

with the rules and by-laws of the OCC. This filing implements those changes.

## 2. Statutory Basis

The Exchange believes that the proposed changes to CBOE Rules 24.7(e) and 24.9(a)(4) are consistent with and in furtherance of the provisions of section 6(b)(5) of the Act.<sup>8</sup> CBOE believes that, by establishing Exchange rules that make clear that current index option settlement values in the event of market disruption shall be determined in accordance with the rules and by-laws of the OCC, this filing will help public customers and market-makers alike to be better able to use stock index options to predictably hedge their transactions in stock index futures and/or the underlying stocks themselves. CBOE further believes that this rule change would improve the efficiency of, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, thus better protecting investors and the public interest.

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

CBOE does not believe that the proposed rule change would impose any burden on competition 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

CBOE asserts that, because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate), it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

or otherwise in furtherance of the purposes of the Act.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally would not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CBOE has requested that the Commission waive the 30-day pre-operative waiting period. The Commission believes that waiving the 30-day period is consistent with the protection of investors and the public interest. The Commission has previously found that allowing OCC to have authority to determine settlement prices for OCC-cleared index options in times of market disruptions is consistent with the Act,<sup>12</sup> and the Exchange's proposal incorporates by reference the OCC's ability to exercise that authority with respect to CBOE-traded index options. The Commission believes that market participants should be able to benefit immediately from this clarification and that no purpose would be served by delaying the operative date of this rule change for 30 days. Accordingly, the Commission hereby determines to waive the 30-day pre-operative period, and the proposed rule change becomes operative immediately.<sup>13</sup>

Rule 19b-4(f)(6) also requires the self-regulatory organization submitting the proposed rule change to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission. CBOE has requested that the Commission waive the five-day pre-filing requirement, and the Commission hereby grants that request.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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 the Exchange. All submissions should refer to File No. SR-CBOE-2003-13 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47541; File No. SR-CBOE-2002-67]

### **Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Amending its Margin Rule 12.3 To Incorporate Security Futures**

March 20, 2003.

On November 1, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), 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 amending CBOE Rule 12.3 ("Margin Requirements") to incorporate security futures. On November 21, 2002, the CBOE filed an amendment to the proposed rule change.<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on December 16, 2002.<sup>4</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as amended.

<sup>1</sup> 17 CFR 200.30-3(a)(12).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See letter from Madge M. Hamilton, Senior Attorney, CBOE, to Theodore R. Lazo, Senior Special Counsel, Division of Market Regulation ("Division"), Commission, dated November 20, 2002 ("Amendment No. 1").

<sup>5</sup> Securities and Exchange Act Release No. 46971 (December 9, 2002), 67 FR 77108.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> See 15 U.S.C. 78s(b)(3)(C).

<sup>12</sup> See 67 FR at 91944.

<sup>13</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).