

initial operation period of the Pilots, the Commission did not receive any comments, and, the Commission expects the Exchange to request permanent approval of these rules during the Pilot extension period. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>10</sup> The pilot will be effective for six months from April 5, 2003 until October 5, 2003.

#### 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-Amex-2003-23 and should be submitted by May 29, 2003.

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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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47775; File No. SR-CBOE-2003-05]

##### **Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto, by the Chicago Board Options Exchange, Inc. To Prohibit Clearing Firms From Accepting Certain Third-Party Deposits**

April 30, 2003.

On February 10, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to 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 establish CBOE Rule 4.21 which would prohibit, with certain exceptions, member firms that clear and carry the accounts of options market makers ("Clearing Firms") from accepting deposits to such accounts if the check, funds transfer or securities is drawn from a third party's account. The proposed rule change also would establish record retention requirements for the Clearing Firm to follow if it accepts deposits from third parties pursuant to the permitted exceptions. The CBOE filed Amendment No. 1 to the proposal on March 5, 2003. The proposed rule change, as amended, was published for comment in the **Federal Register** on March 28, 2003.<sup>3</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>4</sup> and, in particular, the requirements of section 6 of the Act<sup>5</sup> and the rules and regulations thereunder. The Commission finds that the rule change is consistent with section 6(b)(5) of the Act,<sup>6</sup> which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest. The rule change establishes a practice

that should help to protect Clearing Firms from risks associated with improper transfers of funds and securities.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change, as amended, (File No. SR-CBOE-2003-05) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47767; File No. SR-NSCC-2003-06]

##### **Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying Clearing Fund Rules and Procedures**

April 30, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on April 7, 2003, the National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. 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 proposed rule change eliminates the reference to "bearer" bonds in section 1 of NSCC's Rule 4 (Clearing Fund) because bearer bonds have not been issued for some time and consequently are not eligible for deposit with NSCC.

##### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

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

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

<sup>3</sup> Securities Exchange Act Release No. 47553 (March 21, 2003), 68 FR 15254.

<sup>4</sup> In approving this proposed rule change, as amended, 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>5</sup> 15 U.S.C. 78f.

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

<sup>10</sup> For the 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. 15 U.S.C. 78c(f).

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

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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