

19(b)(3)(A)⁸ of the Act and Rule 19b-4(f)(6)⁹ thereunder.¹⁰

A proposed Rule change filed under rule 19b-4(f)(6)¹¹ normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹² permits the Commission to designate a shorter time if such action is consistent with the protection of investors and public interest. The Exchange seeks to have the proposed rules change become operative on or before November 30, 2000, in order to allow the Pilot to continue in effect on an uninterrupted basis.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately through November 30, 2000. The extension of the Pilot will provide the Commission with additional time to review and evaluate the 3-Year Extension Proposal.

The Commission notes that unless the Pilot is extended, the Pilot will expire and the provisions in Sections 312.01, 312.03 and 312.04 of the Exchange's Listed Company Manual that were amended in the Pilot will revert to that which were effective prior to June 4, 1999. The Commission believes that such a result could lead to confusion.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change become operative immediately through February 28, 2001. 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, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter time as designated by the Commission.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

20549-0609. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-00-52 and should be submitted by January 2, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43658; File No. SR-NYSE-00-53]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Listing and Trading of an Exchange Traded Fund Based on the S&P Global 100 Index

December 1, 2000.

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 November 29, 2000, the New York Stock Exchange, Inc. ("NYSE" 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 Exchange. The Commission's is publishing this notice 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 Exchange proposes to list and trade shares of an exchange traded fund

(the "Fund") based on the S&P Global 100 Index.³ The Exchange is also proposing the amend NYSE Rule 13 to reflect procedures with respect to stop and stop limit orders for Investment Company Units traded on the Exchange. The text of the proposed rule change is available at the Office of the Secretary, the Exchange or 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 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

1. Purpose

The Exchange proposes to list and trade under Section 703.16, Investment Company Units of the LCM, shares of the Fund based on the S&P Global 100 Index (the "Index" or the "Underlying Index"). The Fund is included in the Share Trust (the "Trust"),⁴ and Barclays Global Fund Advisors ("BGFA"), a subsidiary of Barclays Global Investors, N.A. ("BGI"), acts as the advisor (the "Advisor") to the Fund. Standard & Poor's ("S&P"), a division of The McGraw-Hill Companies, Inc., is the Index provider. The Index is sponsored by S&P and the Exchange, with the additional collaboration of several major exchanges from around the world.⁵

The underlying index. A detailed description of the Underlying Index for the Fund prepared by S&P was filed as Exhibit 2. This description includes, but

³ The Fund will be listed and traded pursuant to Section 703.16, Investment Company Units, of the Exchange's Listed Company Manual ("LCM").

⁴ The Trust is registered under the Investment Company Act of 1940, as amended ("1940 Act"). The Trust has filed with the Commission a Registration Statement on the Form N-1/A under the Securities Act of 1933, as amended and under the 1940 Act relating to the Fund (File No. 333-92935 and 811-09729).

⁵ The Index was developed jointly by S&P and the Exchange, and the Exchange is represented on, although it does not control, the S&P committee responsible for Index maintenance. The Commission notes that the firewall provisions proposed in SR-NYSE-00-46 will apply to this Investment Company Unit.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

is not limited to, information regarding index description, component selection criteria, country representation, Index maintenance and industry group distribution by market capitalization. The Index description, including any changes thereto, may be found on the S&P Global web site at <http://www.spglobal.com/ssindexmainglobal100.html>.

General description of the fund. The Fund offers and issues shares ("Fund Shares") at their net asset value ("NAV") only in aggregations of a specified number of Fund Shares (referred to as a "Creation Unit"), generally in exchange for a basket of equity securities included in the Underlying Index (the "Deposit Securities"), together with the deposit of a specified cash payment (the "Cash Component").⁶ Fund Shares are redeemable only in Creation Unit aggregations, and, generally, in exchange for portfolio securities and a specified cash payment. Creation Units are aggregations of 50,000 Fund Shares. The Trust reserves the right to offer a "cash" option for creations and redemptions of Fund Shares.

