

# SEC NEWS DIGEST

Issue 2001-162

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## COMMISSION ANNOUNCEMENTS

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### **CFTC AND SEC ADOPT JOINT RULES AND ISSUE JOINT ORDER RELATING TO TRADING OF SECURITY FUTURES PRODUCTS IN THE UNITED STATES**

The Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) today announced that they adopted the first joint rules to permit the trading of security futures products in the United States. These rules implement provisions of the Commodity Futures Modernization Act of 2000 (CFMA) that lift the 19-year ban on the trading of single-stock and narrow-based stock index futures in this country.

The CFMA, which was enacted last December, provided a regulatory framework for the trading of futures contracts on single stock futures and narrow-based security index futures – collectively referred to as security futures products. Specifically, the CFMA established a regulatory structure for the joint regulation of security futures products by the CFTC and SEC. Pursuant to the CFMA, futures contracts on broad-based indexes are to be regulated under the exclusive jurisdiction of the CFTC.

The final joint rules approved today by the CFTC and SEC establish the method for computing whether an index is a narrow-based security index or not a narrow-based security index (*i.e.*, a broad-based security index). Futures on indexes that are narrow-based are security futures products and, therefore, regulated jointly by the CFTC and SEC. Futures on indexes that are broad-based are regulated solely by the CFTC.

The CFMA defines the criteria for an index to be considered narrow-based, including, among other factors, the market capitalization of each security in the index and the dollar value of that security's average daily trading volume. These rules set forth the methods for determining market capitalization and dollar value of average daily trading volume. These rules further provide that the definition of narrow-based security index and the statutory exclusion from that definition apply to indexes traded on or subject to foreign boards of trade.

In addition, the CFTC and SEC issued a joint order to permit, under certain circumstances, an American Depositary Receipt to underlie a security future and be a component security of a narrow-based security index underlying a security future.

The order was effective on August 20, 2001, and the new rules will be effective as of August 21, 2001. Copies of the rules and the order can be obtained by contacting the CFTC's Office of the Secretariat, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581, (202) 418-5100 or by accessing the CFTC's or the SEC's website at [www.cftc.gov](http://www.cftc.gov) and [www.sec.gov](http://www.sec.gov), respectively. (Press Rel. 2001-85; Rel. 34-44724)

## **COMMISSION MEETINGS**

### **CLOSED MEETINGS – TUESDAY, AUGUST 28, 2001 AND THURSDAY, AUGUST 30, 2001 – 10:00 A.M.**

The subject matter of the closed meetings scheduled for Tuesday, August 28 and Thursday, August 30 will be: Institution and settlement of injunctive actions; and Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

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## **ENFORCEMENT PROCEEDINGS**

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### **MICHAEL RICHMOND SENTENCED**

On August 16, in a parallel criminal proceeding against Michael D. Richmond of Orland Park, Ill., Judge Joseph L. Tauro of the United States District Court for the District of Massachusetts sentenced Mr. Richmond to fifty (50) months incarceration based on Richmond's guilty plea to seventeen counts of mail fraud. The mail fraud charges relate to Richmond's fraudulent sale of over \$8 million in purported certificates of deposit through an entity called Royal Meridian International Bank (RMIB). Richmond was also ordered to pay \$8.3 million in restitution to defrauded investors, and ordered placed under supervised release, following his release from prison, for three years during which period he will be subject to a prohibition against the sale of investment products. Mr. Richmond will begin his incarceration on October 29, 2001.

The Commission previously sought and obtained in mid-1998 temporary restraining orders, preliminary injunctions and asset freezes against Richmond, RMIB, Zone Productions and others involved in the alleged scheme. The Commission's litigation is

continuing. For further information see Litigation Release Nos. 15813, 15892, 16027, 16104, 16512, 16824A and 16966. [U.S. v. Michael D. Richmond, USDC, District of Massachusetts, C.A. No. 00-CR-10125-JLT' (LR-17106)

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## **INVESTMENT COMPANY ACT RELEASES**

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### **MARKMAN MULTIFUND TRUST, ET AL.**

