

securities and does not propose to make a public offering or engage in business of any kind.

*Filing Dates:* The application was filed on June 9, 2003, and amended on July 24, 2003.

*Applicant's Address:* 7900 Callaghan Rd., San Antonio, TX 78229.

**AFAC Equity, L.P. (formerly 52nd Street Associates, L.P.)**

[File No. 811-10277]

*Summary:* Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering. Applicant has one limited partner and will continue to operate in reliance on section 3(c)(1).

*Filing Dates:* The application was filed on June 30, 2003, and amended on August 8, 2003.

*Applicant's Address:* c/o MIO Partners, Inc. (f/k/a Paul Harris Management, Inc.), 55 East 52nd St., New York, NY 10022.

**CMG Investors Trust**

[File No. 811-10615]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 19, 2003, applicant made a liquidating distribution to its sole shareholder, based on net asset value. Expenses of approximately \$1,400 incurred in connection with the liquidation were paid by applicant, Capital Management Group Advisors, LLC, applicant's investment adviser, and Cadre Financial Services, Inc., applicant's sub-administrator.

*Filing Dates:* The application was filed on July 2, 2003, and amended on August 11, 2003.

*Applicant's Address:* Cadre Financial Services, Inc., 905 Marconi Ave., Ronkonkoma, NY 11779.

**Berger Institutional Products Trust**

[File No. 811-7367]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. Applicant's board of directors approved the merger of three of Applicant's series and the liquidation of its remaining series on November 26, 2002. Shareholders of the merged series approved the mergers into the Janus Aspen Series on March 7, 2003, and the mergers took place on March 24, 2003. The liquidation and distribution of the assets of the remaining series occurred on March 31, 2003. Janus Capital Management LLC and Berger Financial Group LLC paid

for the expenses of the mergers and liquidation. Applicant has no remaining assets and no outstanding debts or liabilities.

*Filing Dates:* The application was filed on May 28, 2003, and amended on July 31, 2003.

*Applicant's Address:* 210 University Blvd., Suite 800, Denver, CO 80206.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-22598 Filed 9-4-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**Sunshine Act Meetings**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 8, 2003:

Closed Meetings will be held on Tuesday, September 9, 2003, at 2 p.m. and Wednesday, September 10, 2003, at 11 a.m., and Open Meetings will be held on Wednesday, September 10, 2003, at 10 a.m. and Thursday, September 11, 2003, at 10 a.m.

Commissioner Atkins, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings

The subject matter of the Closed Meeting scheduled for Tuesday, September 9, 2003, will be:

- Institution and settlement of administrative proceedings of an enforcement nature;
- Institution and settlement of injunctive actions;
- Formal orders of investigation; and
- Adjudicatory matter.

The subject matter for the Open Meeting scheduled for Wednesday, September 10, 2003 will be:

1. The Commission will hear oral argument on an appeal by the Barr Financial Group, Inc. ("BFG"), an investment adviser, and Alfred E. Barr ("Barr"), BFG's president, from the decision of an administrative law judge.

The law judge found that:

a. Respondents violated section 207 of the Investment Advisers Act of 1940 ("Advisers Act") by making untrue statements of material fact in Forms ADV and ADV amendments filed by BFG during 1997 and 1998.

Respondents' statements concerned the amount of assets BFG had under management and Barr's academic credentials;

b. Respondents were permanently enjoined in 1999 from violating Advisers Act section 204 and "regulations thereunder governing the conduct of investment advisers under Rule 204-2 of the Advisers Act."

The law judge ordered both respondents to cease and desist from committing or causing any violations or future violations of Advisers Act sections 204 and 207, barred Barr from associating with any investment adviser, and revoked BFG's registration as an investment adviser.

Among the issues likely to be argued are:

- a. Whether the evidence supports the allegations;
- b. Whether and to what extent sanctions should be imposed in the public interest.

For further information, please contact the Office of the Secretary at (202) 942-7070.

2. The Commission will hear oral argument on an appeal by the Division of Enforcement from the decision of an administrative law judge.

The law judge found that the Division of Enforcement failed to prove that Jeffrey M. Steinberg and John Geron, ("the Respondents"), certified public accountants and former partners of accounting firm Arthur Andersen & Co., L.L.P., caused violations by Spectrum Information Technologies, Inc. ("Spectrum") of section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-13 and 12b-20 thereunder ("the reporting provisions"), and the law judge dismissed the proceedings against the Respondents. The law judge concluded that the Respondents' accounting advice to Spectrum was consistent with generally accepted accounting principles ("GAAP"). The law judge determined also that Spectrum's quarterly reports filed with the Commission on Forms 10-Q for the periods ended June 30, 1993, and September 30, 1993, the reports at issue,

adequately disclosed certain licensing transactions.

