

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51361; File No. SR-CBOE-2005-10)

March 11, 2005

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing of Proposed Rule Change to Revise Certain Membership Rules Related to the Testing and Orientation Requirements for Nominees of Member Organizations Approved Solely as Clearing Members

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 25, 2005, 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 CBOE. 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 the Substance of the Proposed Rule Change

CBOE proposes to revise certain membership rules related to the testing and orientation requirements for certain members and to make certain other non-substantive changes. Below is the text of the proposed rule change. Proposed new language is in italics, proposed deletions are in brackets.

Rule 3.2. Qualifications and Membership Statuses of Individual Members

(a) No change

(b) The individual membership statuses that are approved by the Membership Committee (along with the primary Exchange Rule that provides for such approval if it is not Rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

3.9) include: (i) owner[*]; (ii) lessor[*]; (iii) lessee[*]; (iv) Chicago Board of Trade exerciser[*]; (v) sole proprietor[*]; (vi) individual with a membership that has been registered for a member organization[*]; (vii) nominee of a member organization[*]; (viii) Market-Maker (Rule 8.2); (ix) Floor Broker (Rule 6.71); (x) member eligible to trade securities traded pursuant to Chapter XXX (Rule 30.2); and (xi) Trust Member (Rule 3.25). [Those individual membership statuses noted with an asterisk are also referred to in the Rules as membership capacity statuses.]

(c) No change

...Interpretations and Policies:

No change

Rule 3.3. Qualifications and Membership Statuses of Member Organizations

(a) No change

(b) The member organization membership statuses that are approved by the Membership Committee (along with the primary Exchange Rule that provides for such approval if it is not Rule 3.9) include: (i) owner[*]; (ii) lessor[*]; (iii) lessee[*]; (iv) member organization for which an individual member has registered his or her membership[*]; (v) member organization approved to transact business with the public[*] (Rule 9.1); (vi) Clearing Member; and (vii) order service firm[*] (Rule 6.77). [Those individual membership status noted with an asterisk are also referred to in the Rules as membership capacity statuses.]

(c) – (d) No change

...Interpretations and Policies:

No change

Rule 3.8. Nominees and Members Who Register Their Memberships for Member Organizations

(a)(i) – (ii) No change

(iii) each nominee of a member organization designated pursuant to subparagraph (a)(i) of this Rule, except for a nominee of a member organization approved solely as a Clearing Member and/or to transact business with the public pursuant to Rule 9.1, is required to have an authorized trading function[, except that a nominee of a member organization that is approved solely to transact business with the public pursuant to Rule 9.1 is not required to comply with this requirement];

(iv) – (v) No change

(b) – (g) No change

...Interpretations and Policies:

No change

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change makes certain clarifications to the Exchange's membership rules that relate to membership status categories. The Exchange is also

proposing to amend its rules to provide an exemption from the general requirement that nominees of member organizations be required to attend the Exchange's Member Orientation Program and to pass the Exchange's Trading Member Qualification Exam.

The Exchange proposes to clarify certain information set forth in Exchange Rules 3.2(b) and 3.3(b) by removing the explanatory information relating to "membership capacity statuses." The membership capacity statuses in Rules 3.2(b) and 3.3(b) delineate the membership classifications that member individuals and firms may have on the Exchange. In addition, asterisks are attached to certain membership capacity statuses in Rules 3.2(b) and 3.3(b). Rules 3.2(b) and 3.3(b) explain that the membership statuses noted with an asterisk are referred to in the Exchange rules as membership capacity statuses. In practice, this simply means that a membership applicant must elect on the Exchange's membership application form one of the statuses designated with an asterisk. Since the material related to the asterisks, and the asterisks themselves, only reflect internal Exchange procedures for categorizing its members, the proposed deletions reflect technical changes that are intended to simplify Exchange rules.

The Exchange proposes to revise Exchange Rule 3.8(a)(iii) to provide that a nominee of a member organization approved solely as a Clearing Member is not required to have an authorized trading function. The effect of the proposed rule is to eliminate the requirement that a nominee of a Clearing Member be required to attend the Exchange's Member Orientation Program and to pass the Exchange's Trading Member Qualification Exam. Nominees of Clearing Members originally were required to attend the Exchange's Member Orientation Program and pass the Member Qualification Exam because Exchange Clearing Members generally engaged in both clearing and trading activities. A

Clearing Member conducting trading activities would have been required to have a nominee on the Exchange trading floor acting as a Floor Broker and/or Market-Maker. Certain Exchange Clearing Members have disposed of their trading activities and currently only engage in clearing activities on the Exchange. The proposed rule is intended to accommodate Clearing Members that only engage in clearing activities and do not otherwise engage in trading activities. Clearing Members that wish to engage in trading activities on the Exchange would still be required to designate a nominee who has an authorized trading function, and therefore would have to attend the Exchange's Member Orientation Program and to pass the Exchange's Trading Member Qualification Exam.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,³ in general, and with Section 6(b)(5) of the Act,⁴ in particular, which requires that CBOE rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

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 proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2005-10 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2005-10. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to

File Number SR-CBOE-2005-10 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland
Deputy Secretary

⁵ 17 CFR 200.30-3(a)(12).