An order has been issued on an application filed by Markman MultiFund Trust and Markman Capital Management, Inc. for an exemption from Sections 12(d)(1)(A) and 12(d)(1)(B) of the Investment Company Act and from Section 17(a) of the Act. The order permits certain registered open-end management investment companies to acquire shares of other registered open-end management investment companies outside the same group of investment companies. (Rel. IC-25114 – August 17)

### **MUTUAL FUND TRUST, ET AL.**

A notice has been issued giving interested persons until September 6, 2001, to request a hearing on an application filed by Mutual Fund Trust, et al. for an order exempting applicants from Section 17(a) of the Investment Company Act. The order would permit certain series of registered open-end management investment companies to acquire all of the assets and liabilities of certain series of registered open-end management investment companies. Because of certain affiliations, applicants may not rely on Rule 17a-8 under the Act. (Rel. IC-25116 – August 17)

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## **SELF-REGULATORY ORGANIZATIONS**

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### **IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGES**

The Stock Clearing Corporation of Philadelphia filed a proposed rule change (SR-SCCP-2001-07) under Section 19(b)(3)(A) of the Securities Exchange Act. The proposed rule change, which became effective upon filing, amends SCCP's fee schedule by waiving trade recording fees for orders that are electronically routed through the Philadelphia Stock Exchange, Inc.'s automated communication and execution system (PACE). Publication of the proposal is expected in the Federal Register during the week of August 20. (Rel. 34-44715)

A proposed rule change (SR-Phlx-2001-73) filed by the Philadelphia Stock Exchange to suspend imposition of its payment for order flow fee has become immediately effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication is expected in the Federal Register during the week of August 20. (Rel. 34-44716)

A proposed rule change (SR-CBOE-2001-43) filed by the Chicago Board Options Exchange to suspend imposition of a marketing fee has become immediately effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication is expected in the Federal Register during the week of August 20. (Rel. 34-44717)

The Depository Trust Company filed a proposed rule change (SR-DTC-2001-01) under Section 19(b)(1) of the Exchange Act. The proposed rule change would allow DTC to restate its hardcopy Participant Operating Procedures and Participant Terminal System Manual via CD-ROM and the DTC web site. Publication of the proposal is expected in the Federal Register during the week of August 20. (Rel. 34-44719)

## PROPOSED RULE CHANGES

A proposed rule change (SR-CBOE-2001-33) has been filed by the Chicago Board Options Exchange seeking to clarify, for purposes of automatic step-up, that the term "Exchange's best bid or offer" shall refer to the Designated Primary Market Maker's Autoquote price. Publication of the notice in the Federal Register is expected during the week of August 20. (Rel. 34-44718)

The National Association of Securities Dealers filed a proposed rule change (SR-NASD-2001-46) relating to the electronic filings with the Corporate Financing Department. Publication of the notice in the Federal Register is expected during the week of August 20. (Rel. 34-44720)

The Options Clearing Corporation filed a proposed rule change (SR-OCC-2001-03) to rescind concentration restrictions on letters of credit issued by certain non-U.S. institutions. Publication of the proposal is expected in the Federal Register during the week of August 20. (Rel. 34-44723)

## APPROVAL OF PROPOSED RULE CHANGE

The Commission approved a proposed rule change filed by the Stock Clearing Corporation of Philadelphia (SR-SCCP-2001-04) under Section 19(b)(1) of the Exchange Act. The order allows SCCP to amend Rules 9 and 23 to implement a fine schedule for late margin payments and an appeals process for the imposition of said fines, respectively. Publication of the order is expected in the Federal Register during the week of August 20. (Rel. 34-44722)

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## SECURITIES ACT REGISTRATIONS

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The following registration statements have been filed with the SEC under the Securities Act of 1933. The reported information appears as follows: Form, Name, Address and Phone Number (if available) of the issuer of the security, Title and the number and/or face amount

of the securities being offered; Name of the managing underwriter or depositor (if applicable); File number and date filed; Assigned Branch; and a designation if the statement is a New Issue.

Registration statements may be obtained in person or by writing to the Commission's Public Reference Branch at 450 Fifth Street, N.W., Washington, D.C. 20549 or at the following e-mail box address: <publicinfo@sec.gov>. In most cases, this information is also available on the Commission's website: <www.sec.gov>.