"Passive" or indexing investment approach. The Fund seeks investment results that before expenses correspond generally to the price and yield performance of companies in the Index.

The Advisor uses a "passive" or indexing approach in seeking to achieve the Fund's investment objective.

Representative sampling. The Fund uses representatives sampling to track the Underlying Index. This means that the Fund is invested in a representative sample of stocks in the Underlying Index, which have a similar investment profile as the Underlying Index. Stocks selected have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield), and liquidity measures similar to those of the relevant Underlying Index. A fund that uses representatives sampling generally does not hold all of the stocks included in its underlying index.

⁶ The Cash Component is an amount equal to the Balancing Amount. The "Balancing Amount" is an amount equal to the difference between the NAV of the Fund Shares (per Creation Unit) and the "Deposit Amount." The "Deposit Amount" is an amount equal to the market value of the Deposit Securities. If the Balancing Amount is a positive number (*i.e.*, the NAV per Creation Unit exceeds the Deposit Amount), the Cash Component will be paid to the Trust by the creator. If the Balancing Amount is a negative number (*i.e.*, the NAV per Creation Unit is less than the Deposit Amount), the creator will receive cash in an amount equal to the differential.

The Fund will invest at least 90% of its total assets in the stocks of the Underlying Index. The Fund may hold up to 10% of its total assets in stocks not included in the Underlying Index. For example, the Advisory may invest in stocks not included in the Underlying Index in order to reflect various corporate actions (such as mergers) and other changes in the Underlying Index (such as reconstitutions, additions and deletions). The Fund may also invest in stocks outside the underlying Index to meet the diversification requirements of a regulated investment company under the Internal Revenue Code (the "Code").⁷ As long as the Fund invests at least 90% of its total assets in the stocks of the Underlying Index, it may also invest its other assets in futures contracts, options on futures contracts, options, and swaps related to the Underlying Index, as well as cash and cash equivalents.

Correlation. An index is a theoretical financial calculation while the ETF is an actual investment portfolio. The performance of the Fund and the Underlying Index will vary somewhat due to transaction costs, market impact, corporate actions (such as mergers and spin-offs) and timing variances. It is expected that over time, the correlation between the Fund's performance and that of the Underlying Index, before fees and expenses, will be 95% or better. A figure of 100% would indicate perfect correlation. Any correlation of less than 100% is called a "tracking error."

Industry concentration policy. The Fund will not concentrate its investments (*i.e.*, hold 25% or more of its total assets in the stocks of a particular industry or group of industries). However, the Fund will concentrate to approximately the same extent that the Underlying Index concentrates in the stocks of a particular industry or group of industries. For purposes of this limitation, securities of

⁷ In order for the Fund to qualify for tax treatment as a regulated investment company, it must meet several requirements under the Code. Among these is the requirement that, at the close of each quarter of the Fund's taxable year, (1) at least 50 percent of the market value of the Fund's total assets must be represented by cash items, U.S. government securities, securities of other regulated investment companies and other securities, with such other securities limited for the purpose of this calculation in respect to any one issuer to an amount not greater than 5 percent of the value of the Fund's assets and not greater than 10 percent of the outstanding voting securities of such issuer, and (2) not more than 25 percent of the value of its total assets may be invested in securities of any one issuer, or two or more issuers that are controlled by the Fund (within the meaning of Section 851(b)(4)(B) of the Code) and that are engaged in the same or similar trades or business (other than U.S. government securities of other regulated investment companies.)

the U.S. Government (including its agencies and instrumentalities), repurchase agreements collateralized by U.S. Government securities, and securities of state or municipal governments and their political subdivisions are not considered to be issued by members of any industry.

Creations and redemptions of fund shares. The Fund Shares are "created" at their NAV by specialists, large investors and institutions only in Creation Units of 50,000 Shares. A "creator" deposits into the Fund a specified portfolio of stocks closely approximating the holdings of the Fund (the "Deposit Securities") and a specified amount of cash (the "Cash Component") in exchange for 50,000 Fund Shares.

