

## Exercise and Settlement

The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:02 p.m. (Chicago time) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of the Index at option expiration will be calculated by CBOE based on the opening prices of the component securities on the business day prior to expiration. If a component security fails to open for trading, the last available price on the security will be used in the calculation of the index, as is done for currently listed indices. When the last trading day is moved because of Exchange holidays (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of index options at expiration will be determined at the opening of regular Thursday trading.

## Position Limits

CBOE proposes to establish position limits for options on the CBOE Euro 25 Index and the CBOE Asian 25 Index at 50,000 contracts on either side of the market, and no more than 30,000 of such contracts may be in the series in the nearest expiration month. These limits are roughly equivalent to the limits applicable to options on other broad-based indices under CBOE Rule 24.4(a).<sup>13</sup>

## Exchange Rules Applicable

Except as modified herein, the Rules in Chapter XXIV will be applicable to both CBOE Euro 25 Index options and CBOE Asian 25 Index options. Index option contracts based on both the CBOE Euro 25 Index and the CBOE Asian 25 Index will be subject to the position limit requirements of CBOE Rule 24.4(a).

Additionally, CBOE affirms that it possesses the necessary systems capacity to support new series that would result from the introduction of both CBOE Euro 25 Index options and CBOE Asian 25 Index options. CBOE has also been informed that OPRA has the capacity to support such new series (see Exhibit H to the proposed rule change).

<sup>13</sup> Specifically, CBOE Rule 24.4(a) imposes a standard position limit of 50,000 contracts on the same side of the market for CBOE's Mexico 30 Index and CBOE's Germany 25 Index.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>14</sup> in general and furthers the objectives of Section 6(b)(5) of the Act<sup>15</sup> in particular in that it will permit trading in options based on the Internet Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(A) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 CBOE. All submissions should refer to the File No. SR-CBOE-2002-40 and should be submitted by February 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-2672 Filed 2-4-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47290; File No. SR-CBOE-2003-02]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Reporting of Other Affiliations of Associated Persons to the Exchange**

January 30, 2003.

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 January 9, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. 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 amend Rule 3.6A—"Qualification and Registration of Certain Associated Persons," and Rule 9.4—"Other Affiliations of Registered Representatives," to (i) eliminate the need for member organizations to seek prior Exchange approval for Registered Representatives, employed in a non-supervisory capacity, to engage in business practices during business

<sup>16</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>14</sup> 15 U.S.C. 78f(b).

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

hours for other than the business of the member organization with which the person is associated; and (ii) to require prompt notice, but not Exchange approval, of persons registered as Registered Options Principals, Sales Supervisors or Financial and Operations Principals with member organizations for which the CBOE is the firm's Designated Examining Authority who are acting as a part-time employee or independent contractor of the member or engaged in outside business activities. Below is the text of the proposed rule change. Proposed new language is *italicized*. Proposed deletions are in [brackets].

\* \* \* \* \*

**Chicago Board Options Exchange, Inc. Rules**

\* \* \* \* \*

**Rule 3.6A. Qualification and Registration of Certain Associated Persons**

(a) Financial/Operations Principal. Each individual member or member organization subject to Exchange Act Rule 15c3-1 shall designate a Financial/Operations Principal. The duties of a Financial/Operations Principal shall include taking appropriate actions to assure that the member complies with applicable financial and operational requirements under the Rules and the Exchange Act, including but not limited to those requirements relating to the submission of financial reports and the maintenance of books and records. Each Financial/Operations Principal is required to have successfully completed the Financial and Operations Principal Examination (Series 27 Exam). Each Financial/Operations Principal designated by a member shall be registered in that capacity with the Exchange in a form and manner prescribed by the Exchange. A Financial/Operations Principal of a member may be a full-time employee [of the member], [or with the prior written approval of the Exchange, may be] a part-time employee or independent contractor of the member. *Member firms for which the Exchange is the Designated Examining Authority ("DEA") must provide prompt written notice to the Exchange's Department of Financial and Sales Practice Compliance for each person designated as a Financial/Operations Principal reporting whether such person is a full-time employee, part-time employee, independent contractor or has any outside business affiliations.*

(b) No change.

\* \* \* Interpretations and Policies:

.01-.03 No change.

