

the membership subject to the Exchange's Constitution and Rules. In addition, the trustee and grantor will be required to become allied members or approved persons of the Exchange, as applicable, and will remain subject to the Constitution and Rules of the Exchange. The Commission also notes that the proposal is similar to a Chicago Board Options Exchange, Incorporated ("CBOE") rule<sup>8</sup> that was previously approved by the Commission and permits trusts to directly own CBOE seats.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-Amex-2005-003), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52252; File No. SR-CBOE-2005-17]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change To Adopt a Revenue Sharing Program for Trades in Tape B Securities

August 15, 2005.

On February 7, 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 adopt a Revenue Sharing Program for trades in Tape B securities.<sup>3</sup> The proposed rule change was published for comment in the *Federal Register* on July 15, 2005.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds CBOE's proposal to amend its Fee Schedule to adopt a Revenue Sharing Program for

revenue CBOE receives under the Consolidated Tape Association Plan for trades in Tape B securities consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires that the rules of the exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Commission notes that CBOE will begin its Revenue Sharing Program upon the launch of its new stock trading platform.<sup>7</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-CBOE-2005-17) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52278, File No. SR-MSRB-2005-04]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to the Proposed Rule Change Relating to Solicitation of Municipal Securities Business under MSRB Rule G-38

August 17, 2005.

#### I. Introduction

On March 22, 2005, the Municipal Securities Rulemaking Board ("MSRB" or "Board"), filed with the Securities and Exchange Commission ("SEC" or

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> The CBOE has filed a proposed rule change (SR-CBOE-2004-21) to adopt a new set of rules to allow for the trading of non-option securities on CBOEdirect, the exchange's screen based trading system.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

"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 deleting existing Rule G-38, on consultants, and replacing it with new Rule G-38, on solicitation of municipal securities business. In addition, the proposed rule change would make related amendments to Rule G-37, on political contributions and prohibitions on municipal securities business, Rule G-8, on recordkeeping, Form G-37/G-38 and Form G-37x, as well as add new Form G-38t. The proposed rule change was published for comment in the *Federal Register* on April 21, 2005.<sup>3</sup> The Commission received four comment letters regarding the proposal.<sup>4</sup> On August 9, 2005, the MSRB filed Amendment No. 1 to the proposed rule change and a response to the four comment letters.<sup>5</sup> This order approves the proposed rule change, accelerates approval of Amendment No. 1, and solicits comments from interested persons on Amendment No. 1.

#### II. Description of the Proposal

The proposal would delete existing Rule G-38, on consultants, and replace it with new Rule G-38, on solicitation of municipal securities business. The MSRB believes that it would be appropriate to apply the basic standards of fair practice and professionalism embodied in MSRB rules to all persons who solicit municipal securities business on behalf of dealers. A full description of the proposal is contained in the Commission's Notice.<sup>6</sup>

In Amendment No. 1, the MSRB provides that the proposed rule change would become effective on the first business Monday at least five business days after Commission approval. Amendment No. 1 also deletes the requirement in proposed Rule G-38(c) relating to transitional payments that

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

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

<sup>3</sup> See Securities Exchange Act Release No. 51561 (April 15, 2005), 70 FR 20782 (April 21, 2005).

<sup>4</sup> See letter from Rick Santorum, Senator, United States Senate, to William H. Donaldson, Chairman, Commission, dated March 31, 2005 ("Senator Santorum's Letter"); letter from Chris Charles, President, Wulff, Hansen & Co. ("Wulff, Hansen"), to Jonathan G. Katz, Secretary, Commission, dated May 6, 2005 ("Wulff, Hansen's Letter"); letter from Lynnette Kelly Hotchkiss, Senior Vice President and Associate General Counsel, The Bond Market Association (the "BMA"), to Jonathan G. Katz, Secretary, Commission, dated May 5, 2005 ("BMA's Letter"); and letter from Jonathan Stein, Director of Regulatory Affairs—Fixed Income, Raymond James & Associates, Inc. ("Raymond James"), to Jonathan G. Katz, Secretary, Commission, dated May 24, 2005 ("Raymond James" Letter).

<sup>5</sup> Amendment No. 1 is described in Section II, *infra*.

<sup>6</sup> See *supra* note 3.

<sup>8</sup> See CBOE Rule 3.25.

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

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Tape B securities are securities listed on the American Stock Exchange or the regional national securities exchanges.

<sup>4</sup> See Securities Exchange Act Release No. 52005 (July 11, 2005), 70 FR 41063.