Similarly, the Fund Shares can only be redeemed in Creation Units of 50,000 Fund Shares, principally in-kind for a specified portfolio of stocks held by the Fund then comprising the Deposit Securities and the then applicable Cash Component. Except when aggregated in Creation Units, Fund Shares are not redeemable. The prices at which creations and redemptions occur are based on the next calculation of NAV after an order is received in proper form.

Creations and redemptions must be made through a firm that is either a member of the Continuous Net Settlement System of the National Securities Clearing Corporation ("NSCC") or a Depository Trust Company ("DTC") participant and, in each case, must have executed an agreement with the Distributor with respect to creations and redemptions of Creation Unit aggregations ("Participant Agreement"). The Trust will impose transaction fees in connection with creation and redemption transactions.

Availability of information regarding fund shares and underlying indices. The list of names and amount of each security constituting the current Deposit Securities, and the Cash Component effective as of the previous business day, per outstanding share of the Fund, will be made available each business day. In addition, an amount representing the sum of the estimated Cash Component effective through and including the previous business day, plus the current value of the Deposit Securities in U.S. dollars, on a per share basis is expected to be disseminated every 15 seconds during the Exchange's regular trading hours, through the facilities of the Consolidated Tape Association ("CTA").

The value of the Underlying Index will be updated intra-day on a real-time basis as individual component securities of the Underlying Index

change in price. These intra-day values of the Underlying Index will be disseminated every 15 seconds throughout the trading day. In addition, there will be disseminated a value for the Underlying Index once each trading day, based on closing prices in the relevant exchange market.

The Fund will make available on a daily basis the names and required number of shares of each of the Deposit Securities in a Creation Unit aggregation, as well as information regarding the cash-balancing amount. The NAV for the Fund will be calculated and disseminated daily. In addition, the Adviser maintains a website that provides information about the returns and methodology of various indices, and will include the Underlying Index for the Fund. The Trust also intends to maintain a website that will include the Fund prospectus and additional quantitative information that is updated on a daily basis, including daily trading volume and closing price for the Fund. There will also be disseminated a variety of data with respect to the Index on a daily basis by means of CTA including shares outstanding and cash amount per Creation Unit aggregation, which will be made available prior to the opening of the trading on the Exchange. The closing prices of the Fund's Deposit Securities are readily available from, as applicable, the relevant exchanges, automated quotation systems, or on-line information services such as Bloomberg or Reuters.

Dissemination of indicative portfolio value. To provide updated information relating to the Fund for use by investors, professionals and persons wishing to create or redeem Fund Shares, and because the Fund is based on the Index which includes non-U.S. components, it is expected that there will be disseminated through the facilities of the CTA an updated indicative portfolio value ("Value") for the Fund traded on the Exchange as calculated by a securities information provider ("Value Calculator"). The Value will be disseminated on a per Fund Shares basis every 15 seconds during regular NYSE trading hours for the Fund. The equity securities values included in the Value are the values of the Deposit Securities, which are the same as the portfolio that is to be utilized generally in connection with creations and redemptions of the Fund Shares Creation Unit aggregations on that day. The equity securities included in the Value reflect the same market capitalization weighting as the Deposit Securities in the portfolio for the Fund. In addition to the value of the Deposit

Securities for the Fund, the Value includes the Cash Component. The Value also reflects changes in currency exchange rates between the U.S. dollar and the applicable home foreign currency.

The Value may not reflect the value of all securities included in the applicable Underlying Index. In addition, the Value does not necessarily reflect the precise composition of the current portfolio of securities held by the Fund at a particular point in time. Therefore, the Value on a per Fund Shares basis disseminated during the Exchange's trading hours should not be viewed as a real-time update of the NAV of the Fund, which is calculated only once a day. While the Value that will be disseminated at 9:30 a.m. is expected to be generally very close to the most recently calculated NAV on a per Fund Shares basis, it is possible that the value of the portfolio of securities held by the Fund may diverge from the Deposit Securities Values during any trading day. In such case, the Value will not precisely reflect the value of the Fund portfolio.

