3. An officer or employee of an organization within an executive agency that is an actual or prospective offeror to perform the activity.

4. The head of any labor organization referred to in section 7103(a) (4) of title, 5 United States Code, that includes within its membership officers or employees of an organization referred to in 3. above.

An interested party may submit an initial challenge, to the inclusion or exclusion of an activity, within 30 calendar days after publication of the notice of availability in the **Federal Register**. The challenge must set forth the reasons for the interested party's belief that the particular activity should be reclassified as inherently governmental (and therefore be deleted from the inventory) or as commercial (and therefore be added to the inventory), in accordance with OFPP Policy Letter 92–1 (see Appendix 5). Each agency must designate the agency official who has the responsibility for receiving and deciding such challenges (that official may be the official identified in paragraph 9.a of the Circular, or that official's designee). The deciding official must decide the initial challenge and transmit to the interested party a written notification of the decision within 28 calendar days of receiving the challenge. The notification must include a discussion of the rationale for the decision and, if the decision is adverse, an explanation of the party's right to file an appeal. An interested party may appeal an adverse decision to the head of the agency within 10 working days after receiving the written notification of the decision. Within 10 working days of receipt of the appeal, the agency head must decide the appeal and transmit to the interested party a written notification of the decision together with a discussion of the rationale for the decision.

H. FAIR Act Competitions

Section 2(d) of the FAIR Act requires each agency, within a reasonable time after the publication of its commercial-activity inventory, to review the activities on the inventory. In addition, Section 2(d)-(e) of the FAIR Act provides that, when an agency considers contracting with a private-sector source for the performance of an activity on the inventory, the agency must use a competitive process to select the source and must ensure that, for the comparison of costs, all costs are considered (including certain specified costs) and the costs considered are realistic and fair. In carrying out these requirements, agencies must rely on the guidance contained in Circular A–76 and this Supplemental Handbook. All competitive costs of in-house and contract performance are included in the cost comparison, including the costs of quality assurance, technical monitoring, liability insurance, retirement benefits, disability benefits and overhead that may be allocated to the function under study or may otherwise be expected to change as a result of changing the method of performance.

[FR Doc. 99–5112 Filed 2–26–99; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (HEICO Corporation, Common Stock, $0.01, Par Value and Class A Common Stock, $0.01 Par Value) File No. 1–4604

February 23, 1999.

HEICO Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Board of Directors of the Company unanimously approved a resolution on January 15, 1999 to withdraw the Company's Securities from listing on the Amex.

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Company has complied with the rules of the Amex by notifying Amex of its intention to withdraw its Securities from listing on the Amex by letter dated January 25, 1999. Amex replied by letter dated January 26, 1999, advising the Company that they would not interpose any objection to the withdrawal of the Company's Securities from listing on the Amex.

On January 29, 1999, the Company's Securities began trading on the New York Stock Exchange,Inc. (''NYSE'').

The Company's application relates solely to the withdrawal from listing of the Company's Securities from the Amex and shall have no effect upon the continued listing of the Securities on the NYSE. By reason of section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports under section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before, March 16, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 5th Street, NW, Wasington DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission or the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–4963 Filed 2–26–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41080; File No. SR–CBOE–99–01]

Self-Regulatory Organizations; Notice of Filings and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Arbitration Jurisdiction

February 22, 1999.

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 11, 1999, the Chicago Board Options Exchange, Inc. (''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 Exchange. 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 Exchange proposes to adopt new Interpretation .03 under Exchange Rule 18.1, ''Matters Subject to Arbitration,'' to clarify that a claim involving employment discrimination, including sexual harassment, is not appropriate for arbitration at the Exchange. The text of the proposed rule change follows; additions are italicized.

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Chapter XVIII

Arbitration

Matters Subject to Arbitration

Rule 18.1. No Change.

* * * Interpretations and Policies:

.03 (a) For the purposes of Rule 18.1(a), the term ''Exchange business''

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

does not include a dispute, claim or controversy alleging employment discrimination, including sexual harassment.

(b) Notwithstanding the policy set forth in paragraph (a), the Exchange may makes its arbitration facilities available for the resolution of employment discrimination, including sexual harassment, claims if the parties mutually agree to arbitrate the claim after the claim has arisen. Any determination pursuant to this paragraph will be made by the Director of Arbitration.