S-8  
1100      QUIDEL CORP /DE/, 10165 MCKELLAR CT, SAN DIEGO, CA 92121 (858) 552-  
- 2,850,000 (\$14,193,000) COMMON STOCK. (FILE 333-67444 - AUG. 14)  
(BR. 1)

S-3  
5115      CALPINE CORP, 50 WEST SAN FERNANDO ST, SAN JOSE, CA 95113 (408) 995-  
- 1,500,000,000 (\$1,500,000,000) STRAIGHT BONDS. (FILE 333-67446 -  
AUG. 14) (BR. 2)

S-8  
1100      QUIDEL CORP /DE/, 10165 MCKELLAP CT, SAN DIEGO, CA 92121 (858) 552-  
- 275,000 (\$1,369,500) COMMON STOCK. (FILE 333-67448 - AUG. 14) (BR.  
1)

S-8  
AZ      JANEX INTERNATIONAL INC, 2999 NORTH 44TH STREET, SUITE 225, PHOENIX,  
85018 (602) 808-8765 - 750,000 (\$750) COMMON STOCK. (FILE 333-67450 -  
AUG. 13) (BR. 5)

S-8  
19103      RAIT INVESTMENT TRUST, 1818 MARKET ST, 28TH FL, PHILADELPHIA, PA  
(215) 546-5119 - 800,000 (\$12,960,000) COMMON STOCK. (FILE 333-67452 -  
AUG. 14) (BR. 8)

S-8  
84121      MTN HOLDINGS INC, 5882 S. 900 E., SUITE 202, SALT LAKE CITY, UT  
(801) 269-9500 - 400,000 (\$20,000) COMMON STOCK. (FILE 333-67456 -  
AUG. 13) (BR. 9)

S-4  
70005      STEWART ENTERPRISES INC, 110 VETERANS MEMORIAL BLVD, METAIRIE, LA  
(504) 837-5880 - 300,000,000 (\$300,000,000) STRAIGHT BONDS. (FILE  
333-67458 - AUG. 14) (BR. 8)

S-8  
-      WOLVERINE WORLD WIDE INC /DE/, 9341 COURTLAND DR, ROCKFORD, MI 49351  
(616) 866-5500 - 2,000,000 (\$34,700,000) COMMON STOCK. (FILE 333-67462  
AUG. 14) (BR. 2)

S-8  
3)      EXABYTE CORP /DE/, 1685 38TH ST, BOULDER, CO 80301 (303) 442-4333 -  
3,725,000 (\$2,942,750) COMMON STOCK. (FILE 333-67464 - AUG. 14) (BR.

S-8 WILLIS NORTH AMERICA INC, 26 CENTURY BOULEVARD, P O BOX 305026,  
NASHVILLE, TN 37214 (615) 872-3000 -  
OTHER SECURITIES INCLUDING VOTING TRUST. (FILE 333-67466 - AUG. 14)  
(BR. 1)

S-8 COMPUTER SCIENCES CORP, 2100 E GRAND AVE, EL SEGUNDO, CA 90245  
(310) 615-0311 - 8,000,000 (\$295,760,000) COMMON STOCK. (FILE 333-  
67472 -  
AUG. 14) (BR. 3)

S-8 BALDOR ELECTRIC CO, 5711 R S BOREHAM JR ST, P O BOX 2400, FORT  
SMITH, AR  
72902 (501) 646-4711 - 200,000 (\$4,365,000) COMMON STOCK. (FILE 333-  
67474  
- AUG. 14) (BR. 5)

S-4 Matria HEALTHCARE INC, 1850 PARKWAY PL, 12TH FL, MARIETTA, GA 30067  
(770) 423-4500 - 122,000,000 (\$122,000,000) STRAIGHT BONDS. (FILE  
333-67476 - AUG. 14) (BR. 1)

S-4 SEALY MATTRESS CO, HALLE BUILDING 10TH FLOOR, 1228 EUCLID AVE,  
CLEVELAND, OH 44115 (216) 522-1310 - 125,000,000 (\$125,000,000)  
STRAIGHT BONDS. (FILE 333-67478 - AUG. 14) (BR. 6)