

The Exchange proposes to trade nine investment series of Select Sector

³ See Securities Exchange Act Release No. 37121 (April 17, 1996), 61 FR 17932 (April 23, 1996) (Order approving SR-CHX-96-12 amending Article XXVIII providing for the listing and trading of units representing an interest in a registered investment company).

⁴ "World Equity Benchmark Shares" and "WEBS" are service marks of Morgan Stanley Group, Inc.

⁵ See Securities Exchange Act Release No. 39117 (September 22, 1997), 62 FR 50973 (September 29, 1997) (Order approving SR-CHX-96-14 to commence trading of WEBS pursuant to UTP and CHX Article XXVIII, Rule 24).

⁶ AMEX Rules 1000A *et seq.* provide for the listing and trading of Index Fund Shares, which are shares issued by an open-end management investment company that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic index.

⁷ The AMEX received the Commission's approval to list and trade nine series of Select Sector SPDRs under AMEX Rules 1000A *et seq.* Securities Exchange Act Release No. 40749 (December 4, 1998), 63 FR 68483 (December 11, 1998) ("AMEX Select Sector SPDRs Approval Order").

⁸ The Selector Sector SPDR Trust (with respect to Select Sector SPDRs) filed with the Commission an Application for Orders under Sections 6(c) and 17(b) of the Investment Company Act of 1940 ("1940 Act") as amended, for the purpose of exempting Select Sector SPDRs from various provisions of the 1940 Act. See Investment Company Act Release No. 23492 (October 20, 1998), 63 FR 57332 (October 27, 1998).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(e)(1).

⁸ 17 CFR 200.30-3(a)(12).

SPDRs to be offered by the Select Sector SPDR Trust, an open-ended investment company and a Massachusetts business trust. The Select Sector SPDRs offered by the Trust are: The Basic Industries Select Sector SPDR; The Consumer Services Select Sector SPDR; The Consumer Staples Select Sector SPDR; The Cyclical/Transportation Select Sector SPDR; The Energy Select Sector SPDR; The Financial Select Sector SPDR; The Industrial Select Sector SPDR; The Technology Select Sector SPDR; and The Utilities Select Sector SPDR.

Each Select Sector SPDR offers and issues Select Sector SPDR shares at their net asset value only in aggregations of a specified number of shares (each, a "Creation Unit"), generally in exchange for a basket of common stocks consisting of some or all of the component securities ("Fund Securities") of a specified market sector index ("Select Sector Index"), together with the deposit of a specified small cash payment known as the "cash component" and reflecting, for example, net accrued dividends. It is anticipated that the deposit of Fund Securities and the specified cash payment in exchange for Select Sector SPDRs will be made primarily by institutional investors, arbitrageurs and the Exchange specialist. Creation Units are separable upon issue into identical shares which are listed and traded on the AMEX and, upon approval of this proposed rule change, will also be traded on the Exchange. Similarly, shares are also redeemable only in Creation Unit size aggregations and usually in exchange for Fund Securities and a specified cash payment. It is anticipated that a Creation Unit will consist of 50,000 shares of the relevant series of Select Sector SPDRs. The Select Sector SPDR Trust reserves the right to off a "cash" option for creations and redemptions of Select Sector SPDRs, although it has no current intention of doing so. For each Select Sector SPDR, the Administrator (State Street Bank and Trust Company) makes available through the National Securities Clearing Corporation ("NSCC"), immediately prior to the opening of business, the list of names and the required number of shares of stocks of each relevant Select Sector Index to be included in the securities deposit required in connection with creation of Select Sector SPDRs in Creation Unit size aggregations.

Each of the nine Select Sector Indices, which is the benchmark for a Select Sector SPDR, is intended to give investors an efficient way to track the movement of baskets of the equity securities of public companies that are

components of the Standard & Poor's 500 Composite Stock Index ("S&P 500") and are involved in specified sectors. Each stock included in a Select Sector Index (the "Component Stocks") will be selected from companies represented in the S&P 500. The nine Select Sector Indices together will include all of the companies represented in the S&P 500. Each S&P 500 stock will be allocated to one and only one of the Select Sector Indices. The CHX understands that each Select Sector Index will be calculated by the AMEX's Index Services Group ("AMEX ISG") using the "market capitalization" methodology (the same method used in calculating the S&P 500). This design should ensure that each of the component stocks within a Select Sector Index is represented in a proportion consistent with its percentage with respect to the total market capitalization of the Select Sector Index. Under certain conditions, the number of shares of a component stock may be adjusted to conform to requirements of Subchapter M under the Internal Revenue Code.⁹

