

Information Technology, Securities and Exchange Commission, 450 5th Street, NW Washington, DC 20549.

Dated: May 22, 2000.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-13412 Filed 5-26-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Boise Cascade Corporation, Common Stock, \$2.50 Par Value, and Associated Common Stock Purchase Rights) File No. 1-05057

May 23, 2000.

Boise Cascade 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")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its Common Stock, \$2.50 par value, and associated Common Stock Purchase Rights (referred to collectively herein as the "Securities"),<sup>3</sup> from listing and registration on the Chicago Stock Exchange, Incorporated ("CHX").

The Company, whose Securities are additionally listed on the New York Stock Exchange ("NYSE"), is seeking to withdraw the Securities from listing and registration on the CHX at this time in order to save the costs associated with such listing and related compliance. The Company's Common Stock has been listed for trading on the CHX since 1968, but in a recent review of its business conduct the Company found that the majority (more than 95%) of its Common Stock is traded on the NYSE. The Company's board of directors has therefore determined that no significant business reasons exist for maintaining the Securities' listing and registration on the CHX.

The Company has stated that its application relates solely to the withdrawal of the Securities from listing and registration on the CHX and shall have no effect upon the Securities' continued listing and registration on the NYSE under Section 12(b) of the Act.<sup>4</sup>

The withdrawal of the Securities from listing and registration on the CHX was approved by the Company's board of

directors at a meeting held on July 31, 1998, and a resolution so stating was forwarded to the CHX in accordance with its rules. The Company has included with its application a copy of a letter from the CHX confirming that the Company's request for withdrawal complies with the rules of the CHX governing an issuer's removal of securities from listing and registration on the CHX.

Any interested person may, on or before June 14, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the CHX and what terms, if any, should be imposed by the Commission for 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.<sup>5</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 00-13411 Filed 5-26-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-24460; File No. 812-11684]

### The Ohio National Life Insurance Company, et al.

May 19, 2000.

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

**ACTION:** Notice of Application for an Order under Section 6(c) of the Investment Company Act of 1940, as amended (the "Act") granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, to permit the recapture of certain credits applied to purchase payments made under certain deferred variable annuity contracts.

**SUMMARY OF APPLICATIONS:** Applicants seek an order under Section 6(c) of the Act to the extent necessary to permit the issuance and, under specified circumstances, the subsequent recapture of certain credits applied to purchase payments made under certain deferred variable annuity contracts, described

herein, that The Ohio National Life Insurance Company ("Ohio National") will issue through the Ohio National Variable Account A (the "Account") (the contracts are collectively referred to herein as the "Contracts").

**Applicants:** Ohio National, the Account, and Ohio National Equities, Inc. ("ONEQ") (collectively, "Applicants").

**Filing Date:** The Application was filed on November 19, 1999 and amended on March 17, 2000.

**Hearing or Notification of Hearing:** An order granting the Application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 on June 13, 2000 and should be accompanied by proof of service on Applicants, in the form of an affidavit or, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549-0609. Applicants c/o Ronald L. Benedict, Esq., Corporate Vice President, Counsel and Secretary, The Ohio National Life Insurance Company, P.O. Box 237, Cincinnati, Ohio 45201.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Marquigny, Senior Counsel, or Keith Carpenter, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the Application. The complete Application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549-0102 (tel. (202) 942-8090.).

### Applicants' Representations

1. Ohio National was organized under the laws of Ohio in 1909. It writes life, accident and health insurance and annuities in 47 states, the District of Columbia and Puerto Rico. Currently, Ohio National has assets in excess of \$7 billion and equity in excess of \$710 million. Ohio National is a stock company ultimately owned by a mutual insurance holding company (Ohio National Mutual Holdings, Inc.) with Ohio National's contract owners having majority ownership of the latter.

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

<sup>2</sup> 17 CFR 240.12d2-2(d).

<sup>3</sup> The Common Stock Purchase Rights are currently attached to, and trade together with, the Company's Common Stock.

<sup>4</sup> 15 U.S.C. 78(b).

<sup>5</sup> 17 CFR 200.30-3(a)(1).