However, during the trading day, the Value can be expected to closely approximate the value per Fund share of the portfolio of securities for the Fund except under unusual circumstances (e.g., in the case of extensive rebalancing of multiple securities in the Fund at the same time by the Advisor). The circumstances that might cause the Value to be based on calculations different from the valuation per Fund share of the actual portfolio of the Fund would not be different than circumstances causing any index fund or trust to diverge from an underlying benchmark index.

The Exchange believes that dissemination of the Value based on the Deposit Securities provides additional information regarding the Fund that would not otherwise be available to the public and is useful to professionals and investors in connection with Fund Shares trading on the Exchange or the creation or redemption of Fund Shares.

For the Fund, the Value Calculator will utilize closing prices (in applicable foreign currency prices) in the principal foreign market(s) for securities in the Fund portfolio, and convert the price to U.S. dollars. This Value will be updated every 15 seconds during the Exchange's trading hours to reflect change in currency exchange rates between the U.S. dollar and the applicable foreign currency. The Value will also include the applicable Cash Component for the Fund.

For foreign stocks, the principal foreign markets that have trading hours

overlapping regular trading hours on the Exchange, the Value Calculator will update the applicable Value every 15 seconds to reflect price changes in the applicable foreign market or markets, and convert such prices into U.S. dollars based on the current currency exchange rate. When the foreign market or markets are closed but the Exchange is open, the Value will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign markets close.

Other characteristics of the fund. The Exchange represents that a minimum of two Creation Unit aggregations for the Fund, based on the S&P Global 100 Index, will be outstanding at the commencement of trading on the Exchange. The number of shares per Creation Unit aggregation will be 50,000 shares.⁸

Fund Shares will be registered in book-entry form through the DTC. Trading in Fund Shares on the Exchange will be effected until 4:00 p.m. each business day.⁹ The minimum trading increment for Fund Shares on the Exchange initially will be 1/64th of \$1.00.¹⁰

Dividends from net investment income will be declared and paid at least annually by the Fund. Distributions of realized securities gains, if any, generally will be declared and paid at least once a year, but the Fund may make distributions on a more frequent basis to comply with distribution requirements of the Code. The Fund may make the DTC book-entry Dividend Reinvestment Service available for use by beneficial owners of the Fund through DTC Participants for reinvestment of their cash proceeds.

Original and annual listing fees. The Exchange original listing fee applicable to the listing of the Fund will be \$5,000.

⁸ By virtue of the Exchange's File No. SR-NYSE-00-46, submitted to the Commission for notice and approval, the number of Units required to be outstanding at the commencement of trading under Section 703.16(A)(4) will be established by the Exchange for each series. At the commencement of trading of Fund Shares based on the S&P Global 100 Index on the Exchange, there will be required to be at least 100,000 Fund Shares outstanding. The Commission believes that in light of the Exchange's proposed rule change in SR-NYSE-00-46, and the commission's approval of a minimum number of 100,000 Fund Shares outstanding on other exchanges, it is reasonable for the Exchange to require a minimum of 100,000 Fund Shares outstanding on the S&P Global 100 Index.

⁹ The Exchange expects to extend its regular hours for the trading of the Fund to 4:15 p.m. at such time that a futures contract on the Index becomes available for trading on a futures exchange in the U.S.

¹⁰ When decimal pricing is extended to all securities traded on the Exchange, the minimum trading increment for Fund Shares based on the S&P Global 100 on the Exchange will be expressed in decimals.

The annual continued listing fee for the Fund will be \$2,000.

Stop and stop limit orders. Since Investment Company Units issued pursuant to Section 703.16, Investment Company Units, of the LCM are derivatively priced based upon another security or index of securities, the Exchange is proposing to amend NYSE Rule 13 to provide that stop and stop limit orders to buy or sell Investment Company Units shall, with the prior approval of a Floor Governor or two Floor Officials, be elected by a quotation. Fund Shares will be eligible for this treatment. The proposed rule change would require a Floor Governor or two Floor Officials to give approval for this treatment. The Exchange believes this is an appropriate precaution given the newness of the rule to the Exchange. After a month or two of experience with the new rule, the Exchange anticipates that it will file an additional rule change to allow approval by only one Floor Official to suffice.

