

number or remaining permissible transfers in a Contract year.

40. In addition to the supplements and prospectuses distributed to Contract owners as described above, within five business days after the proposed substitutions are completed, any Contract owners affected by the substitutions will be sent a written notice informing them that the substitutions were carried out and that they may make one transfer of Contract value or cash value under a Contract invested in any one of the sub-accounts on the date of the notice to another sub-account available under their Contract at no cost and without regard to the usual limit on the frequency of transfers among the variable account options and from the variable account options to the fixed account options. The notice will also reiterate that Lincoln Life will not exercise any rights reserved by it under the Contracts to impose additional restrictions on transfers or to impose any charges on transfers (other than with respect to "market timing" activities) until at least thirty days after the proposed substitutions. Lincoln Life will also send each Contract owner current prospectuses for the Substitute Funds involved to the extent that the Contract owner has not previously received a copy.

41. Lincoln Life has determined that all of the Substitute Funds that are the subject of this Application will be treated as affiliated funds. The Applicants agree that, to the extent that the annualized expenses of each Substitute Fund exceeds, for each fiscal period (such period being less than 90 days) during the twenty-four month period following the date of the substitutions, the 2004 net expense level of the corresponding Replaced Fund, Lincoln Life will, for each Contract outstanding on the date of the proposed substitutions, make a corresponding reduction in separate account (or sub-account) expenses on the last day of such fiscal period, such that the amount of the Substitute Fund's net expenses, together with those of the corresponding separate account (or sub-account) will, on an annualized basis, be no greater than the sum of the net expenses of the Replaced Fund and the expenses of the separate account (or sub-account) for the 2004 fiscal year.

42. The Applicants further agree that Lincoln Life will not increase total separate account charges (net of any reimbursements or waivers) for any existing Contract owner on the date of the substitutions for a period of twenty-four months from the date of the substitutions.

Applicants' Legal Analysis

1. Section 26(c) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to obtain Commission approval before substituting the securities held by the trust. Specifically, Section 26(c) states:

It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.

2. Applicants state that the proposed substitution of shares of the Substitute Funds for those of the Replaced Funds appears to involve substitutions of securities within the meaning of Section 26(c) of the Act. Applicants also submit that the proposed substitutions meet the standards that the Commission and its staff have applied to substitutions that have been approved in the past. Applicants therefore request an order from the Commission pursuant to Section 26(c) approving the proposed substitutions under the terms of this Application.

3. The Contracts give Lincoln Life the right, subject to Commission approval, to substitute shares of another investment company for shares of an investment company held by a sub-account of the Separate Accounts. Applicants believe that the prospectuses for the Contracts and the Separate Accounts contain appropriate disclosure of this right.

4. Applicants have concluded that, although there are differences in the objectives and policies of the Substitute and Replaced Funds, their objectives and policies are sufficiently consistent to assure that following the substitutions, the achievement of the core investment goals of the affected Contract owners in the Replaced Funds will not be frustrated.

5. With respect to each proposed substitution, Applicants represent that Contract owners with balances invested in a Substitute Fund will have an expense ratio that is equal to or lower than the Replaced Fund. Applicants anticipate that Contract owners will be better off with the array of sub-accounts offered after the proposed substitutions than they have been with the array of sub-accounts offered prior to the substitutions. The proposed substitutions retain for Contract owners the investment flexibility which is a central feature of the Contracts. If the

proposed substitutions are carried out, all Contract owners will be permitted to allocate purchase payments and transfer Contract values and cash values between and among approximately the same number of sub-accounts as they could before the proposed substitutions. Applicants note that Contract owners who do not wish to participate in a Substitute Fund will have an opportunity to reallocate their accumulated value among other available sub-accounts without the imposition of any charge or limitation (other than with respect to "market timing" activity.)

Conclusion

Applicants submit that, for all the reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 05-24248 Filed 12-19-05; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To be announced].

STATUS: Closed meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, December 13, 2005.

CHANGE IN THE MEETING: Additional items.

The following items have been added to the closed meeting scheduled for Tuesday, December 20, 2005: Opinion and a Regulatory matter regarding a financial institution.

Commissioner Campos, as duty officer, voted to consider these items listed for the closed meeting in closed session and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551-5400.

Dated: December 15, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05-24294 Filed 12-16-05; 11:13 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52950; File No. SR-CBOE-2004-53]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change and Partial Amendment No. 1 Relating to Margin Requirements for Complex Options Spreads

December 14, 2005.