2. Variable Account A was established in 1969 by Ohio National as a separate account under Ohio law for the purpose of funding variable annuity contracts issued by Ohio National. The Account is a segregated asset account of Ohio National. The Account and its component sub-accounts are registered together with the Commission as a single unit investment trust under the Act (File No. 811-1978). The Account will fund the variable benefits available under the Contracts. The offering of the Contracts will be registered under the Securities Act of 1933 (the "1933 Act"). That portion of the assets of the Account that is equal to the reserves and other Contract liabilities with respect to the Account is not chargeable with liabilities arising out of any other business of Ohio National. Any income, gains or losses, realized or unrealized, from assets allocated to the Account are, in accordance with the Contracts, credited to or charged against the Account, without regard to other income, gains or losses of Ohio National.

3. ONEQ is the principal underwriter of the Contracts. ONEQ is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. The Contracts are sold by insurance agents of Ohio National who are also registered representatives of registered broker-dealers that have entered into distribution agreements with ONEQ. ONEQ is a wholly-owned subsidiary of Ohio National.

4. The minimum initial purchase payment is \$5,000 (\$2,000 for IRAs). A Contract owner may make additional payments of at least \$500 at any time (\$300 for payroll deduction plans). Ohio National may limit total purchase payments to \$1,500,000.

5. Ohio National credits extra amounts to the Contract each time a Contract owner makes a purchase payment (the "Credit"). The Credit equals 4% of each purchase payment. Ohio National allocates Credit amounts pro rata to the Sub-Accounts (defined herein) and to Ohio National's general account in the same ratio as the purchase payments. Ohio National will fund Credit amounts from its general account assets.

6. The Credit is not part of the amount a Contract owner will be paid if the 10-day free look option is exercised. Ohio National may not offer a Credit on purchase payments made within one year of a free partial withdrawal to the extent those purchase payments are less than the amount withdrawn. Credit amounts applied within one year of the

date of death are deducted from amounts payable for any death benefit or stepped-up death benefit where the amount to be paid is based upon Contract value (as opposed to being based on payments minus withdrawals). Credit amounts paid within one year of a Contract owner's confinement in a nursing facility are deducted from any amounts paid under the nursing facility confinement benefit.

7. The free look period is the 10-day period during which an owner may return a Contract after it has been delivered and receive a full refund of the Contract value, less any Credit amounts. The owner bears the investment risk from the time of purchase until he or she returns the Contract. The refund amount may be more or less than the purchase payment the owner made, unless the law requires that the full amount of the purchase payment be refunded.

8. The Contract's death benefit provision states that a death benefit will be paid to the Contract owner's designated beneficiary if the annuitant (and any contingent annuitant) dies before annuity payments begin. This death benefit will be the greatest of: (i) The Contract value (minus any Credit amounts applied within one year of the date of death); or (ii) the net of purchase payments less withdrawals; or (iii) the stepped-up death benefit amount if the Contract has been in effect for at least 8 years.<sup>1</sup> However, if the death benefit is not claimed within 90 days after the date of death, Ohio National will pay the Contract value (minus any Credit amounts applied within one year of the date of death) instead of any greater death benefit. The death benefit is an

<sup>1</sup> For the 8-year period beginning on the eighth Contract anniversary, the stepped-up death benefit will be the greater of (i) the Contract value (minus any Credit amounts applied during the preceding year) as of the eighth anniversary or (ii) the net of purchase payments less withdrawal made on or before the eighth anniversary. At the beginning of each later 8-year period (until the annuitant attains age 90), the stepped-up death benefit will be the greater of (i) The Contract value (minus any credit amounts applied during the preceding year) on that date or (ii) the death benefit as of the last day of the preceding 8-year period. The stepped-up death benefit amount is increased by purchase payment and decreased by withdrawals made during each 8-year period after the eighth anniversary. In those states where permitted, the Contract owner may elect an optional annual stepped-up death benefit at the time the Contract is issued. With that option, the death benefit will be increased in the manner indicated above, until the annuitant attains age 80, on each Contract anniversary on which the Contract value (minus any Credit amounts applied during the preceding year) exceeds the death benefit for the previous year. There is an additional charge (presently at an annual rate of 0.10% of the optional death benefit amount, which rate may be increased to no more than 0.25% on Contracts in the future) for this optional benefit.

optional feature of the Contract that must be elected by the owner. Ohio National presently does not assess a charge for the death benefit but reserves the right to do so for Contracts issued in the future in an amount up to 0.25% of annual premium.