The stocks included in a Select Sector Index have been assigned to a Select Sector Index by Merrill Lynch ("the Index Compilation Agent"). The Index Compilation Agent, after consultation with Standard & Poor's assigns stocks to a particular Select Sector Index with the aim of categorizing a company's fundamental business on the basis of the company's sales and earning composition and its predominant source of revenue among the company's business lines. In addition, such assignment is based on the sensitivity of the company's stock price and business results to the common factors that affect other companies in the specific Select Sector Index. Standard & Poor's has sole control over the removal of stocks from the S&P 500 and the selection of replacement stocks to be added to the S&P 500, but only plays a consulting role in the assignment of the S&P 500 component securities to any Select Sector Index. The assignment of component stocks to a Select Sector Index is the sole responsibility of the Index Compilation Agent. If Standard & Poor's removes a stock from the S&P 500, Merrill Lynch will remove the same stock from whichever Select Sector Index it is in. When Standard &

Poor's assigns a replacement stock to the S&P 500, Merrill Lynch will assign the same stock to whichever Select Sector Index it deems appropriate.

Each Select Sector Index is weighted based on the market capitalization of each of the Component Stocks, subject to the following asset diversification requirements; (i) the market capitalization-based weighted value of any single Component Stock measured on the last day of calendar quarter may not exceed 24.99% of the total value of its respective Select Sector Index; and (ii) with respect to 50% of the total value of the Select Sector Index, the market capitalization-based weighted value of the Component Stocks must be diversified so that no single Component Stock measured on the last day of a calendar quarter represents more than 4.99% of the total value of its respective Select Sector Index, or in other words, the sum of the weight of all of the component stocks that each represent less than 5% of the Index must be equal to at least 50% of the Index weight.

Rebalancing the Select Sector Indices to meet the asset diversification requirements will be the responsibility of the AMEX ISG. If shortly prior to the last business day of any calendar quarter (a "Quarterly Qualification Date"), a Component Stock(s) approaches the maximum allowable value limits set forth above (the "Asset Diversification Limits"), the percentage that such Component Stock (or Component Stocks) represents in the Select Sector Index will be reduced and the market capitalization-based weighted value of such Component Stock (or Component Stocks) will be redistributed across the Component Stocks that do not closely approach the Asset Diversification Limits in accordance with the methodology set forth in the prospectus and Statement of Additional Information for the Select Sector SPDR Trust. The Select Sector Indices are calculated and disseminated by the AMEX ISG.

The Index Compilation Agency at any time may determine that a Component Stock which has been assigned to one Select Sector Index has undergone such a transformation in the composition of its business that it should be removed from the Select Sector Index and assigned to a different Select Sector Index. In the event that the Index Compilation Agent notifies the AMEX ISG that a Component Stocks Select Sector Index assignment should be changed, the AMEX will disseminate notice of the change by issuing an information circular to its membership within one business day of receipt of such notice and will implement the

⁹ Each Select Sector SPDR Fund intends to qualify for and to elect treatment as a separate regulated investment company under Subchapter M. To qualify for such treatment, a company must annually distribute at least 90% of its net investment company taxable income (which includes dividends, interest and net short-term capital gains) and meet several other requirements, including certain diversification tests.

change in the affected Select Sector Indices no less than one week after the initial dissemination of information on the sector change to the extent practicable.

Component Stocks removed from and added to the S&P 500 will be deleted from and added to the appropriate Select Sector Index consistent with the timing of the announcement and effectiveness of additions and deletions from the S&P 500 insofar as practicable. The AMEX will announce a change to a Select Sector Index promptly following an announcement by Standard & Poor's of an addition to and deletion from the S&P 500.¹⁰ Generally, changes in the applicable component stock for the relevant Select Sector SPDR Index will be made concurrently with Standard & Poor's change to the S&P 500.

