

if e-mail is used. To help the Commission process and review 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 Amex. All submissions should be submitted by March 17, 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. 34-49256; File No. SR-CBOE-2003-54]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval of Proposed Rule Change Relating to Misrepresentations and Omissions in Communications to the Exchange and the Options Clearing Corporation

February 13, 2004.

On November 12, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with 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 4.6 (False Statements) and adopt new CBOE Rule 4.22 to distinguish willfully made or material misrepresentations or omissions from other misrepresentations or omissions. In addition, the Exchange proposed to amend CBOE Rule 17.50 to add Rule 4.22 to its Minor Rule Violation Plan

and provide a summary fine schedule for violations of Rule 4.22.

The proposed rule change was published for comment in the **Federal Register** on January 13, 2004.³ 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 applicable to a national securities exchange.⁴ In particular, the Commission believes that the proposed rule change is consistent with section 6(b)(6)⁵ of the Act because it should enable the Exchange to appropriately discipline its members and persons associated with members for violations of the Act, the rules and regulations thereunder, and the rules of the Exchange. In addition, the Commission believes that the proposal is consistent with Rule 19d-1(c)(2) under the Act,⁶ which governs minor rule violation plans.

In addition, the Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act, which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest. The Commission believes that the rule change should increase the Exchange's ability to prevent members from engaging in dishonest conduct with respect to their communications with the Exchange or the Options Clearing Corporation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with the rules that the Exchange is adding to its minor rule violation plan rules and all other rules subject to the imposition of fines under that plan. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, in an effort to provide the Exchange with greater flexibility in addressing certain violations, the Exchange's minor rule violation plan provides a reasonable means to address rule violations that do not rise to the level of requiring formal disciplinary proceedings. The Commission expects

³ See Securities Exchange Act Release No. 49028 (January 6, 2004), 69 FR 2028.

⁴ In approving this proposed rule change, the Commission 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(b)(6).

⁶ 17 CFR 240.19d-1(c)(2).

that the CBOE will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of rules under the Exchange's minor rule violation plan, on a case by case basis, or if a violation requires formal disciplinary action.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2003-54) be, and it hereby is, approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-4062 Filed 2-24-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49275; File No. SR-CBOE-2003-47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To Simplify the Manner in Which Contrary Exercise Advices Are Submitted and To Extend by One Hour the Time for Members and Member Organizations To Submit Contrary Exercise Advices

February 18, 2004.

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 January 26, 2004, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to 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. The Exchange filed the proposed rule change under paragraph (f)(6) of Rule 19b-4 under the Act.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 Exchange proposes to amend CBOE Rules 11.1 and 17.50 and to issue

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.