Trading halts. The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Fund. Trading on the Exchange in the Fund Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Fund Shares inadvisable. These may include (1) the extent to which trading is not occurring in stocks in the Index or (2) other unusual conditions or circumstances detrimental to maintenance of a fair and orderly market. In addition, trading in Fund Shares is subject to trading halts caused by extraordinary market volatility pursuant to Exchange's "circuit breaker" rules (NYSE Rule 80A).

Surveillance procedures. The Exchange's written Surveillance procedures for Fund Shares will be similar to the procedures utilized for other Investment Company Units.

Prospectus delivery and information circular. Prior to commencement of trading in the Fund on the Exchange, the Exchange will issue an information circular informing members and member firms that investors purchasing Fund Shares shall be required to receive a prospectus prior to or concurrently with the confirmation of a transaction in Fund Shares. The information circular will also inform members and member firms of the characteristics of the Fund and of applicable Exchange Rules, including suitability rules.¹¹

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act¹² in general and furthers the objectives of Section 6(b)(5) of the Act¹³ in particular in that it is 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 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.

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 any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and 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 NW, Washington, DC 20549-0609. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-NYSE-00-53 and should be submitted by January 2, 2001.

Market Regulation, Commission, November 30, 2000.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

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

After careful consideration, 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 and of Section 6(b)(5) of the Act.¹⁴ The Commission believes that the Exchange's proposal to list and trade shares of the Fund based on S&P Global Index will provide investors with a convenient and efficient way of participating in the securities markets, including involvement with equities issued by foreign investors. The Exchange's proposal should also provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a single security, at negotiated prices throughout the business day that replicates the performance of a portfolio of stocks. Accordingly, as discussed below, the Commission finds that the Exchange's proposal will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with Section 6(b)(5) of the Act.¹⁵

Section 703.16 of the LCM provides for the listing and trading of Investment Company Units, which are shares that represent an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or similar entity. The Commission believes that the listing and trading Fund Shares based on the S&P Global 100 Index will provide investors with an alternative to trading a broad range of securities on an individual basis, and will give investors the ability to trade a product representing an interest in a portfolio of securities designed to reflect substantially the applicable underlying index. The Fund should allow investors to: (1) Respond quickly to market changes through intra-day trading opportunities; (2) engage in hedging strategies similar to those used by institutional investors; and (3) reduce transaction costs for trading a portfolio of securities.

¹⁴ 15 U.S.C. 78f(b)(5). 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).

¹⁵ 15 U.S.C. 78f(b)(5).

¹¹ As per telephone conversation between James F. Duffy, Senior Vice President and Associate General Counsel, Office of the General Counsel, NYSE, and Heather Traeger, Attorney, Division of

Although the Fund is not a leveraged instrument, and, therefore, does not possess any of the attributes of stock index options, its prices will be derived and based upon the securities and the cash held in the Fund. Accordingly, the level of risk involved in the purchase or sale of this Fund is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for the Fund is based on a portfolio of securities. Based on these factors, the Commission believes that it is appropriate to regulate the Fund in a manner similar to other equity securities. Nevertheless, the Commission believes that the nature of the Fund raises certain product design, disclosure, trading, market impact and other issues that must be addressed adequately. As discussed in more detail below, the Commission believes the Exchange has adequately addressed these concerns.

A. The Fund Generally

The Commission believes that the proposed Fund is reasonably designed to provide investors with an investment vehicle that substantially reflects in value the index it is based upon. In this regard, the Commission notes that the Fund will use an "indexing" investment approach that attempts to replicate, before expenses, the performance of the Index. The Commission notes that the Fund uses representative sampling to track the Underlying Index. The Commission also notes that the Fund will normally invest at least 90% of its total assets in stocks that comprise the Underlying Index. The Commission believes that the component selection and replacement procedures for the Fund should help to ensure that the component securities generally remain highly capitalized and actively traded.

