

with size in each series, and the dependence upon a limited supply of stock available to hedge risk taken by specialists and registered options traders who submit narrow quotes in large size for each series within an option class it was believed to be appropriate for the Exchange to apply the exception to the class as well as the series. In addition, the Exchange's surveillance and enforcement program for the options Quote Rule was designed based upon the rule text as approved and the interpretation that would allow specialists and registered options traders to avail themselves of the exceptions to the Quote Rule for all series within a class after having received an order in one series in that option class.

However, in recent discussions with SEC staff regarding the Amex's enforcement of the Quote Rule for options, the Exchange has been advised that the exceptions should only be applied on a series-by-series basis. The SEC staff has, therefore, requested that the Amex amend Rule 958A to eliminate the exception for the entire class. The Amex is submitting this proposed rule change in compliance with that request.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act⁸ in general and furthers the objectives of section 6(b)(5) of the Act⁹ in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

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.

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

No written comments were solicited or received with respect to 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 Exchange consents, the Commission will:

A. by order approve such 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 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 should be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-Amex-2003-105. 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 hard copy 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 No. SR-Amex-2003-105 and should be submitted by January 20, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48950; File No. SR-CBOE-2003-55]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. To Amend Provisions of its Constitution and Rules Pertaining to the Governance of the Exchange

December 18, 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 November 19, 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 December 11, 2003, CBOE submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend various provisions of its Constitution and Rules pertaining to the governance of the Exchange. The text of the proposed rule change appears below. Added text is in *italics*. Deleted text is in *brackets*.

Chicago Board Options Exchange, Incorporated Constitution

Article I

Definitions

Section 1.1 When used in this Constitution, except as expressly otherwise provided or unless the context otherwise requires:

(a) The term "Exchange" means the Chicago Board Options Exchange, Incorporated or its exchange market.

(b) The term "member" means an individual member or a member organization of the Exchange (or a registered nominee of such a member organization) that is a regular member in good standing described in Section 2.1(b) of Article II of the Constitution.

(c) The term "member organization" means a partnership or corporation which owns *or leases* a membership, or a partnership or corporation for which a membership is registered in

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.