

pursuant to the policy of each Series will be involved in the proposed transactions. Applicants further submit that the current policies of buying and selling on the open market leads to unnecessary brokerage fees on sales of securities and is therefore contrary not only to the policies of the Series, but to the general purposes of the Act.

5. Applicants state that the condition that the securities must be actively traded on a Qualified Exchange protects against overreaching. This limitation ensures that there will be current market prices available and thus an independent basis for determining that the terms of the transaction are fair and reasonable to each participating investment company.

6. In order to minimize the possibilities of overreaching in the proposed transactions, applicants agree that the Sponsor will certify to the trustee, within five days of each sale from a Rollover Series to a New Series, (a) that the transaction is consistent with the policy of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of such transaction, and (c) the closing sales price on the Qualified Exchange for the sale date of the securities subject to such sale. The trustee will then countersign the certificate unless it disagrees with the closing sales price listed on the certificate, and returns the certificate to the Sponsor for verification and/or correction. In addition, the trustee of each Series will review the procedures for sales and make such changes as it deems necessary to comply with sections (a) through (d) of rule 17a-7.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each sale of Qualified Securities by a Rollover Series to a New Series will be effected at the closing price of the securities sold on a Qualified Exchange on the sale date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to investors in the appropriate prospectus of each Rollover Series and New Series.

3. The trustee of each Rollover Series and New Series will (a) review the procedures discussed in the application relating to the sale of securities from a Rollover Series and the purchase of those securities for deposit in a New Series, and (b) make such changes to the procedures as the trustee deems necessary to ensure compliance with

paragraphs (a) through (d) of rule 17a-7.

4. A written copy of these procedures and a written record of each transaction pursuant to the order will be maintained as provided in rule 17a-7(f).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38730; File No. SR-CBOE-97-25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to the Listing of Options on Mutual Fund Indexes

June 10, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 4, 1997, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 CBOE proposes to trade options on mutual fund indexes. Specifically, CBOE plans to list options on two mutual fund indexes designed by Lipper Analytical Services, Inc. in conjunction with Salomon Brothers Inc. The text of the proposed rule change is available at the Office of the Secretary, 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, Proposed Rule Change

The purpose of the proposed rule change is to enable the CBOE to list options based on mutual fund indexes. CBOE proposes to list options on two mutual fund indexes designed by Lipper Analytical Services, Inc. ("Lipper Analytical" or "LAS") in conjunction with Salomon Brothers Inc.—the Lipper Analytical/Salomon Brothers Growth Fund Index ("Growth Fund Index") and the Lipper Analytical/Salomon Brothers Growth & Income Fund Index ("Growth & Income Fund Index"). Options on the Indexes will allow investors to hedge their risk in mutual funds as well as provide a low-cost means for investors to participate in the mutual fund market. Lipper analytical is a major provider of mutual fund information and currently calculates approximately 100 other mutual fund indexes designed to track specific investment objectives.

Index Design. The Indexes are composed of the 30 largest U.S. funds in each investment objective, based on their total net assets as of the close on the last trading day of December. The Indexes include only those funds that report net asset values ("NAV") through the facilities of the National Association of Securities Dealers Automated quotation System ("NASDAQ"). Some mutual funds are composed of more than one class which have different fees and expenses. If there is more than one class of a specific mutual fund, only the class with the highest total net assets will be included. As of December 31, 1996, the Growth Fund Index had total net assets ("TNA") of \$218.6 billion, an average TNA per component of \$7.3 billion and a median TNA per component of \$4.2 billion. The TNAs ranged from \$2.5 billion to \$54.0 billion. As of the same date, the Growth & Income Fund Index had a TNA of \$241.2 billion, an average TNA per component of \$8.0 billion and a median TNA per component of \$5.0 billion. The TNAs ranged from \$2.5 billion to \$30.9 billion.

Lipper Analytical determines the investment objective of each fund by reviewing both the language in the prospectus and the fund's investment characteristics as shown in the Lipper-Equity Analysis Report on the Weighted Average Holdings of Large Investment Companies. A Growth Fund is described as a fund that normally invests in companies whose long-term earnings are expected to grow significantly faster

than earnings of the stocks represented in the major unmanaged stock indexes. A Growth & Income Fund is described as a fund that combines a growth of earnings orientation and an income requirement for level and/or rising dividends.