B. Disclosure

The Commission believes that the Exchange's proposal should help to ensure that investors are adequately apprised of the terms, characteristics, and risks of trading the Fund. As noted above, all investors will receive a prospectus regarding the product, prior to or concurrently with the confirmation of a transaction therein. In addition, the Trust intends to maintain a website that will include the Fund prospectus and additional quantitative information that is updated on a daily basis.

The Commission notes that the Fund would be subject to the Exchange's rules and procedures for Investment Company Units. Because the Fund will be in continuous distribution, the delivery requirements of the Securities

Act of 1933 will apply both to initial investors and to all investors purchasing such securities in secondary market transactions on the Exchange. The Commission also notes that the Exchange will issue an information circular to its members explaining the unique characteristics of this type of security prior to the commencement of trading in shares of the Fund. The circular also will address members' responsibility to deliver a prospectus or product description to all investors.

C. Listing and Trading of the Index Fund Shares

The Commission finds that adequate rules and procedures exist to govern the listing and trading of the Fund. The Fund will be subject to the full panoply of the Exchange's listing, delisting or suspension rules and procedures governing the trading of Investment Company Units. The Fund will be deemed an equity security subject to all rules governing the trading of equity securities, including, among others, rules governing trading halts, notices to members, responsibilities of the specialist, customer suitability requirements, and the election of a stop and stop limit order. The Exchange's surveillance procedures for Investment Company Units will be applicable to the Fund. The Commission believes that the Exchange's surveillance procedures are adequate to address the concerns associated with the listing and trading of this Fund, including any concerns associated with purchasing and redeeming Creation Units. The Commission further finds that permitting stop and stop limit orders to be elected by a quotation for Investment Company Units is consistent with the Act and should facilitate the trading of such securities.

In addition, the Exchange has designated that a minimum of two Creation Units, at approximately 50,000 shares each, will be required to be outstanding at the start of trading. The Commission believes this minimum number will be sufficient to help to ensure that a minimum level of liquidity will exist at the start of trading. Furthermore, the Commission finds that registering the Fund shares in book-entry form through DTC, managing the distribution of dividends from net investment income, if any, and permitting beneficial owners of the Fund to offer the DTC book-entry Dividend Reinvestment Service are characteristics of the Fund that are consistent with the Act and should allow for the maintenance of fair and orderly markets and perfect the mechanism of a free and open market.

Furthermore, the Commission believes that the Exchange's proposal to trade the Fund in minimum fractional increments of $\frac{1}{64}$ of \$1.00 is consistent with the Act. The Commission believes that such trading should enhance market liquidity, and should promote more accurate pricing, tighter quotations, and reduced price fluctuations. The Commission also believes that such trading should allow customers to receive the best possible execution of their transactions in the Fund. Additionally, the Commission believes that the proposed original listing fee of \$5,000 is reasonable as is the proposed annual fee of \$2,000.

D. Dissemination of Information Regarding the Fund

The Commission believes that the Values and figures that the Exchange proposes to have disseminated for the Fund will provide investors with timely and useful information concerning the value of the Fund. The Exchange represents that the value information will be disseminated, every 15 seconds during regular trading hours, through the facilities of the CTA and will reflect currently available information concerning the value for Shares of the Fund. On a daily basis, the Exchange represents that it will disseminate the Shares outstanding, the cash amount per Creation Unit Aggregation, and the net asset value. The Exchange represents that the closing prices of the Fund's Deposit Securities are readily available from, as applicable, the relevant exchanges, automated quotation systems, or on-line information services such as Bloomberg or Reuters. The intraday value of the Underlying Index will be available from S&P.