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

I. Purpose

The purpose of the proposed rule change is to adopt new Interpretation .03 under Exchange Rule 18.1 to clarify that a claim involving employment discrimination, including sexual harassment, is not appropriate for mandatory arbitration at the Exchange. Exchange Rule 18.1 sets forth the authority of the Exchange to compel members and persons associated with members to arbitrate a dispute, claim or controversy under Exchange rules. Generally, Exchange Rule 18.1requires members and associated persons to submit to arbitration if a properly filed claim ''arises out of Exchange business'' and is accepted for arbitration by the Director of Arbitration.[3]

Due to the controversy surrounding the arbitration of employment discrimination claims pursuant to mandatory pre-dispute agreements, the Exchange believes it is appropriate to adopt this Interpretation to make it clear on the face of the rules that such claims are not deemed to be encompassed by the term ''Exchange business.'' Inasmuch as discrimination claims have not been administered by the Exchange in the past, this clarification is preemptive, *i.e.*, designed to forestall a waste of resources caused by a party inappropriately filing an employment discrimination claim with the Exchange.

Since 1991, when the United States Supreme Court decided in *Gilmer* v. *Interstate/Johnson Lane Corp.*[4] *That a registered representative could be compelled to arbitrate an age discrimination claim, the arbitration fora sponsored by other self-regulatory organizations (''SROs''), such as the National Association of Securities Dealers (''NASD'') and the New York Stock Exchange (''NYSE''), have administered arbitration claims asserting employment discrimination. Such claims have been compelled to arbitration pursuant to an associated person's agreement on Form U–4 to arbitrate any dispute that is required to be arbitrated under the rules of an SRO with which he/she is registered and pursuant to specific SRO rules requiring arbitration of claims arising out of employment.*[5]

In response to controversy over the mandatory arbitration of employment discrimination disputes in the securities industry pursuant to Form U–4 and SRO rules, some SROs are amending their rules to eliminate mandatory arbitration of these disputes pursuant to SRO rules. The NASD amendment, which became effective January 1, 1999, no longer requires associated persons, solely by virtue of their association or registration with the NASD, to arbitrate claims of statutory employment discrimination.[6] Discrimination claims may be compelled to arbitration before the NASD pursuant to a private arbitration agreement entered into between the parties either before or after the dispute arose. In addition, the NYSE amended its rules to remove mandatory arbitration of statutory employment discrimination claims from its rules.[7] Under the NYSE amendment, also effective on January 1, 1999, such claims may be arbitrated only pursuant to a post-dispute agreement to arbitrate.

CBOE rules, however, are silent with respect to employment related disputes. Prior to 1980, Exchange Rule 18.1 contained a provision requiring members and their employees to submit employment related disputes to arbitration upon the demand of any party. SR–CBOE–80–2 deleted this provision.[8] Today, all claims filed by members and associated persons are subject to the ''Exchange business'' criteria. Although CBOE rules do not define ''Exchange business,'' the resolution of claims alleging employment discrimination or sexual harassment clearly do not fall within the plain meaning or intent of CBOE's mandatory pre-dispute arbitration requirements.[9] CBOE believes this interpretation is consistent with the decision of the U.S. Court of Appeals for the Seventh Circuit in *Ferrand* versus *Lutheran Bhd.*[10] which, prior to the specific inclusion of employment disputes in the NASD's arbitral jurisdictional rules, held that a registered representative could not be required under NASD rules to arbitrate a claim arising under the Age Discrimination in Employment Act. CBOE believes that its interpretation that Exchange Rule 18.1 does not mandate arbitration of employment discrimination or sexual harassment claims is also consistent with the recent decision of the U.S. Court of Appeals for the Ninth Circuit in *Duffield* versus *Robertson Stephens & Co.*[11] which held that ''employees may not be required, as a condition of employment, to waive their right to bring future Title VII claims in court.''

Although proposed Interpretation .03 to Exchange rules 18.1 codifies the Exchange's current policy that the term ''Exchange business'' does not include employment discrimination, including sexual harassment, the interpretation does not exclude all employment related disputes. Certain employment related claims (such as those involving

[3] Procedures for challenging the appropriateness of submitting a matter to arbitration and for review by the Board of Directors of Arbitration's decision to accept a matter for arbitration are contained in paragraph (c) of Exchange Rule 18.1.

[4] 500 U.S. 20 (1991).

[5] *See* NYSE Rule 347 and NASD Rule 10201.

[6] Exchange Act Release No. 40109 (June 22, 1998) 63 FR 35299 (June 29, 1998).

[7] Exchange Act Release No. 40858 (December 29, 1998) 64 FR 1051 (January 7, 1999). The Commission also recently approved a proposal by the Boston Stock Exchange, Inc. amending it arbitration rules to remove mandatory arbitration of statutory employment discrimination claims absent a post-claim arbitration agreement. Exchange Act Release No. 40861 (December 29, 1998) 64 FR 1039 (January 7. 1999).

