

## 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 for in Sections A, B, and C below, of the most significant parts of such statements.

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

#### 1. Purpose

CBOE Rule 3.8(g) provides that a member organization may designate one or more inactive nominees. An inactive nominee is an individual who is eligible to become an effective nominee of a member organization with respect to any membership for which the organization is either an owner (and not a lessor) or is a lessee. In order to become an inactive nominee of a member organization, an individual must be approved for membership and become an effective nominee of the member organization, with authorized floor functions, within 90 days of the approval for membership. An inactive nominee has no rights or privileges of membership and no right of access to the Exchange's trading floor, unless and until the inactive nominee becomes an effective member. Additionally, Rule 3.8(g)(iv) provides that if at any time an individual remains an inactive nominee for 6 consecutive months, the individual's eligibility for membership is terminated and the individual must reapply for membership in order to again become eligible for inactive nominee status.

The Exchange proposes to extend the time period under Rule 3.8(g)(iv) by 3 months. Specifically, the Exchange proposes to amend Rule 3.8(g)(iv) to provide that an individual's inactive nominee status will terminate if at any time an individual remains an inactive nominee for 9 consecutive months. The Exchange believes this change will improve the efficiency of the Exchange's membership processes in that individuals will have a longer period of time during which they may remain inactive nominees before they are required to go through a membership application process.

Similarly, in order to further improve the efficiency of the Exchange's

membership processes, the Exchange proposes to change the time period during which a former individual member may reapply for membership through the renewal/change of status application process. As with the inactive nominee termination period, the time period during which a former individual member may reapply for membership through the renewal/change of status application process is proposed to be extended from the current 6 month period following termination from membership to 9 months following membership termination. The foregoing change would be reflected in three ways in CBOE rules.

First, CBOE Rule 3.9(e) would be amended to provide that a posting period will not be applicable when an applicant has been a member within 9 months prior to the date of receipt of the applicant's membership application by the Membership Department. Currently, the name of an applicant and the application request are published in the Exchange Bulletin and posted on the Exchange Bulletin Board for 10 days if the applicant has not been a member within 6 months prior to submission of the application. This is the case because applicants that go through the renewal/change of status application process do not have a posting period. Accordingly, the time period under Rule 3.9(e) in which a former member is not subject to a posting period is also proposed to be changed to 9 months from membership termination in order to correspond to the new proposed time period during which a former member may reapply for membership through the renewal/change of status application process.

Second, Rule 3.9(f) would be amended to provide that applicants are not required to be investigated by the Exchange if the applicant was a member within 9 months (instead of the current 6 months) prior to submission of that applicant's membership application or if the applicant was investigated by the Membership Department within 9 months (instead of the current 6 months) prior to submission of the application. This maintains the current procedure under which applicants that go through the renewal/change of status application process are not investigated by the Membership Department. However, the Membership Department would retain its current authority under Rule 3.9(f) to investigate any applicant that is not required to be investigated. Additionally, membership applicants that go through the renewal/change of status application process will continue to have their fingerprints submitted to the Attorney General of the United

States or its designee in connection with the application.

Third, the Exchange's Membership Fee Circular would be amended to provide that the Renewal/Change of Status application fee would apply to a former individual member who reapplies for membership within 9 months (instead of the current 6 months) of his/her membership termination date and who becomes an effective member within 1 year of his/her membership termination date. Under the amended Membership Fee Circular, a former individual member who reapplies for membership within 9 months of termination from membership would be assessed the Renewal/Change of Status fee at the time of submission of the application. If that person becomes an effective member more than 1 year after his/her membership termination date, the person would then be charged an additional fee equal to the difference between the Individual/Nominee/CBOT Exerciser/Lessee/Lessor application fee and the Renewal/Change of Status fee.

The reason that an additional fee will be assessed if a former member reapplies for membership within 9 months of membership termination and then does not become an effective member within 1 year after membership termination is to discourage applicants from taking advantage of the lower Renewal/Change of Status fee and then not following through on the application or their membership approval on a timely basis. Rule 3.9(l) provides that if the membership application process is not completed within 6 months of the submission of a membership application, the application shall be deemed to be automatically withdrawn. Rule 3.10 provides that an applicant approved for membership must become effective in that status within 90 days of the approval for that status (except that an applicant approved as a lessor may become effective in that status within 6 months of approval). Therefore, it is conceivable that an applicant could request that the Membership Department defer action on a membership application for up to 6 months after it is submitted and then not become an effective member following membership approval for another 3 months (or another 6 months in the case of a lessor). The Exchange does not believe the Renewal/Change of Status fee should apply to such situations (for example, where an individual takes advantage of the Renewal/Change of Status fee and then does not become an effective member again until 18 months after termination