Calculation. The Indexes are equal-weighted and re-balanced quarterly after the close on expiration Fridays in March, June, September, and December. The Index value is calculated in essentially the same manner as other equal-weighted indexes. The total number of shares for each component is calculated by dividing \$1,000 by the closing NAV, adjusted for distributions, of the component on the re-balancing date and rounding to two decimal places. The share amount is held constant throughout the quarter. The Indexes are calculated by summing the product of the current NAV adjusted for distributions and the share amount for each component and then dividing by the index divisor. The divisors were calculated to produce a value of 150.00 for the Growth Fund Index and 250.00 for the Growth and Income Fund Index as of December 31, 1996, the base date. The Indexes are calculated once per day as soon as the NAVs for each of the components are available.¹ The Index values will be disseminated by CBOE through the facilities of the Options Price Reporting Authority ("OPRA") prior to the opening on the next business day.

¹ Index values are updated only at the close of trading each day because that is the only time when the fund net asset values comprising the Indexes are determined and disseminated. The Exchange believes that this should not pose an obstacle to options trading, any more than it prevents investors from entering intra-day orders to purchase or redeem shares of the funds themselves at closing net asset values that are unknown at the time the orders are entered. Further, insofar as options trading is concerned, this would not be the only example of options on indexes that are available only one time per day, albeit for different reasons. Options on the AMEX Japan Index and the AMEX Hong Kong 30 Index are traded in the United States when the underlying markets are closed, and the trading of these options has amply demonstrated that options markets can function effectively when only one index value is available during the trading day. Indeed, because the U.S. stock markets in which the component funds of the Lipper Analytical Indexes invest will be trading at the same time as the options are traded, the Exchange feels that conditions for options trading on the Lipper Analytical Indexes would be more favorable than for options trading on foreign indexes when the underlying markets are closed. In the cases of the Lipper Analytical Indexes, investors will be able to base their trading decisions on the observation of real-time movements in the value of market indexes and individual securities that have tended to move in regular relationship with the Indexes. This is the basis on which funds themselves are traded, and we see no reason why options on indexes of funds should not be available to investors on the same basis.

Lipper has informed the Exchange that it has not had any difficulty in obtaining net asset values for the funds in the Indexes. The funds comprising the Indexes are among the largest funds in existence. In the unlikely event that any of these funds do not comply with Rule 22c-1 under the Investment Company Act of 1940, which requires daily computation of a fund's current net asset value, the Exchange would follow the same procedure it uses for dissemination of standard indexes when a component price is unavailable; it will use the last available price.

Maintenance. Lipper Analytical has the sole responsibility of maintaining the Indexes. Salomon Brothers acted as an adviser to provide technical support, including advice on index design and the methodology of index construction. Lipper Analytical reviews the components annually after the close on the last trading day of December to include the thirty largest funds by total net assets. Any component changes resulting from the annual review will be announced by LAS and CBOE at least two weeks prior to implementation which will occur after the close on expiration in March. The index calculation reflects reinvestment of all distributions of component funds. Generally, there will be no need for any other adjustments intra-quarter.

Index Option Trading. The Exchange proposes to base trading in options on the Lipper Analytical Indexes on the full-value of each Index. The Exchange may list full-value long-term index option series ("LEAPS"®), as provided in Rule 24.9. The Exchange also may provide for the listing of reduced-value LEAPS, for which the underlying value would be computed at one-tenth of the value of the Index. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth.

Exercise and Settlement. Options on the Indexes will be European-style and settle based on the closing NAVs of the component funds two business days prior to expiration. The proposed options will expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in an expiring series will be two business days (ordinarily a Thursday) preceding the expiration date. The settlement value (which is the same as Thursday's closing value) will be disseminated prior to the opening on Friday.

Exchange Rules Applicable. Except as modified herein, the Rules in Chapter XXIV will be applicable to mutual fund index options. Index option contracts

based on the Lipper Analytical Indexes will be subject to a position limit of 75,000 contracts on the same side of the market. Ten reduced-value options will equal one full-value contract for such purposes. The Exchange believes that the proposed position limits are reasonable and appropriate for this product, and are consistent with the position limits that apply to other index options.

Rule 24.9 Interpretation and Policy .01(a) is being amended to include 2½ point strike price intervals for mutual fund indexes with strike prices less than \$200. Broad-based margins will apply to mutual fund index options. CBOE is amending Rule 24.1(e) to reflect the fact that mutual funds can underlie indexes.