The Division has requested that the Commission reverse the law judge's findings of fact and conclusions of law and his dismissal of all charges, and issue cease-and-desist orders against the Respondents.

Among the issues likely to be argued are:

- a. Whether Spectrum's accounting treatment was consistent with GAAP;
- b. Whether the Respondents acted negligently;
- c. Whether the Respondents were "a cause" of Spectrum's violations of the reporting provisions within the meaning of Exchange Act section 21C; and
- d. Whether issuance of cease-and-desist orders against the Respondents is in the public interest.

For further information, please contact the Office of the Secretary at (202) 942-7070.

The subject matter for the Closed Meeting scheduled for Wednesday, September 10, 2003 will be: Post argument discussion.

The subject matter for the Open Meeting scheduled for Thursday, September 11, 2003, will be:

1. The Commission will consider whether to adopt amendments to rule 206(4)-2, the custody rule under the Investment Advisers Act of 1940, to enhance the protections afforded to advisory clients' assets, harmonize the rule with current custodial practices, and clarify circumstances under which advisers have custody of client assets.

For further information, please contact Vivien Liu at (202) 942-0664.

2. The Commission will consider whether to propose a rule to exempt qualified foreign banks from the insider lending prohibition of the Securities Exchange Act of 1934 section 13(k), as added by section 402 of the Sarbanes-Oxley Act. The proposed rule would exempt foreign banks that meet specified criteria similar to those that qualify domestic banks for the exemption under section 13(k). The Commission will also consider whether to propose an amendment to Form 20-F that would require a foreign bank issuer to provide the same disclosure regarding problematic loans to insiders as that required for domestic banks under Regulation S-K.

For further information contact Elliot Staffin at (202) 942-2990.

3. The Commission will also consider whether to propose an amendment to Form F-6 that would add an eligibility requirement making the form unavailable to register under the Securities Act of 1933 depository shares

evidenced by American depository receipts if the foreign issuer has separately listed the deposited securities on a registered national securities exchange or automated inter-dealer quotation system of a national securities association.

For further information please contact Michael Coco at (202) 942-2990.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: September 3, 2003.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 03-22771 Filed 9-3-03; 12:52 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48416; File No. SR-CBOE-2003-14]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated Relating to Options on a Reduced Value NYSE Composite Index

August 27, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 25, 2003, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, the Exchange has prepared. On August 6, 2003, the CBOE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The CBOE is proposing to trade options on the reduced-value, revised NYSE Composite Index ("Reduced Value NYSE Composite Index" or

"Reduced Value Index") based on levels imposed by the New York Stock Exchange ("NYSE") itself. Options traded on the "old" NYSE Composite Index will no longer trade on the CBOE. The text of the proposed rule change is available at the Office of the Secretary, the CBOE, and at the Commission.

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

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

###### Index Design

Currently, the CBOE lists and trades European-style, cash-settled options on the NYSE Composite Index. The NYSE Composite Index, prior to January 9, 2003, was a full-market capitalization-weighted index comprised of all of the securities that are listed on the NYSE.<sup>4</sup> Recently, the NYSE announced that, as of January 9, 2003, it would replace the NYSE Composite Index ("Old Index") with a new version that features a revised methodology and composition. The revised index contains 700 fewer components and will carry a new value around 5,000, as opposed to the year-end closing level of around 500, as of December 31, 2002.

The revised index will continue to measure the performance of all NYSE-listed common stock, American Depositary Receipts ("ADR"), tracking stocks, and real estate investment trusts ("REIT"), but will exclude closed-end investment companies, exchange traded funds ("ETF"), and derivatives. Additionally, the revised NYSE Composite Index ("Revised Index") will use a float-adjusted market capitalization weighting method instead of the previous full-market capitalization weighting.<sup>5</sup> Float-adjusted

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

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

<sup>3</sup> See letter from Jim Flynn, Attorney II, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission dated August 5, 2003 ("Amendment No. 1").

<sup>4</sup> Excluding preferred stock issues.

<sup>5</sup> CBOE has indicated that according to the NYSE, these revisions will create an index that is more representative of the investable equity securities and those securities that are better suited to track future changes in the U.S. stock market.