I. Introduction

On July 30, 2004, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change related to margin requirements for complex options spreads under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4.² On August 23, 2005, the Exchange filed a partial amendment to its proposed rule change.³ The proposed rule change, as amended, was published in the **Federal Register** on November 14, 2005.⁴ The Commission received no comments on the proposal.

II. Description

The CBOE has proposed to incorporate the provisions of a Regulatory Circular (RG03-066—*Margin Requirements for Certain Complex Spreads*, dated August 13, 2003) (the "Circular") into the Exchange's margin rules (Chapter 12). The Circular presents an interpretation of current margin requirements that allows the Exchange to derive, and put into effect, margin requirements for certain complex option spreads. The Commission approved the Circular on a one-year pilot basis.⁵ The

Commission granted two extensions of the pilot period.⁶

The Exchange has proposed to add definitions of a "long condor spread," "short iron butterfly spread" and "short iron condor spread" to Rule 12.3(a). These definitions cover six of the seven strategies identified in the Circular. Each definition covers two strategies identified in the Circular because each definition provides for a base strategy, in which all options expire at the same time, and a calendar spread strategy, in which a long option may expire after the other options expire concurrently.

The Exchange has proposed a revision to its current definition of a butterfly spread to provide for the remaining strategy, a calendar spread version of the long butterfly spread. These revisions consist of (1) splitting the current butterfly spread definition into two definitions, one for the long butterfly spread and one for the short butterfly spread, (2) fashioning the two definitions so that they are consistent with the style and format of the new definitions referred to in the prior paragraph, and (3) providing for a calendar spread version in the long butterfly spread definition.

In the Circular, call options were utilized to construct three of the seven strategy examples. Each of these three strategies has a parallel application with put options. For brevity, the put option versions were not specifically identified in the Circular, but the Circular was intended to apply to the put option counterpart of each of the strategies demonstrated with call options. Both the put and call option versions are provided for in the newly proposed rule definitions. The remaining four complex spread strategies originally identified in the Circular involved both call options and put options (that is, "iron" strategies). Each of these four strategies has a reciprocal configuration (that is, the call options can precede the put options in ascending sequence of exercise prices). However, there is no need to address the reciprocal variations because there is no benefit from a margin requirement standpoint of including them in the iron strategy definitions.

According to the Exchange, each of the complex spreads identified in the proposed rule can be derived by combining and netting two or more option spreads (that is, the butterfly spread, the box spread and the time spread) that already are identified in the

margin rules and ascribed a margin requirement. Furthermore, the sum of the margin required on the basic option spreads that can be combined and netted to form a complex spread covers the maximum risk of the complex spread and, as in the Circular, is the margin requirement specified in the proposed rules. Each of the subject complex spread strategies has a known and limited risk when configured as specified in the proposed definitions. The Exchange has proposed to revise current Rule 12.3(c)(5)(C)(6) to provide a margin requirement for each of the long condor spread, short iron butterfly spread and short iron condor spread.

The Exchange noted that the proposed rule prohibits European style options in the case of the calendar version of a complex spread and requires that the interval between each option series be equal in the case of all complex spread strategies. Unlike the Circular, the proposed rules would not limit complex spreads to a margin account. The Exchange also has proposed a revision to Rule 12.3(e)—*Customer Cash Account—Spreads*, that adds the long condor spread, short iron butterfly spread and short iron condor spread as strategies permitted to be established and carried in a cash account, provided they are composed of cash-settled, European style options that all expire at the same time.

The Exchange noted that it has received no negative comments concerning the Circular since it was issued. Moreover, the Exchange is not aware of any negative consequences as a result of applying the margin requirements permitted by the Circular.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ which requires that the rules of the exchange be designed, among other things, to remove impediments to and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest. The Commission finds that amending the rules to permit complex option spread strategies that are the net result of combining two or

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ SR-CBOE-2004-53: Amendment No. 1. CBOE, in coordination with the New York Stock Exchange, Inc. ("NYSE"), filed the partial amendment to conform the complex spreads strategies to which its rule amendments apply to those of the NYSE.

⁴ See Securities Exchange Act Release No. 52739 (Nov. 4, 2005); 70 FR 69173 (Nov. 14, 2005).

⁵ See Securities Exchange Act Release No. 48306 (Aug. 8, 2003), 68 FR 48974 (Aug. 15, 2003) (approving SR-CBOE-2003-24).

⁶ See Securities Exchange Act Release No. 50164 (Aug. 6, 2004), 69 FR 50405 (Aug. 16, 2004) and Securities Exchange Act Release No. 51407 (Mar. 22, 2005), 70 FR 15669 (Mar. 28, 2005).

⁷ In approving this proposal rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(5).