

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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act¹¹ and subparagraph (f)(2) of Rule 19b-4 thereunder,¹² because it involves a due, fee, or other charge. 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-BSE-2003-22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 number SR-BSE-2003-22, and should be submitted by January 8, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48913; File No. SR-CBOE-2003-37]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to Appointment of the Members and Chairman of Its Governance Committee

December 11, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 5, 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. On November 6, 2003, the CBOE filed Amendment No. 1 to the proposed rule change.³ 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 CBOE proposes to amend Exchange Rule 2.1 pertaining to the appointment of the members and Chairman of the Exchange's Governance Committee. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Patrick Sexton, Assistant General Counsel, CBOE, to Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission, dated November 6, 2003 ("Amendment No. 1"). In Amendment No. 1, CBOE clarified the current procedure by which Governance Committee members are appointed, explained the reason for the proposed rule change, and revised a portion of the original proposed rule text. These changes are more fully described in Section II below.

CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED
RULES

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CHAPTER II—Organization and Administration

Part—A—Committees

Committees of the Exchange

Rule 2.1. Committees of the Exchange

(a) Establishment of Committees. In addition to committees specifically provided for in the Constitution, there shall be the following committees: Appeals, Arbitration, Business Conduct, appropriate Floor Procedure Committees, Floor Officials, appropriate Market Performance Committees, Membership, Product Development and such other committees as may be established in accordance with the Constitution. Except as may be otherwise provided in the Constitution or the Rules, the Vice Chairman of the Board, with the approval of the Board, shall appoint the chairmen and members of such committees to serve for terms expiring at the regular meeting of the Board following the next succeeding Annual Election Meeting or until successors are appointed. Consideration shall be given to continuity and to having, where appropriate, a cross section of the membership represented on each committee. Except as may be otherwise provided in the Constitution or the Rules, the Vice Chairman of the Board may, at any time, with or without cause, remove any member of such committees. Any vacancy occurring in one of these committees shall be filled by the Vice Chairman of the Board for the remainder of the term. Notwithstanding the foregoing, the Chairman of the Board, with the approval of the Board, shall appoint Directors to serve on the [Audit and Compensation Committees,] *Governance Committee*, whose members shall not be subject to removal except by the Board. *The Chairman of the Governance Committee shall be appointed by the Chairman of the Board.* Whenever the Vice Chairman of the Board is, or has reason to believe he may become, a party to any proceeding of an Exchange committee, he shall not exercise his power to appoint or remove members of that committee, and the Chairman of the Board shall have such power.

(b)–(d) No change.

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¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).