

securities to be purchased. As noted above, section 6(c) provides that the Commission may exempt any person, security or transaction from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Because the Funds operate pursuant to rule 23c-3 under the Act, Applicants request relief under sections 6(c) and 23(c) from rule 23c-3 to permit them to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

4. Applicants believe that the requested relief meets the standards of sections 6(c) and 23(c)(3). Rule 6c-10 under the Act permit open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that EWCs are functionally similar to CDSCs imposed by open-end investment companies under rule 6c-10. Applicants state that EWCs may be necessary for the Distributor to recover distribution costs. Applicants will comply with rule 6c-10 as if that rule applied to closed-end investment companies. The Funds also will disclose EWCs in accordance with the requirements of Form N-1A concerning CDSCs. Applicants further state that the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d-1 under the Act.

Asset-Based Distribution Fees

1. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d-1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d-3, under the Act provides an exemption from section 17(d) and rule 17d-1 to permit open-end

investment companies to enter into distribution arrangements pursuant to rule 12b-1 under the Act. Applicants request an order under section 17(d) and rule 17d-1 under the Act to permit the Funds to impose asset-based distribution fees. Applicants have agreed to comply with rules 12b-1 and 17d-3 as if those rules applied to closed-end investment companies.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c-10, 11a-3, 12b-1, 17d-3, 18f-3, and 22d-1 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the NASD Conduct Rule, as amended from time to time.

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

Margaret H. McFarland

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48507; File No. SR-CBOE-2003-27]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Representation of Orders by Floor Brokers

September 22, 2003.

On July 27, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend CBOE Rule 6.45A to permit floor brokers to represent as agent orders from unaffiliated broker-dealers. The **Federal Register** published the proposed rule change for comment on August 19, 2003.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 49826 (August 12, 2003), 68 FR 49826.

applicable to a national securities exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ and believes that the proposed rules should expand access to the CBOE's electronic book in a manner that is consistent with Section 11(a) of the Act.⁷ Therefore, the Commission finds the proposed rule change is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-CBOE-2003-27), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-24504 Filed 9-26-03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48520; File No. SR-OCC-2002-10]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Market-Maker Account Agreements

September 22, 2003.

I. Introduction

On May 21, 2002, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") and on October 18, 2002, amended proposed rule change SR-OCC-2002-10 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on April 24, 2003.² No comment letters were received. For the reasons discussed below, the

⁴ In approving this proposed 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).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78k(a).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 47691, (April 17, 2003), 68 FR 20207 (April 24, 2003) [File No. SR-OCC-2002-10].