E. Accelerated Approval

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** pursuant to Section 19(b)(2) of the Act. The Commission notes that the proposed rule change is based on the listing and trading standards in Section 703.16, Investment Company Unites, of the LCM, which the Commission previously approved after soliciting public comment on the proposal pursuant to Section 19(b)(1) of the Act.¹⁶ The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the filing. Accordingly, the Commission believes it is appropriate to permit investors to benefit from the flexibility afforded by

¹⁶ 15 U.S.C. 78s(b)(1).

this new product by trading them as soon as possible. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,¹⁷ to approve the proposal on an accelerated basis.

V. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSE-00-53), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-31386 Filed 12-8-00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43668; File No. SR-OCC-99-15]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Proposed Rule Change Relating to Clearing Member Affiliates

December 4, 2000.

On November 2, 1999, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-99-15) and on August 11, 2000, amended the proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on September 15, 2000.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The principal purpose of the proposed rule change is allow certain affiliates of a clearing member to be designated as non-customers under the Commission's hypothecation rules³ so that the affiliates may have their transactions and positions commingled in their clearing member's firm account and/or proprietary X-M account at OCC for the purpose of receiving more

favorable clearing margin treatment.⁴ The proposed rule change creates a definition of Member Affiliates that consists of the relevant portion of the existing definition of Related Person in OCC's By-Laws. (For the sake of economy of expression and consistency, OCC proposes to replace that portion of the Related Person definition used to define Member Affiliate with the term Member Affiliate.) The proposed rule change then modifies the definition of Non-Customer to include a Member Affiliate that has executed a non-conforming subordination agreement⁵ that has been approved by the clearing member's designated examining authority.

Additionally, the proposed rule change modifies the definition of Related Person to eliminate redundancies and to more closely parallel 17 CFR 1.3(y), which defines "proprietary account" for the purposes of the Commodity Exchange Act's regulations.⁶ The proposed rule no longer refers to spouses of "any such person" (*i.e.*, any officer, director, or general or special partner) which was redundant because the rule already covers spouses of "any non-customer of the clearing member," and the definition of Non-Customer includes officers, directors, or general or special partners. Additionally, in order to conform OCC rules with Section 1.3(y)'s definition of "proprietary account," the proposed rule change clarifies that not only are spouses and minor dependents of non-customers Related Persons but also that the spouses and minor dependents of certain employees are also Related Persons.

II. Discussion

Section 17A(b)(3)(F)⁷ of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is

⁴ See also no-action letter from Michael A. Macchiaroli, Associate Director, Division of Market Regulation, Commission, to William H. Navin, Executive Vice President and General Counsel, OCC, (June 15, 2000).

⁵ Non-conforming subordination agreements are subordination agreements that do not meet the requirements of Appendix D of Rule 15c3-1.

⁶ As defined, a Related Person is essentially a person whose account would be a "proprietary account" under the rules of the Commodity Futures Trading Commission, but who is nevertheless a "customer" for purposes of the Commission's hypothecation rules cited above. Market Makers who are Related Persons of a clearing member are deemed to be Associated Market Makers and are excluded from the Combined Market Maker Account under Article VI, Section 3(c) of OCC's By-Laws.

⁷ 15 U.S.C. 78q-1(b)(3)(F).

responsible. For the reasons set forth below, the Commission believes that OCC's proposed rule change is consistent with OCC's obligations under the Act.

The proposed rule change to add and modify several definitions so that affiliates may have their transactions and positions commingled in their clearing member's firm account and/or proprietary X-M account at OCC should result in a more accurate assessment of risk and a more appropriate margin requirement thus further assuring the safeguarding the securities and funds within OCC's control. In addition the proposed rule change should provide more consistency with respect to the interplay of the Commodity Exchange Act's regulations with OCC's rules.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-99-15) be and hereby is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43645; File No. SR-Phlx-00-92]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Concerning Reporting, Examination, Recordkeeping, and Disclosure Requirements Related to Off-Floor Trading Organizations and Their Affiliated Traders

November 30, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, notice is hereby given that on October 11, 2000, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁷ 15 U.S.C. 78s(b)(5).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 43276, (September 11, 2000), 65 FR 56015.

³ 17 CFR 240.8c-1 and 240.15c2/1.