

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

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

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on 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 Amex consents, the Commission will:

(A) By order approve the 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 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-AMEX-2003-06 and should be submitted by July 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48059; File No. SR-CBOE-2003-21]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Disclaimers for Index Option Reporting Authorities**

June 18, 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 May 16, 2003, 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. 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 clarify the effect of certain disclaimers provided by the Exchange on behalf of index reporting authorities under CBOE Rule 24.14 ("Disclaimers"). Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are in brackets.

\* \* \* \* \*

#### **Chapter XXIV**

##### **Index Options**

##### **Rule 24.14. Disclaimers**

No reporting authority with respect to any index underlying an option traded on the Exchange, no affiliate of such reporting authority (each such reporting authority and its affiliates are referred to collectively as the "Reporting Authority"), and no other entity identified in this Rule makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index, any

opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract based thereon or for any other purpose. The Reporting Authority or any other entity identified in this Rule shall obtain information for inclusion in, or for use in the calculation of, such index from sources it believes to be reliable, but the Reporting Authority or any other entity identified in this Rule does not guarantee the accuracy or completeness of such index, and opening, intra-day or closing value therefor, or any data included therein or related thereto. The Reporting Authority or any other entity identified in this Rule hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such index, any opening, intra-day, or closing value therefor, any data included therein or relating thereto, or any option contract based thereon. The Reporting Authority or any other entity identified in this Rule shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract based thereon or arising out of any errors or delays in calculating or disseminating such index. The foregoing disclaimers shall apply to Standard & Poor's, a division of The McGraw-Hill Companies, Inc. ("S&P") in respect to the S&P Indexes, [S&P and Barra, Inc. in respect to the S&P 500/ Barra Growth Index and the S&P 500/ Barra Value Index, ]Frank Russell Company in respect to the Russell Indexes [2000 Index], [LIFFE Administration and Management in respect to the FT-SE 100 Index, ]The NASDAQ Stock Market, Inc. in respect to the Nasdaq [100 ]Indexes, Morgan Stanley Dean Witter & Co. Incorporated in respect of the Morgan Stanley [Multinational Company ]Indexes, Dow Jones and Company, Inc. in respect to the Dow Jones Averages and *any other*[the] Dow Jones [Equity REIT ]Indexes, [Lipper Analytical Services, Inc., Salomon Brothers, Inc. in respect to the Lipper-Salomon Indexes, and ]Goldman, Sachs & Co. in respect to the Goldman Sachs Indexes [Technology Indexes.]; *to the foregoing Reporting Authorities in respect to any other indexes for which they act as the designated Reporting Authority; [,] to the Exchange in respect to the indexes*

<sup>6</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.