

nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3-1 under the Securities Exchange Act of 1934, as amended. Gulf Power requests that it be permitted to issue a security that does not satisfy the foregoing condition if the requirements of rule 52(a)(i) and rule 52(a)(iii) of the Act are met and the issue and sale of a security have been expressly authorized by the Florida Public Service Commission.

The effective cost of money on the Preference Stock will not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparative credit quality.

The proceeds from the sales of any series of Preference Stock may be used to redeem or otherwise retire Gulf Power's outstanding debt or preferred and preference stock if considered advisable. In addition proceeds may be used to pay a portion of its cash requirements to carry on its electric utility business.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52234; File No. SR-CBOE-2005-40]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Hybrid Opening System

August 10, 2005.

On May 16, 2005, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to allow the Hybrid Opening System ("HOSS") to open an option series as long as any market participant,<sup>3</sup> not just

the Designated Primary Market-Maker ("DPM"), has submitted an opening quote that complies with the legal width quote requirements.<sup>4</sup> The proposal would also change the method for determining the acceptable range the opening price must be in before the series may open to use the highest bid and the lowest offer. The Exchange submitted Amendment No. 1 on June 24, 2005.<sup>5</sup>

The proposed rule change was published for comment in the **Federal Register** on July 6, 2005.<sup>6</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>7</sup> and, in particular, the requirements of Section 6 of the Act<sup>8</sup> and the rules and regulations thereunder. The Commission specifically finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>9</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments and to 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 proposal should help to ensure that all options series are promptly opened on CBOE, and may help to provide for a tighter opening price range.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-CBOE-2005-40), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>4</sup> Even though HOSS can open a series without a DPM's quote, DPMs, as well as electronic DPMs, remain obligated under CBOE rules to timely submit opening quotes.

<sup>5</sup> Amendment No. 1 revised the rule text to reflect language recently approved in another filing.

<sup>6</sup> See Securities Exchange Act Release No. 51938 (June 29, 2005), 70 FR 39537.

<sup>7</sup> 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).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(2).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52235; File No. SR-MSRB-2005-12]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Concerning Solicitation and Coordination of Payments to Political Parties and Question and Answer Guidance on Supervisory Procedures Related to Rule G-37(d) on Indirect Violations

August 10, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 27, 2005, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB has filed with the SEC a proposed rule change consisting of an amendment to Rule G-37(c), concerning solicitation and coordination of payments to political parties, and Q&A guidance on supervisory procedures related to Rule G-37(d), on indirect violations. The text of the proposed rule change is available on the MSRB's Web site (<http://www.msrb.org>), at the MSRB's principal office, and at the Commission's Public Reference Room.

#### 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 MSRB 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 MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

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

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

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

<sup>3</sup> This includes a quote from a DPM, e-DPM, market maker, or a remote market maker. See CBOE Rule 6.45A.