Surveillance. As with any other option product, the CBOE will closely monitor activity in these options and therefore, should be able to identify any potentially unusual activity in the options. It should be noted that with respect to the component funds that comprise the Indexes, trading in the funds themselves has no effect on the value of the Indexes. Instead, the value of the Indexes depends entirely on the net asset values of the component funds, which in turn depends on the values of the stocks held in the portfolios of the various funds. With this in mind, there are a few reasons why the concerns with manipulative activity are not as great with respect to options on these Indexes as they are on other index options. First, the Indexes are equal-weighted, thus no single component dominates the Index. Therefore any person attempting to manipulate the Indexes would have to manipulate the NAVs of a majority of the Index components. Second, in order to manipulate the NAVs of the component funds, a persons would have to have knowledge of the component securities held by the funds. This information is not disseminated to the public until after the fact (generally only quarterly), thus it would be nearly impossible for any individual to know, with any degree of certainty, the components of enough of the funds to make any manipulative efforts worthwhile. If it became necessary to examine activity in the underlying stocks, the CBOE could use the information available for the time period that was being examined.

Miscellaneous. The Exchange is aware of Commission concerns with respect to the degree in which fund portfolio managers should be allowed to trade options on the Lipper Analytical Indexes. CBOE believes that question of permissible trading activities of fund managers are properly to be answered by each fund's management, consistent

with guidance provided by the Commission. We do point out, However, that because the Indexes will be re-balanced each quarter to ensure that no single fund makes up more than 3.33% of an Index, there is little likelihood that any one fund will ever have a significant influence over the value of the Index of which it is a part. Thus the conflict of interest that may be thought to exist when a portfolio manager trades the same securities in which his or her fund may be interested should not exist in respect of the portfolio manager's activities in options on the Lipper Analytical Indexes.

CBOE has the necessary systems capacity to support new series that would result from the introduction of the Lipper Analytical/Salomon Brothers Index options. CBOE has also been informed that OPRA has the capacity to support such new series.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 in general and Section 6(b)(5) in particular in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities and to protect investors and the public interest.

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

The CBOE does not believe that the proposed rule change will impose any burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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 in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-97-25 and should be submitted by July 8, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38731; File No. SR-NYSE-97-08]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by New York Stock Exchange, Inc. Consisting of an Information Memo Relating to Electronic Delivery of Information to Customers by Exchange Members and Member Organizations

June 10, 1997.

On March 24, 1997,¹ the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ a proposed rule change setting forth the Exchange's policy regarding electronic delivery of information required under Exchange

² 17 CFR 200.30-3(a)(12).

¹ On April 24, 1997, the NYSE amended the exhibit attached to the rule filing. See letter from James E. Buck, Senior Vice President and Secretary, NYSE, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated April 24, 1997.

² 15 U.S.C. 78s(b)(1) (1988).

³ 17 CFR 240.19b-4 (1995).

rules to be furnished to customers. A notice of the proposed rule change appeared in the **Federal Register** on May 7, 1997.⁴ The Commission received no comment letters addressing the proposed rule change.

The Exchange has filed with the Commission an Information Memo ("Memo") setting forth the Exchange's policy regarding electronic delivery of information required under Exchange rules to be furnished to customers. Under this proposed Exchange policy, members and member organizations will be allowed to electronically transmit documents required to be furnished to customers under Exchange rules, provided that they adhere to the Commission's established requirements. The Commission, in Release Nos. 34-37182⁵ and 33-7233,⁶ addresses the procedural aspects of how broker-dealers and others may satisfy their delivery obligations under federal securities laws by using electronic media as an alternative to paper-based media provided that they comply with certain prescribed requirements.

The Memo summarizes the Commission procedures, which address format, content, access, evidence of receipt of delivery, and consent for delivery of personal financial information. The Memo also sets forth a list of current Exchange rules that require members and member organizations to furnish specific information to customers for which electronic delivery may be used in accordance with the Commission Releases.⁷ The Exchange intends that the policy outlined in this Memo cover all communications required to be sent to customers by firms pursuant to Exchange rules.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, the

⁴ Securities Exchange Act Release No. 38567 (May 1, 1997); 62 FR 25009 (May 7, 1997).

⁵ See, Securities Exchange Act Release No. 37182, May 9, 1996; 61 FR 24644, May 15, 1996, (Commission's interpretation concerning the delivery of information through electronic media in satisfaction of broker-dealer and transfer agent requirements to deliver information under the Act and the rules thereunder).

⁶ See, Securities Act Release No. 7233, Oct. 6, 1995; 60 FR 53458, Oct. 13, 1995, (Commission's interpretation concerning the use of electronic media as a means of delivering information required to be disseminated pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940).

⁷ The Exchange believes this list is complete. The Commission notes, however, that if the Exchange proposes a rule for which electronic delivery of information to customers may be used, then the Exchange should specify that the rule would be governed by this interpretation, as well.