inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. 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 number SR-DGOC-90-03 and should be submitted by April 27, 1990.

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

Dated: March 30, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-8003 Filed 4-5-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27868; File No. SR-MSE-90-4]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Changes by the Midwest Stock Exchange, Inc. Relating to Index Warrants

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 12, 1990 the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. 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 MSE is proposing to: (1) Adopt Rule 8 under Article XXVIII of the MSE's rules to provide listing standards applicable to index warrants based on both domestic and foreign market indexes; (2) amend Rule 3 of Article XLVIII to make the option suitability standard in Rule 5 of Article XLVIII applicable to recommendations regarding index warrants; (3) amend Rule 6 of Article XLVIII to require that discretionary orders in index warrants be approved and initialled on the day entered by a Senior Registered Options Principal or a Registered Options Principal; and (4) approve for trading pursuant to listing or unlisted trading privileges, index warrants based on the Nikkei Stock Average.[1] The text of the proposed rule changes may be examined at the places specified in Item IV below.

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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 is proposing to amend its rules to establish a regulatory framework that permits the listing of index warrants generally as well as index warrants specifically based on the Nikkei Stock Average. The proposed index warrants will be unsecured obligations of an issuer, subject to cash settlement in United States dollars during a term of at least one year from date of issuance. Only index warrants based on established market indexes, both foreign and domestic, will be accepted for listing.

Index warrants would be eligible for listing whether exercisable throughout their life (i.e., American style) or exercisable only on their expiration date (i.e., European style). Upon exercise, or at the index warrant expiration date (if not exercisable prior to such date), the holder of an index warrant structured as a "put" would receive payment in United States dollars to the extent that the index has declined below a pre-stated cash settlement value. Conversely, holders of an index warrant structured as a "call" would, upon exercise or at expiration, receive payment in United States dollars to the extent that the index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the index warrants would expire worthless.

[1] The Nikkei Index is an internationally recognized, price-weighted index comprised of 225 actively-traded stocks on the Tokyo Stock Exchange. The Nikkei Index is calculated and managed by Nihon Keizai Shimbun, Inc. of Japan.

Since the index warrants would represent unsecured obligations of the issuer, only index warrants issued by companies that have assets in excess of $100 million and otherwise substantially exceed the size and earnings requirements for listing on the MSE would be eligible for listing on the MSE. The MSE also proposes to require a minimum public distribution of 1,000,000 index warrants together with a minimum of 400 public holders, and an aggregate market value of $4,000,000.

The MSE also proposes to require that recommendations to buy or sell index warrants be subject to the suitability standards contained in Rule 5 of Article XLVIII of the MSE Rules, which currently applies to only options related accounts. The MSE also proposes to recommend that index warrants be sold only to options-approved accounts; however, whether or not an account has been approved for options trading, the options suitability standards in Rule 5 of Article XLVIII will apply to all recommended transactions in index warrants.

The MSE also proposes to amend Rule 6 of Article XLVIII to require that all index warrant transactions in discretionary accounts be subject to the requirement that a Senior Registered Options Principal or a Registered Options Principal approve and initial a discretionary order in index warrants on the day the order is issued.

The Exchange proposes to distribute a circular to its membership highlighting specific rules associated with index warrants based on the Nikkei Stock Average, whether the index warrant is listed on the MSE or available for unlisted trading privileges. The circular given to the members will specifically call attention to the need to provide adequate disclosure regarding the risks involved in an index warrant investment and will specify the suitability standards under Rule 5 of Article XLVIII.

The MSE also is undertaking to establish an appropriate means for surveillance sharing with respect to the Nikkei Stock Average component stocks.

(2) Statutory Basis

The Exchange believes that the proposed rules changes are consistent with section 6(b)(5) of the Act in that they are, among other things, designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in regulating, clearing, settling, processing information with respect to, and 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; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purpose of the Act or the administration of the Exchange. Furthermore, the proposed rules amendments are consistent with section 11A(a)(1)(C)(ii) of the Act in that they will tend to assure fair competition among exchange markets and between exchange markets and markets other than exchange markets.