9. The Contract's nursing facility confinement benefit provision provides that, if the annuitant is, or has been, confined to a state licensed or legally operated in-patient nursing home facility for at least 30 consecutive days, Ohio National will not assess a surrender charge on partial withdrawals of up to \$5,000 per month. Under the Contract's nursing facility confinement benefit provision, a Contract owner may withdraw, subject to the \$5,000 per month limit, an aggregate amount equal to one half of the Contract value as of the beginning of the confinement without incurring a surrender charge. Any Credit amounts applied within one year before confinement will be deducted from the proceeds of the first such withdrawal. This waiver of the surrender charge may not be available in all states and it only applies when: (i) The confinement begins after the first contract anniversary and before annuity payments begin; (ii) the Contract was issued before the annuitant's 80<sup>th</sup> birthday; and (iii) Ohio National receives the request for withdrawal, together with proof of the confinement, at Ohio National's home office while the annuitant is confined or within 90 days after discharge from the facility.

10. The amount the owner receives upon exercise of free look rescission rights or payment of the Contract's death benefit will always equal or exceed the surrender value of the Contract.<sup>2</sup> The amount the owner receives upon payment of a partial withdrawal in connection with the Contract's nursing facility confinement benefit will always equal or exceed the amount the owner would have received had the surrender charge not been waived.

11. Owners of the Contracts may allocate their purchase payments among a number of sub-accounts of the Account (the "Sub-Accounts"). Each Sub-Account will invest in shares of a corresponding portfolio of Ohio National Fund, Inc., The Dow (SM) Target Variable Fund LLC, Goldman Sachs Variable Insurance Trust, Janus Aspen Series, J.P. Morgan Series Trust II, Lazard Retirement Series, Inc., Mitchell Hutchins Series Trust, Morgan Stanley Dean Witter Universal Funds,

<sup>2</sup> The surrender value of the Contract equals the Contract value minus the contingent deferred sales charge or "CDSC."

Inc., Salomon Brothers Variable Series Fund Inc., and Strong Variable Insurance Funds, Inc.

12. Ohio National, at a later date, may decide to create additional Sub-Accounts to invest in any additional funding media as may not or in the future be available. Ohio National, from time to time, also may combine or eliminate Sub-Accounts, or transfer the assets to and from Sub-Accounts.

13. The Contract provides for various surrender options, annuity benefits and annuity payout options, as well as transfer privileges among Sub-Accounts, dollar cost averaging, and other features. The Contract contains the following charges: (i) A CDSC as a percentage of the amount withdrawn or surrendered;<sup>3</sup> (ii) a \$30 annual administrative charge; (iii) a mortality and expense risk charge of 1.15%; (iv) administrative expense charge of 0.25%; (v) a transfer fee of \$10 after the first transfer made during a calendar month; and (vi) any applicable state premium tax.

#### Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request that the Commission, pursuant to Section 6(c) of the Act, grant the exemptions requested below.

Applicants represent that it is not administratively feasible to track the Credit amount in the Account after the Credit is applied. Accordingly, the asset-based charges applicable to the Account will be assessed against the entire amounts held in the Account, including the Credit amount, during the free look period and the one year recapture periods. As a result, during such periods, the aggregate asset-based charges assessed against an owner's annuity account value will be higher than those that would be charged if the owner's annuity account value did not include the Credit.

2. Subsection (i) of Section 27 of the Act provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company

and principal underwriter of such account, except as provided in paragraph (2) of the subsection.

Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) defines "redeemable security" as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

3. Applicants submit that the recapture of the Credit amount in the circumstance set forth in the Application would not deprive an owner of his or her proportionate share of the issuer's current net assets. An owner's interest in the Credit amount allocated to his or her annuity account value upon receipt of an initial purchase payment is not vested until the applicable free look period has expired without return of the Contract. Similarly, and owner's interest in the Credit amounts allocated to his or her annuity account within one year of the date of death or confinement to a nursing facility also is not vested. Until the right to recapture has expired and any Credit amount is vested, Ohio National retains the right and interest in the Credit amount, although not in the earnings attributable to that amount. Thus, when Ohio National recaptures any Credit, it is merely retrieving its own assets, and the owner has not been deprived of a proportionate share of the Account's assets because his or her interest in the Credit amount has not vested.

4. In addition, permitting an owner to retain a Credit amount under a Contract upon the exercise of the free look would not only be unfair, but would also encourage individuals to purchase a Contract with no intention of keeping it and returning it for a quick profit. Furthermore, the recapture of Credit amounts within one year preceding the date of death or confinement to a nursing facility is designed to provide Ohio National with a measure of protection against anti-selection. The risk here is that, rather than spreading purchase payments over a number of years, an owner might make very large purchase payments shortly before death or confinement, thereby leaving Ohio National little time to recover the cost of the Credit amounts. As noted earlier, the amounts recaptured equal the Credit amounts provided by Ohio National from its general account assets, and any

gain would remain a part of the owner's Contract value. In addition, with respect to free look and death benefit recapture of Credit amounts, the amount the owner receives will always equal or exceed the surrender value of the Contract and, with respect to the recapture of Credit amount in connection with a partial withdrawal made under the nursing facility confinement benefit, the amount the owner receives will always equal or exceed the amount the owner would have received had the surrender charge not been waived.

5. Applicants represent that the Credit will be attractive to and in the interest of investors because it will permit owners to put 104% of their purchase payments to work for them in the selected Sub-Accounts. In addition, the owner will retain any earnings attributable to the Credit, as well as the principal Credit amount once vested.

6. Applicants submit that the provisions for recapture of any Credit under the Contracts do not violate Sections 2(a)(32) and 27(i)(2)(A) of the Act. Applicants believe that a contrary conclusion would be inconsistent with a stated purpose of the National Securities Markets Improvement Act of 1996 ("NSMIA"), which is to amend the Act to "provide more effective and less burdensome regulation." Sections 26(e) and 27(i) were added to the Act to implement the purposes of NSMIA and Congressional intent. The application of a Credit to purchase payments made under the Contracts should not raise any questions as to Ohio National's compliance with the provisions of Section 27(i). However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from Sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Credit under the circumstances described in the Application, without the loss of relief from Section 27 provided by Section 27(i).

7. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by Section 22(a). Rule 22c-1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such

<sup>3</sup> The CDSC Schedule is as follows: 9% in year 1; 8% in year 2; 7% in year 3; 6% in year 4; 5% in year 5; 4% in year 6; 2% in year 7; 1% in year 8; and 0% in year 9 and thereafter.

security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

8. Ohio National's recapture of the Credit might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Account. Applicants contend, however, that the recapture of the Credit does not violate Section 22(c) and Rule 22c-1. To effect a recapture of a Credit, Ohio National will redeem interests in an owner's Account at a price determined on the basis of the current net asset value of that Account. The amount recaptured will equal the amount of the Credit that Ohio National paid out of its general account assets. Although the owner will be entitled to retain any investment gain attributable to the Credit, the amount of that gain will be determined on the basis of the current net asset value of the Account. Thus, no dilution will occur upon the recapture of the Credit. Applicants also submit that the second harm that Rule 22c-1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c-1 to the extent deemed necessary to permit them to recapture the Credit under the Contracts.

## Conclusion

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in Section 6(c) of the Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that, therefore, the Commission should grant the requested order.

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

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 00-13375 Filed 5-26-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42807; File No. SR-ISE-00-03]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 by the International Securities Exchange LLC Relating to Block and Facilitation Trades

May 22, 2000.

## I. Introduction

On February 25, 2000, the International Securities Exchange LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 29b-4 thereunder,<sup>2</sup> a proposed rule change relating to its proposed block order and facilitation mechanisms.