Standard & Poor's will advise the AMEX ISG regarding the handling of nonroutine corporate actions which may arise from time to time and which may have an impact on the calculation of the S&P 500, and, consequently, on the calculation of the Select Sector Indices. Corporate actions such as a merger or acquisition, stock splits, and routine spin-offs, which require adjustments in the Select Sector Index calculation, will be handled by the AMEX staff. Index Divisor adjustments will be calculated, when necessary, in the same manner they are handled by Standard & Poor's in its maintenance of the S&P 500. In the event a merger or acquisition changes a company's fundamental business and source of revenues, the Select Sector Index assignment of the stock may change. In any event, a new Index Divisor for affected Select Sector Indices will be disseminated to the public promptly by the AMEX ISG.¹¹ Each Select Sector SPDR will normally invest at least 95% of its total assets in stocks that comprise the relevant Select Sector Index or stock equivalent positions which the Adviser deems appropriate as an alternative to such stocks.¹²

¹⁰ Standard & Poor's generally announces S&P 500 changes five business days before they take effect.

¹¹ CHX has requested that AMEX forward changes in the Component Stocks of a Select Sector SPDR Index or the Index Divisors to the Exchange as it becomes publicly available. To the extent that the CHX has access to such information, the Exchange will notify its members of these changes. Telephone conversation between David Rusoff, Foley & Lardner, and Marc McKayle, Attorney, Division of Market Regulation, Commission, on January 12, 1999.

¹² Select Sector SPDRs generally will hold all of the securities in the applicable index, subject to certain conditions disclosed in the applicable prospectus.

(b) Trading Issues

The Select Sector SPDR shares will be deemed equity securities subject to all CHX rules governing the trading of equity securities, including, among others, rules governing priority, parity, and precedence of orders, market volatility related trading halt provisions, and responsibilities of specialists. The minimum trading increment under Article XX, Rule 22 for Select Sector SPDRs will be $\frac{1}{64}$ of \$1.00.

(c) Disclosure

Member firms will be informed by an information circular, prior to the commencement of trading, that investors purchasing Select Sector SPDRs must receive a fund prospectus prior to, or concurrently with, the confirmation of a transaction. The information circular will also address Exchange members' responsibilities under CHX Article VIII, Rule 25 ("know your customer rule") regarding transactions in such shares.¹³ The circular also will address members' responsibility to deliver a prospectus to all investors as well as highlight the characteristics of purchases of Select Sector SPDRs.

(d) Dissemination of Information by the Exchange

The value of the Select Sector Indices will be calculated continuously by AMEX and disseminated every 15 seconds on Network B of the Consolidated Tape Association ("CTA"). The major electronic financial data vendors, including Bloomberg, Quotron, Reuters, and Bridge Information Systems, are expected to publish information on the Select Sector and Technology 100 Indices for their subscribers.

To provide up to date pricing information for the Funds' shares, the AMEX will calculate and disseminate every 15 seconds through CTA Network B an amount representing on a per share basis the sum of the "Dividend Equivalent Payment" effective through and including the previous business day, plus the current value of the "Deposit Securities" (the sum of the Dividend Equivalent Payment plus the current value of the Deposit Securities is the "Value"). The Dividend Equivalent Payment is an amount intended to enable a Fund to make a distribution of dividends on the next payment date as if all the portfolio securities of the Fund had been held for

¹³ CHX Article VIII, Rule 25 generally requires that members use due diligence to learn the essential facts relative to every customer, every order or account accepted.

the entire dividend period. The "Deposit Securities" consist of a designated portfolio of securities constituting a substantial replication, or a representation, of the stocks included in the relevant Fund index.

(e) Other Characteristics of Select Sector SPDRs

For each of the nine series of Select Sector SPDRs, it is anticipated that a minimum of the three Creation Units will be outstanding at the commencement of trading on the Exchange. Select Sector SPDRs will pass along dividends and interest, net of expenses, to fund shareholders as "income dividend distributions." Net capital gains will be distributed to shareholders as "capital gain distributions."

The net asset value for the Funds is calculated by the Administrator, State Street Bank and Trust Company ("State Street"), which is also the Adviser and Custodian for the Funds. State Street will also act as the lending agent for the Select Sector SPDRs.¹⁴ ALPS Mutual Funds Services, Inc. will serve as principal underwriter and distributor for the Select Sector SPDRs. Select Sector SPDRs will be registered in book-entry form through The Depository Trust Company.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, 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.

(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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and

¹⁴ The lending agents for the Funds will cause the delivery of loaned securities from each Fund to borrowers, arrange for the return of loaned securities to the Fund at the termination of the loans, request deposit of collateral when required by the loan arrangements, and provide recordkeeping and accounting services.