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

The MSE does not believe that any burdens will be placed on competition as a result of the proposed rule change.

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

No written comments were either solicited or received.

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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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. 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 the file number in the caption above and should be submitted by April 27, 1990.

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

Dated: April 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-8004 Filed 04-05-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27867; File No. SR-NASD-90-6]

Self Regulatory Organizations; Order Approving a Proposed Rule Change of the National Association of Securities Dealers, Inc. Relating to the Ability to Cancel Erroneous Transactions

On January 30, 1990, the National Association of Securities Dealers ("NASD" or "Association") submitted a proposed rule change to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The purpose of the proposed rule change is to add a section 70 to the Uniform Practice Code to permit the Association to declare clearly erroneous transactions void if they arise out of the use of an automated system operated by the NASD, including specifically the Intermarket Trading System/Computer Assisted Execution System Interface ("ITS/CAES"). The proposed rule change would also expand the scope of Article IX of the NASD's Code of Procedure to cover grievances arising out of the operation of any automated NASD system. Article IX currently covers grievances arising out of National Association of Securities Dealers Automated Quotation System ("NASDAQ") only.[1]

Notice of the proposed rule change was given in Securities Exchange Act Release No. 27711 (February 15, 1990), 55 FR 6571. The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

As noted above, the rule change would, first, add a section 70 to the Uniform Practice Code to permit the Association to declare clearly erroneous transactions void if they arise out of the use of an automated system operated by the NASD. Currently, the NASD lacks the authority to cancel a transaction, even if one or more terms of the transaction are clearly in error. Proposed section 70 would provide the NASD with the authority to declare a clearly erroneous transaction null and void in cases where it "deems it necessary to maintain a fair and orderly market, and to protect investors and the public interest." The rule also contains time frames and procedural guidelines for complaining of an error, receiving an NASD ruling, and, if necessary, appealing that decision to a review panel. The rule would apply to transactions occurring not only in NASDAQ but also involving other NASD systems such as the Order Confirmation Transaction System, the Automated Confirmation Transaction Service, and the ITS/CAES linkage.

Second, the proposed rule change would amend Article IX of the Code of Procedure to expand its scope to cover redress for grievances arising out of the operation of "any automated quotation, execution, or communication system owned or operated by the Corporation or subsidiary thereof, and approved by the Commission," rather than just the NASDAQ system.

The Commission finds that approval of the proposed rule change is consistent with the Act; in particular, with Section 15A(b)(6), which requires that the rules of the Association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system....," and section llA(a)(1)(B) which sets forth the Congressional goal of achieving more efficient and effective market operations. The proposed rule change will be beneficial to broker/dealers using NASD automated systems because it will provide an efficient and immediate mechanism for breaking clearly erroneous trades, with adequate protections for review and appeal of decisions.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change be, and hereby is, approved.

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[2] 17 CFR 200.30-3(a)(12) (1989).

[1] We anticipate, however, that disputes under the proposed section 70 concerning the ITS/CAES linkage will be resolved through ITS dispute resolution procedures.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Dated: April 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-8005 Filed 4-5-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17404; (812-7469)]

Application and Temporary Order

April 2, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Temporary order and notice of filing of application for permanent order of exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Smith Barney, Harris and Upham Incorporated ("SBHU" or "Applicant").

RELEVANT SECTIONS: Permanent order requested, and temporary order granted, under section 9(c) of the Act granting exemption from section 9(a).

SUMMARY: SBHU has been granted a temporary order, and has requested a permanent order, exempting it from the provisions of section 9(a) to relieve SBHU from any ineligibility resulting from the employment of three individuals who are subject to injunctions in Commission enforcement actions (the "Subject Employees").

FILING DATES: The application was filed on January 30, 1990, and amended on February 6, 1990, February 13, 1990, and March 27, 1990.

