

Section 19(a) authorizes the Commission to prescribe the form of the statement by rule.

Rule 19a-1 (17 CFR 270.19a-1) under the Act is entitled: "Written Statement to Accompany Dividend Payments by Management Companies." Rule 19a-1 sets forth specific requirements for the information that must be included in statements made under section 19(a) by registered investment companies. The rule requires that the statements indicate what portions of the payment are made from net income, net profits and paid-in capital.<sup>2</sup> When any part of the payment is made from net profits, the rule requires that the statement disclose certain other information relating to the appreciation or depreciation of portfolio securities. If an estimated portion of the payment is subsequently determined to be significantly inaccurate, a correction must be made on a statement made under section 19(a) or in the first report to shareholders following the discovery of the inaccuracy. The purpose of Rule 19a-1 is to afford fund shareholders adequate disclosure of the sources from which dividend payments are made.

The Commission staff estimates that approximately 8,400 portfolios of management companies may be subject to Rule 19a-1 each year.<sup>3</sup> The total average annual burden for Rule 19a-1 per portfolio is estimated to be approximately 30 minutes.<sup>4</sup> The total annual burden for all portfolios therefore is estimated to be approximately 4,200 burden hours.

Compliance with the collection of information required by Rule 19a-1 is mandatory for management companies that make written statements to

shareholders pursuant to section 19(a) of the Act. Responses will not be kept confidential.

Rule 22d-1 (17 CFR 270.22d-1) under the Investment Company Act provides registered investment companies that issue redeemable securities an exemption from section 22(d) of the Investment Company Act to the extent necessary to permit scheduled variations in or elimination of the sales load on fund securities for particular classes of investors or transactions, provided certain conditions are met. The rule imposes an annual burden per series of a fund of approximately 15 minutes, so that the total annual burden for the approximately 6,100 series of funds that might rely on the rule is estimated to be 1,525 hours. The collection of information required by Rule 22d-1 is mandatory. Responses will not be kept confidential.

Rule 30b2-1 under the Investment Company Act (17 CFR 270.30b2-1) requires the filing of four copies of every periodic or interim report transmitted by or on behalf of any registered investment company to its stockholders.<sup>5</sup> This requirement ensures that the Commission has information in its files to perform its regulatory functions and to apprise investors of the operational and financial condition of a registered investment companies.<sup>6</sup>

It is estimated that approximately 3,700 registered management investment companies are required to send reports to stockholders at least twice annually. In addition, under recently proposed amendments to Rule 30b2-1, if adopted, each registered investment company would be required to file with the Commission new form N-CSR, certifying the financial statements. The annual burden of filing the reports is included in the burden estimate for Form N-CSR.

The collection of information under Rule 30b2-1 is mandatory. The information provided by Rule 30b2-1 is not kept confidential.

Form ADV-E (17 CFR 279.8) is the cover sheet for accountant examination certificates filed pursuant to Rule 206(4)-2 under the Investment Advisers Act by investment advisers retaining custody of client securities or funds. The annual burden is approximately three minutes per respondent.

<sup>5</sup> Most filings are made via the Commission's electronic filing system; therefore, paper filings under Rule 30b2-1 occur only in exceptional circumstances. Electronic filing eliminates the need for multiple copies of filings.

<sup>6</sup> Annual and periodic reports to the Commission become part of its public files and, therefore, are available for use by prospective investors and stockholders.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 14, 2003.

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47659; File No. SR-CBOE-2002-36]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Regarding Closing-Only Transactions

April 10, 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 June 27, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On April 2, 2003, the CBOE filed Amendment No. 1 that entirely replaced the original rule filing.<sup>3</sup> The Commission is publishing this notice to

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

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

<sup>3</sup> See Letter from Andrew Spiwak, Director Legal Division and Chief Enforcement Attorney, CBOE, to John Roeser, Special Counsel, Division of Market Regulation, Commission, dated April 1, 2003.

<sup>2</sup> Rule 19a-1 requires, among other things, that every written statement made under Section 19 of the Act by or on behalf of a management company clearly indicate what portion of the payment per share is made from the following sources: net income for the current or preceding fiscal year, or accumulated undistributed net income, or both, not including in either case profits or losses from the sale of securities or other properties; accumulated undistributed net profits from the sale of securities or other properties; and paid-in surplus or other capital source.

<sup>3</sup> The Commission staff estimates that there are approximately 3,800 registered investment companies that are "management companies" as defined by the Act, and each may have one or more separate portfolios that report dividends to shareholders. The Commission's records indicate that those 3,800 management companies have approximately 8,200 portfolios that report paying dividends, and so may be subject to Rule 19a-1.

<sup>4</sup> According to respondents, no more than approximately 15 minutes is needed to make the determinations required by the rule and include the required information in the shareholders' dividend statements. The Commission staff estimates that, on average, each portfolio mails two notices per year to meet the requirements of the rule, for an average total annual burden of approximately 30 minutes.