

differences, it is appropriate to apply different financial standards to closed-end funds as compared to regular operating companies.¹³

V. 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.¹⁴ Specifically, the Commission believes the proposal is consistent with the requirements under section 6(b)(5) of the Act¹⁵ that the rules of an exchange be 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.

The Commission believes that the proposed rule change will continue to allow the Amex to provide greater transparency to its listing process for closed-end funds. In addition, the Commission believes that the proposed rule change will continue to allow the Amex to strike a reasonable balance between the Exchange's obligation to protect investors and their confidence in the market and the Exchange's obligation to perfect the mechanism of a free and open market by listing funds, including fund families, on the Exchange. Further, the Commission believes that providing an alternative method to list closed-end funds on the Exchange should continue to accommodate the desire of fund families to list groups of closed-end funds on one marketplace. Finally, the Commission notes that it has no knowledge of any problems or regulatory concerns that have developed since the approval of the five-month pilot program.¹⁶

The Commission finds good cause for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. The Amex has requested accelerated approval of the proposed rule change to ensure that the proposal is effective on a permanent basis prior to the expiration of the existing pilot program, and because it

raises no new or novel issues and is conceptually similar to existing New York Stock Exchange closed-end fund listing standards.¹⁷ The Commission believes that the proposed rule change does not raise any new or significant regulatory issues, and that accelerated approval should permit the Exchange to continue listing funds and accommodating the desire of fund families to list groups of closed-end funds on one marketplace. The Commission notes that it received only one comment letter, which supported File No. Amex-2002-55,¹⁸ in which the Amex originally proposed the changes set forth in this proposal on a five-month pilot basis.¹⁹

It is therefore ordered, pursuant to section 19(b)(2) of the Act,²⁰ that the proposed rule change (File No. SR-Amex-2002-113) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²¹

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47258; File No. SR-CSE-2003-01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Cincinnati Stock Exchange, Inc. To Amend Its Market Data Revenue Sharing Program for Tape B Securities

January 27, 2003.

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, 2003, the Cincinnati Stock Exchange, Inc. ("CSE" 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 Exchange.

¹⁷ See Securities Exchange Act Release No. 46163 (July 3, 2002), 67 FR 46559 (July 15, 2002) (File No. SR-NYSE-2001-45) (approving initial listing standards and allocation policy for closed-end funds).

¹⁸ See ICI letter.

¹⁹ See Securities Exchange Act Release No. 46785 (November 7, 2002) 67 FR 69578 (November 18, 2002) (approving File No. SR-Amex-2002-55).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

On January 24, 2003 the CSE amended the proposal.³ 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 CSE proposes to modify the Exchange's schedule of transaction fees to amend its market data revenue sharing program for Tape B securities ("Program") traded on the Exchange. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

Rule 11.10 National Securities Trading System Fees

A. Trading Fees

(a)-(j) (No change to text)

(k) Tape "B" Transactions. The CSE will not impose a transaction fee on Consolidated Tape "B" securities. In addition, Members will receive a 50 percent pro rata transaction credit of [Net]gross Tape "B" revenue; *provided that, however, calculation of the transaction credit will be based on net Tape "B" revenues in those fiscal quarters where the overall revenue retained by the Exchange does not offset actual expenses and working capital needs.* To the extent market data revenue from Tape "B" transactions is subject to year-end adjustment, credits provided under this program may be adjusted accordingly.

(l)-(r) (No change to text)

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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.

³ See January 23, 2003 letter from Jennifer M. Lamie, Esquire, CSE, to Katherine England, Assistant Director, Division of Market Regulation, Commission ("Amendment No. 1"). In Amendment No. 1, the CSE changed the text of the proposed rule to address omissions that were made in the original rule filing.

¹³ *Id.*

¹⁴ In approving this proposed rule change, 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).

¹⁶ Telephone conversation between Claudia Crowley, Assistant General Counsel, Amex, and Frank N. Genco, Attorney, Division, Commission, on January 17, 2003.