HEARING OR NOTIFICATION OF HEARING: A permanent order granting the application will be issued unless the SEC orders a hearing or extends the temporary exemption. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 27, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicant, A. George Saks, Managing Director and General Counsel, Smith Barney, Harris Upham & Co., Inc., 1345 Avenue of the Americas, New York, New York 10105..

FOR FURTHER INFORMATION CONTACT: Thomas G. Sheehan, Staff Attorney, (202) 272-7324 or Max Berueffy, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. SBHU is a securities and investment banking firm with over 100 domestic and international branch offices. SBHU is also an investment adviser registered with the Commission. SBHU serves as (a) investment adviser and principal underwriter to Vantage Money Market Funds, an open-end management investment company which has approximately $1.2 billion under management in two portfolios: (b) investment adviser to The Inefficient-Market Fund, Inc., a closed-end management investment company, with approximately $44 million under management; (c) sub-investment adviser to the following registered investment companies: Smith Barney Equity Funds, Inc.; Smith Barney Funds, Inc.; and Smith Variable Account Funds (the "Smith Barney Funds"); (d) principal underwriter to the following registered open-end management investment companies with approximately $5.6 billion in assets: The Smith Barney Funds; National Liquid Reserves, Inc.; The Muni Bond Funds; and the Tax Free Money Fund, Inc.; and (e) a depositor and principal underwriter of numerous unit investment trusts.

2. Smith Barney, Inc. is the direct parent corporation of SBHU. Smith Barney, Inc. has other direct subsidiaries that are registered investment advisers to registered investment companies.

3. Primerica Corporation, a financial services and specialty retailing company whose shares are listed on the New York Stock Exchange, is SBHU's ultimate parent corporation. Primerica has other indirect subsidiaries which are broker-dealers as well as depositors of, and investment advisers to, registered investment companies.

4. Applicant currently employs three individuals subject to securities-related injunctions, Joseph S. Schreck, Joel L. Halpern, and John W. Kelsey.

5. Schreck is currently the manager of SBHU's Morristown, New Jersey branch office and has served in that capacity since joining SBHU in 1976. In April, 1983, Schreck entered into a consent injunction in a suit brought by the Commission alleging insider trading in violation of sections 10(b) and 14(e) of the Securities Exchange Act of 1934 and Rule 10b-5.

6. Kelsey is a registered representative in SBHU's Houston-Galleria branch office. He has been employed by SBHU since 1989. In July, 1975, Kelsey consented to the entry of a permanent injunction in a suit filed by the Commission alleging insider trading in violation of section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5.

7. Halpern is a registered represenative in SBHU's Boca Raton, Florida branch office. He has been employed by SBHU since 1988. In November, 1972, Halpern was permanently enjoined in a suit brought by the Commission alleging net capital violations. As a result of the injunction, Halpern was barred by the Commission on April 28, 1975 from associating with a broker, dealer or investment adviser, with a right to reapply after two years.

8. The existence of the injunctions against the Subject Employees disables SBHU, under section 9(a)(3) of the Act, from acting as an investment adviser to a registered investment company, as a principal underwriter of a registered open-end investment company, or as a principal underwriter or depositor of a registered unit investment trust, unless an exemption is obtained pursuant to section 9(c).

9. Although SBHU has known of the existence of each the injunctions for some time, it did not become aware of their significance under section 9(a) until recently. Until the week of January 29, 1990, SBHU did not have in place adequate compliance procedures to review for section 9(a) purposes the prospective or continued employment of any individual subject to an injunction or conviction.

10. Since the entry of their respective injunctions, none of the Subject Employees has been subject to any similar actions, or been enjoined by a court or sanctioned by the Commission, any self-regulatory organization, or any state securities commission. Senior members of SBHU's Compliance and Law Departments have reviewed each of the Subject Employees' records during the course of his employment with SBHU and found it to be satisfactory. Except as set forth below with respect to Halpern, *see* ¶11, there have been no customer complaints against any of the Subject Employees since the injunctions were entered, nor, to SBHU's