[8] Exchange Act Release No. 16606 (February 25, 1980) 45 FR 13856 (March 3, 1980).

[9] *See* letter from Alger B. Chapman, Chairman, CBOE, dated October 3, 1994, to Brandon Becker, Director, Division of Market Regulation, Commission. Mr. Chapman's letter responds to a request to comment on the issues underlying the General Accounting Office report entitled ''Employment Discrimination: How Registered Representative Fare in Discrimination Disputes'' (March 30, 1994) and Congressional concern over the mandatory arbitration of claims under the anti-discrimination laws.

[10] 993 F.2d 1253 (7th Cir. 1993). The Court distinguished *Ferrant* from *Gilmer* (which required arbitration of an age discrimination claim before the NYSE) because the NASD rules did not specifically require the arbitration of ''employment'' related disputes.

[11] 144 F.3d 1182, 1190 (9th Cir. 1998).

compensation based upon Exchange transactions or breach of contract claims with a nexus to Exchange business) may be appropriate for arbitration at the Exchange. Furthermore, Exchange Rule 181.(c) provides a mechanism for parties to challenge the appropriateness of submitting a claim to arbitration.

In deference to the federal policy favoring alternate dispute resolution and to accommodate those members and associated persons who may choose to resolve a discrimination claim through arbitration, proposed paragraph (b) of Interpretation .03 under Exchange Rule 18.1 provides that the Exchange may make its arbitration facilities available for the resolution of such claims if the parties mutually agree to arbitrate the claim after the claim has arisen. As with all claims filed with the CBOE, a decision to allow a discrimination claim to proceed under Exchange rules would be made by the Director of Arbitration, which is subject to Board of Directors' review, and would be based upon a finding that a claim has at least an indirect nexus to Exchange business. For example, the Exchange may make its forum available for the resolution of a claim involving discrimination, upon the mutual request of the parties, if the claim involves an allegation that the conduct has an effect upon CBOE trading activities, if the primary business of the parties is trading or facilitating exchange transactions, or if the member and associated person are only members of the CBOE.[12]

CBOE believes that its policy allowing voluntary, post-dispute agreements to arbitrate is consistent with the EEOC's ''Policy Statement on Mandatory Binding Arbitration of Employment Discrimination Disputes as a Condition of Employment,'' [13] which supports alternate dispute resolution programs that are entered into after a dispute has arisen. This policy also furthers the Exchange policy that allows the parties to an arbitration to mutually agree to alter the arbitration procedures set forth in Chapter XVIII of the Exchange's *Constitution and Rules*, upon the consent of the Director of Arbitration.

[12] The Exchange clarified that the examples provided must still satisfy the ''Exchange business'' requirement. As a result, even if members or associated persons are only members of CBOE, the claim still must have a nexus with Exchange business before the claim could proceed under the Exchange's arbitration program. Telephone conversation between Timothy Thompson, Director-Regulatory Affairs, CBOE, Nancy Nielsen, Assistant Corporate Secretary, CBOE, and Terri Evans, Attorney, Division of Market Regulation, Commission, on February 17, 1999.

[13] EEOC Notice 915.002, issued July 10, 1997.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act,[14] in general, and furthers the objectives of section 6(b)(4) of the Act [15] in particular, in that it is designed to promote just and equitable principles of trade and the protection of investors and the public interest by improving the administration of an impartial arbitration forum for the resolution of disputes between members and persons associated with members.

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

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

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and, therefore, has become effective pursuant to section 19(b)(3)(A)(i) of the Act,[16] and subparagraph (e)(1) of Rule 19b–4 [17] thereunder. At any time within 60 days of the filing of such 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 proposed rule change is consistent with the Act.[18] Persons making written submissions should file six copies thereof with 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 the CBOE. All submissions should refer to File No. SR–CBOE–99–01 and should be submitted by March 22, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–4958 Filed 2–26–99; 8:45 am]

BILLING CODE 8010–01–M

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(3)(A)(i).

[17] 17 CFR 240.19b–4.

[18] In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41082; File No. SR–CSE–99–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to a Specialist Revenue Sharing Program

February 22, 1999.

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 February 18, 1999, 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 CSE. 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 CSE proposes to amend the schedule of fees set forth in Exchange Rule 11.10. The text of the proposed rule change is as follows (additions are italicized; deletions are bracketed):

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.