

• Deletes Constitution Section 11.3, which authorizes the Chairman of the Board to establish Exchange departments. The section is unnecessary because the authority is encompassed within the Chairman's responsibility as Chief Executive Officer and inconsistent with the Exchange's current organizational structure, which consists of divisions made up of departments.

2. Statutory Basis

CBOE believes that the proposed rule change further enhances the fair and efficient governance of the Exchange and modernizes various provisions of the Exchange's governance structure. Therefore CBOE believes the proposed rule change furthers the objectives of section 6(b)(3) of the Act⁶ to assure fair representation of the members of the Exchange in the selection of its directors and in the administration of its affairs. CBOE also believes that the proposed rule change furthers the objectives of section 6(b)(5) of the Act⁷ to protect investors and the public interest.

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

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

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 self-regulatory organization 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 proposal, 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. Comments should be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-CBOE-2003-55. 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 CBOE. All submissions should refer to File No. SR-CBOE-2003-55 and should be submitted by January 20, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48953; File No. SR-CBOE-2003-57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Trading of Index Options and Options on ETFs on the CBOE Hybrid System

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 December

8, 2003, the Chicago Board Options Exchange, Inc. ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Exchange has filed the proposal as a "non-controversial" rule change pursuant to section 19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The CBOE proposes to provide for the trading of index options and options on exchange traded funds ("ETFs") on the CBOE Hybrid System ("Hybrid System"). The text of the proposed rule change appears below. Proposed new language is in *italics*; proposed deletions are in [brackets].

Rule 6.45A Priority and Allocation of Trades for CBOE Hybrid System

(a)-(d) No change.

(e) [Effective Date of Rule] *Classes Trading on Hybrid.*

[The Exchange will commence rollout of the Hybrid System by May 30, 2003.] By December 31, 2003, Hybrid will be operational in CBOE's 200 most active equity option classes and, by December 31, 2004, Hybrid will be operational in CBOE's 500 most active equity option classes. The Exchange intends to implement Hybrid floorwide in all other equity classes by the fourth quarter of 2006. *Index option classes and options on ETFs specifically designated by the appropriate Floor Procedure Committee may trade on the Hybrid System. In order to be eligible for trading on Hybrid, index option classes and options on ETFs must utilize an in-crowd Designated Primary Market Maker.*

* * * * *

Rule 24.13 Trading Rotations

The opening rotation for index options shall be held at or as soon as practicable after 8:30 a.m. Chicago time. Except as the appropriate Floor Procedures Committee may direct, opening rotations shall be conducted in the order and manner the Order Book

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The Exchange asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

⁶ 15 U.S.C. 78f(b)(3).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.