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 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 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 CHX. All submissions should refer to File No. SR-CHX-98-31 and should be submitted by February 16, 1999.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).¹⁵ Section 6(b)(5) provides that Exchange rules facilitate transactions in securities, 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. Moreover, that section of the Act requires that an exchange's rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.¹⁶

As the Commission noted in greater detail in the order approving Select Sector SPDRs for listing and trading on AMEX,¹⁷ the estimated cost of an individual Select Sector SPDRs¹⁸ should make it attractive to individual retail investors who wish to hold a security replicating the performance of

a portfolio of stocks representing a particular sector of the marketplace. Under the proposed rule change, the benefits of Select Sector SPDRs will now be available to investors trading on CHX which could benefit investors through intermarket competition.

Although the value of Select SPDRs is based on the value of the securities and cash held in the Fund, Select Sector SPDRs are not leveraged instruments. Select Sector SPDRs are essentially equity securities that represent an interest in a portfolio of stocks designed to reflect substantially the applicable Select Sector SPDRs Index. Accordingly, it is appropriate to regulate Select Sector SPDRs in a manner similar to other equity securities. Nonetheless, the Commission believes that the characteristics of Select Sector SPDRs raise important disclosure, trading, and certain other issues.

(a) Trading of Select Sector SPDRs on CHX

The Commission finds that adequate rules and procedures exist to govern the trading of Select Sector SPDRs on CHX pursuant to UTP.¹⁹ Select Sector SPDRs will be deemed equity securities subject to CHX's rules governing the trading of equity securities. Accordingly, the Exchange's existing general rules that currently apply to the trading of equity securities will also apply to Select Sector SPDRs. In addition, CHX's Article XXVIII, Rule 24,²⁰ which contains specific listing and delisting criteria to accommodate the trading of Units, will apply to the trading of Select Sector SPDRs.²¹ The delisting criteria allow the Exchange to consider the suspension of trading and the delisting of a series of Units, including suspending trading in Select Sector SPDRs traded on the Exchange pursuant to UTP, if an event were to occur that made further dealings in such securities inadvisable. This will give the Exchange flexibility to suspend trading the Select Sector SPDRs if circumstances warrant such action. Accordingly, the Commission believes that CHX's equity rules in general, and CHX's Article XXVIII, Rule 24 in particular, provide

¹⁹ Pursuant to Rule 12f-5 under the Act, in order to trade a particular class or type of security pursuant to unlisted trading privileges, the Exchange must have rules providing for transactions in such class or type of security. See 17 CFR 240.12f-5.

²⁰ The Commission approved generic rules for the listing and/or trading of investment company units on CHX in 1996. See Securities Exchange Act Release No. 37589 (August 21, 1996), 61 FR 44370 (August 28, 1996).

²¹ The Commission notes the CHX listing and delisting criteria is similar to those adopted by AMEX to trade Select Sector SPDRs.

adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest. The Commission also believes that the proposed rule change should help protect investors and the public interest, and help perfect the mechanisms of a national market system, in that it will allow for the trading of Select Sector SPDRs on CHX pursuant to UTP, making Select Sector SPDRs more broadly available to the investing public.

(b) Disclosure

The Commission believes that CHX's proposal should provide for adequate disclosure to investors relating to the terms and characteristics of trading Select Sector SPDRs. All Select Sector SPDRs investors, including those purchasing Select Sector SPDRs on CHX pursuant to UTP, will receive a prospectus regarding the product. Because Select Sector SPDRs trading on CHX pursuant to UTP will be in continuous distribution, the prospectus delivery requirements of the Securities Act of 1933 will apply to both the initial investors and to investors purchasing such securities in the secondary market on CHX. The prospectus addresses the special characteristics of Select Sector SPDRs, including a statement regarding their redeemability and method of creation, and that Select Sector SPDRs are not individually redeemable.

CHX has also drafted an information circular that will be sent to all CHX members prior to the commencement of trading of Select Sector SPDRs. The information circular is intended to explain the characteristics of Select Sector SPDRs. The circular will note, for example, Exchange member responsibilities, including that before an Exchange member undertakes to recommend a transaction in Select Sector SPDRs it should make a determination that it is in compliance with the CHX suitability rules. The circular will also address member's responsibility to deliver a prospectus to all investors purchasing Select Sector SPDRs, as well as highlight the characteristics of Select Sector SPDRs, including that they are only redeemable in Creation Units.