The proposed rule change was published for comment in the **Federal Register** on March 6, 2000.<sup>3</sup> The Commission received three comment letters regarding the proposal.<sup>4</sup> On May 19, 2000, the ISE filed Amendment No. 1 to the proposed rule change.<sup>5</sup> This order approves the proposed rule change. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 1 and is simultaneously approving Amendment No. 1 on an accelerated basis.

## II. Description of the Proposal

ISE Rule 716(c) establishes a "block mechanism" through which ISE members can obtain liquidity for the execution of block-size orders<sup>6</sup> from market makers and other ISE members

with orders at the ISE inside bid or offer ("Crowd Participants"). Similarly, ISE Rule 716(d) establishes a "facilitation mechanism" through which members can seek to facilitate block-size public customer orders. Upon the entry of an order into the block or facilitation mechanisms, a broadcast message is sent to the Crowd Participants.

The proposed rule change contains several proposed revisions to existing ISE Rule 716. First, the ISE has proposed commentary to ISE Rules 716(c) and (d) with respect to the block order mechanism and the facilitation mechanism, specifying that participants will be given 30 seconds to respond to a broadcast message from either the block or facilitation mechanism.

Second, the ISE proposes to amend ISE Rule 716(d)(4)(i) to provide that only public customer bids (offers) on the Exchange at the time a facilitation order is executed that are priced higher (lower) than the facilitation price will be executed at the facilitation price, unless there is sufficient size to execute a facilitation order entirely at a better price. Higher bids and lower offers from non-customer orders and quotes will be executed at their stated price. The current rule provides non-customer orders and quotes the benefit of the facilitation or "block clean-up" price.

Third, ISE is proposing amendments to ISE Rule 716(d)(4)(ii)<sup>7</sup> to eliminate a Primary Market Maker's ("PMM") participation right with respect to the allocation of orders entered into the facilitation mechanism by deleting a reference to ISE Rule 713.<sup>8</sup> In other words, under ISE's proposed amendments to ISE Rule 716(d)(4)(ii), if a PMM is among the Crowd Participants with interest at the facilitation price, the PMM will be treated the same as all other Crowd Participants and not given a preferential allocation under ISE Rule 713.

Finally, ISE is proposing to amend ISE Rule 716(d)(2) and (3)<sup>9</sup> to clarify that a Crowd Participant may enter into the facilitation mechanism an indication at a better price than the facilitation price, but only if such better price is inferior to the ISE best bid or offer. If a Crowd Participant wishes to enter an indication at a price equal to or better than the ISE best bid or offer, the Crowd Participant may do so only by changing its quote or entering an order, so that

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

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

<sup>3</sup> Securities Exchange Act Release No. 42473 (February 29, 2000), 65 FR 11818.

<sup>4</sup> See letters to Jonathan G. Katz, Secretary, SEC, from Holly H. Smith, Sutherland, Asbill & Brennan LLP, dated March 24, 2000 ("SA&B Letter"); Peter J. Chepucavage, Fulbright 7 Jaworski L.L.P., dated March 28, 2000 ("Phlx Letter"); and Charles J. Henry, President and Chief Operating Officer, Chicago Board Options Exchange, dated March 31, 2000 ("CBOE Letter").

<sup>5</sup> See letter from Katherine Simmons, Vice President and Associate General Counsel, ISE, to Deborah Flynn, Senior Special Counsel, Division of Market Regulation, SEC, dated May 19, 2000 ("Amendment No. 1"). In Amendment No. 1, ISE proposes to delete a reference to ISE Rule 713 to eliminate a Primary Market Maker's participation right with respect to facilitation orders. ISE also proposes to clarify that members may enter indications at prices that improve the facilitation price if such improved price is inferior to the ISE best bid or offer.

<sup>6</sup> For purposes of ISE rules only, block-size orders are orders for fifty contracts or more. See ISE Rule 716(a).

<sup>7</sup> See Amendment No. 1, *supra* note 5.

<sup>8</sup> ISE Rule 713 sets forth the PMM's allocation algorithm. See Securities Exchange Act Release No. 42808.

<sup>9</sup> See Amendment No. 1, *supra* note 5.