\* \* \* \* \*

**Chapter IX**

\* \* \* \* \*

**Doing Business With the Public**

**Rule 9.4. Other Affiliations of Registered [Representatives] *Associated Persons***

(a) *No person associated with a member in any registered capacity shall be employed by, or accept compensation from, any other person or entity as a result of any business activity, other than a passive investment, outside the scope of his/her relationship with his/her employer firm, unless the person has provided prompt written notice to the member and has received prior written consent of the member.*

(b) Except with the *prior written consent of the member and* [express] *prompt written notice to* [permission of] the Exchange, every Registered Options Principal, *Sales Supervisor, and Financial/Operations Principal registered with a member for which the Exchange is the Designated Examining Authority ("DEA") and Registered Representative shall devote his/her entire time during business hours to the business of the member organization employing [him] or compensating him/her. [or to the business of its affiliates which are engaged in the transaction of business as a broker or dealer in securities or commodities or in such other businesses as have been approved by the Exchange.]*

\* \* \* \* \*

**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**

**1. Purpose**

The purpose of this proposed rule is to bring the outside business affiliation reporting requirements of registered persons of CBOE members in line with those of the other major securities

exchanges. Current National Association of Securities Dealers ("NASD"), New York Stock Exchange ("NYSE"), American Stock Exchange ("AMEX"), Pacific Exchange ("PCX"), and Philadelphia Stock Exchange ("PHLX") rules do not require SRO approval for the outside business activities of registered persons operating in a non-supervisory capacity but rather require such notification be made to and receive the approval from the member organization employing or compensating the registered person.<sup>3</sup> PHLX Rule 793 requires such member organization approvals be filed with their Office of the Secretary.

CBOE Rule 9.4 is proposed to be amended to reduce the current reporting burden of member organizations by eliminating the need for member organizations to seek prior Exchange approval for Registered Representatives, employed in a non-supervisory capacity, to engage in business practices during business hours for other than the business of the member organization with which the person is associated. Proposed Rule 9.4(a) instead would require that each associated person in any registered capacity with a member organization provide written notification to the member organization and receive written approval from the member organization prior to becoming employed by, or accepting compensation from, any other person or entity as a result of business activity, other than a passive investment, outside the scope of his/her relationship with the member organization.

Proposed Rule 9.4(b) would specifically require the prior written consent of the member and prompt written notice to the Exchange for outside affiliations of persons registered with a member, for which the CBOE is the DEA, in the capacity of a Registered Options Principal, Sales Supervisor, or Financial and Operations Principal. This proposed amendment to Rule 9.4 would also require a corresponding amendment to Exchange Rule 3.6A(a) to require prompt notice to the Exchange, rather than prior written approval of the Exchange, of a Financial and Operations Principal acting as a part-time employee or independent contractor or engaged in outside business activities. NYSE and AMEX rules require Exchange approval for registered persons delegated supervisory responsibilities and performing such duties on a part-time basis, however, the NASD does not have a comparable rule.<sup>4</sup> Therefore, the

<sup>3</sup> See AMEX Rule 342(b), NASD Rule 3030, NYSE Rule 346(b), PCX Rule 1.26(d) and PHLX Rule 793.

<sup>4</sup> See NYSE Rule 346(e) and AMEX Rule 342(a).

Exchange believes that it is appropriate to replace the current Exchange approval process with a notice requirement only where the employing member is designated to the CBOE for financial oversight.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>5</sup> in general and furthers the objectives of Section 6(b)(5)<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

### *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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. CBOE-2003-02 and should be submitted by February 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-2674 Filed 2-4-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47289; File No. SR-ISE-2002-28]

### **Self-Regulatory Organizations; International Securities Exchange LLC; Order Granting Approval to Proposed Rule Change To Increase the Number of Authorized Shares of Class B Common Stock, Series B-2 From 100 to 130**

January 30, 2003.

On November 21, 2002, the International Securities Exchange LLC ("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 increase the number of authorized shares of Class B Common Stock, Series B-2 from 100 to 130. This increase would result in the creation of 30 additional Competitive Market Maker ("CMM") Memberships.<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on December 27, 2002.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

applicable to a national securities exchange,<sup>5</sup> and in particular, the requirements of Section 6 of the Act<sup>6</sup> and the rules and regulations thereunder. The Commission finds that the proposal to increase the number of authorized shares of Class B Common Stock, Series B-2 from 100 to 130, resulting in the creation of 30 additional CMM Memberships, is consistent with Section 6(b)(5) of the Act<sup>7</sup> because it is designed to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Commission believes that the sale of 30 additional CMM Memberships may increase the depth and liquidity of the Exchange's market. It may also provide more broker-dealers with an opportunity to participate on the Exchange. The Exchange also represented that it has carefully evaluated its systems capacity and believes that it has more than sufficient capacity to handle the increased number of CMM Members without any adverse effects. Furthermore, the Exchange noted that it would require a purchaser of one of these new Memberships that is not already a CMM to meet all Exchange requirements currently applicable to CMM Members.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-ISE-2002-28) 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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<sup>7</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> CMMs are market makers that compete with a Primary Market Maker and other CMMs to provide liquidity on the Exchange.

<sup>4</sup> See Securities Exchange Act Release No. 47035 (December 19, 2002), 67 FR 79202.

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

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

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

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