(c) Dissemination of Information

The Commission believes that the Values the Exchange proposes to disseminate for the Funds should help to provide investors with timely and useful information concerning the value of the Select Sector SPDRs Fund shares on a per Fund basis. The Exchange understands that the information will be disseminated through the facilities of

¹⁵ U.S.C. 78f(b)(5).

¹⁶ In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁷ See AMEX Select Sector SPDRs Approval Order, *supra* note 7.

¹⁸ As noted in the AMEX Select Sector SPDRs Approval Order *supra* note 7, the estimated cost at the time of the approval for trading on AMEX was \$21 to \$28 per individual Select Sector SPDR.

the CTA and will reflect currently available information concerning the value of the assets comprising the Deposit Securities. This information will be disseminated every 15 seconds during regular AMEX trading hours of 9:30 a.m. to 4:00 p.m., New York time. In addition, since it is expected that the Value will closely track the applicable Fund, The Commission believes that the Values will provide investors with adequate information to determine the intra-day value of the given Select Sector SPDR. As noted in the AMEX Select Sector SPDRs Approval Order, the Commission expects that the AMEX will monitor the disseminated Value, and if the AMEX were to determine that the Value does not closely track the applicable Fund, it would arrange to disseminate an adequate alternative value.²²

(d) Surveillance

The Commission notes that CHX has submitted surveillance procedures for Select Sector SPDRs intended to address concerns associated with listing and trading such securities, including any concerns associated with specialists purchasing and redeeming Creation Units. The Exchange has represented that its surveillance procedures should allow it to identify situations where specialists purchase or redeem Creation Units to ensure compliance with CHX Article XXX, Rule 23(a), which requires that such purchases or redemptions facilitate the maintenance of a fair and orderly market in the subject security.²³

CHX has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. The Commission believes that the Exchange's proposal to trade Select Sector SPDRs pursuant to unlisted trading privileges will provide investors with a convenient way of trading a basket of stocks, based upon a specific Select Sector Index as designated by Merrill Lynch, representing a particular sector of the marketplace. The Commission believes

that the proposed rule change could produce added benefits to investors through the increased competition between other market centers trading the product. Specifically, the Commission believes that by increasing the availability of Select Sector SPDRs as an investment tool the CHX's proposal should help provide investors with increased flexibility in satisfying their investment needs, by allowing them to purchase and sell at negotiated prices throughout the trading day securities that replicate the performance of several portfolios of stock.²⁴

As noted above, the Commission has approved the listing and trading of Select Sector SPDRs at the AMEX,²⁵ under rules that are substantially similar to CHX Article XXVIII, Rule 24. The trading requirements of Select Sector SPDRs at the CHX will be substantially similar to the trading requirements of Select Sector SPDRs at the AMEX. Additionally, the proposed rule change is analogous to the Commission's approval of the CHX's trading of WEBS pursuant to UTP and CHX Article XXVIII, Rule 24.²⁶ As a result, the Commission does not believe that trading of this product raises novel regulatory issues that were not addressed in the previous filings. Accordingly, 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 in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁷ that the proposed rule change (SR-CHX-98-31) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-1530 Filed 1-22-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40953; File No. SR-Phlx-99-01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Modify Existing Rules Relating to Trading of the New European Currency, the Euro

January 15, 1999.

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 January 6, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Phlx. 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 Phlx proposes to change the references to the European Currency Unit ("ECU") to the New European currency ("Euro") in the Phlx rules in response to the European Council's decision to convert the ECU to the Euro on a one-to-one basis as of January 1, 1999.

The text of the proposed rule change is available at the Office of the Secretary, the Phlx, 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 Phlx 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 Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²² See *supra*, note 7.

²³ In the AMEX Select Sector SPDRs Approval Order, the Commission discussed the concerns raised when a broker-dealer is involved in the development and maintenance of a stock index upon which a product such as Select Sector SPDRs is based. The Commission noted the importance of the Exchange adopting adequate procedures to prevent the misuse of material, non-public information regarding changes to component stocks in a Select Sector SPDR Index. The CHX surveillance procedures should help to address concerns raised by Merrill Lynch's involvement in the management of the Indices.

²⁴ Unlike typical open-end investment companies, where investors have the right to redeem their fund shares on a daily basis, investors in Select Sector SPDRs can redeem them in creation unit size aggregations only.

²⁵ AMEX Select Sector SPDRs Approval Order, *supra* note 7.

²⁶ See *supra*, note 5.

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 17 CFR 200.30-3(a)(12).