

dealers may help to increase the depth and liquidity of the market for industry index options and may help to ensure that public customers receive the full benefit of the exemption. Moreover, the CBOE's monitoring procedures, as described above, should be able to detect any abuses and ensure that the options position, whether broker-dealer or customer, is properly hedged.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. As noted above, the Commission previously has approved similar proposals submitted by the PHLX and the PSE.¹⁸ The PHLX's and PSE's proposals were published for the full notice and comment period and the Commission received no comments on their proposals. The CBOE's proposal raises no new regulatory issues. Amendment No. 1 strengthens the CBOE's proposal by indicating that the CBOE's Department of Market Regulation will monitor hedge exemption accounts daily to determine that each exempted option contract is hedged by the equivalent dollar amount of component securities. Accordingly, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the proposed rule change and Amendment No. 1 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory

organization. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days after the date of this publication].

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁹ that the proposed rule change (SR-CBOE-96-18), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-12382 Filed 5-16-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37189; International Series Release No. 977; File No. SR-CBOE-96-09]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendments Thereto Relating to the Listing and Trading of Options on the Mexican Indice de Precios y Cotizaciones

May 9, 1996.

On February 27, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade options on the Indice de Precios y Cotizaciones ("IPC" or "Index"), a cash-settled, broad-based index designed to represent the overall Mexican equity market. The IPC was created, and is maintained, by the Mexican Stock Exchange ("Bolsa") and is widely recognized as the benchmark equity index for Mexico. Notice of the proposed rule change appeared in the Federal Register on March 12, 1996.³ No comments were received on the proposal.

On March 29, 1996, CBOE submitted Amendment No. 1 ("Amendment No. 1") to the proposal to address issues related to Index maintenance criteria.⁴ On April 11, 1996, CBOE submitted Amendment No. 2 ("Amendment No. 2") to the proposal to clarify certain Index maintenance criteria and to

address issues relating to the reduction and aggregation of position limits.⁵ On May 7, 1996, CBOE submitted Amendment No. 3 ("Amendment No. 3," together with Amendments No. 1 and 2, "Amendments") to the proposal to clarify CBOE's procedures for reducing position limits if the Index is subsequently reclassified as narrow-based.⁶ This order approves the proposal, as amended, and solicits comments on the Amendments.

I. Description of the Proposal

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style⁷ stock index options on the IPC, a broad-based, capitalization-weighted index comprised of 35 of the largest and most liquid stocks (issued by 28 issuers) on the Bolsa.⁸ The Exchange believes that options on the Index will provide investors with a low-cost means of participating in the performance of the Mexican economy and hedging against the risk of investing in that economy.

Index Design

The Index was designed by and is maintained by the Bolsa. These stocks selected for inclusion in the IPC were chosen based upon a combination of criteria relating to their trading volume and market capitalization. The Bolsa reviews a component's compliance with these criteria every two months. There are three criteria which could keep a potential replacement component stock from being added to the Index. First, suspended issues or those which have a material possibility of being suspended will not be included in the Index. Second, if the combined weight of two or more series of an index represented company were to exceed 15% of the weight of the Index, then only the series with the highest trading volume will be allowed to remain in the Index. Third, if a company is a subsidiary of another company that is in the Index and it represents more than 75% of the assets of the holding company it will not be included.

The IPC is composed of stocks from eighteen (18) industry groups including: Telecommunications, Diversified Holding Companies, Banks, Broadcasting, Building Materials, Mining, and Financial Services. The

⁵ See Letter from Joseph Levin, CBOE, to Howard Kramer, SEC, dated April 8, 1996.

⁶ See Letter from Eileen Smith, CBOE, to Stephen Youhn, SEC, dated May 6, 1996.

⁷ A European-style option may only be exercised during a specified period before expiration.

⁸ The Commission notes that Hylsamex SA-BCP is 82% owned by Alfa SA-A and that Tolmex SA-B2 is 99% owned by Cemex Sa.

¹⁸ See PHLX Approval Order and PSE Approval Order, *supra* note 4.

¹⁹ 15 U.S.C. 78f(b)(2) (1988).

²⁰ 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

² 17 CFR § 240.19b-4 (1994).

³ See Securities Exchange Act Release No. 36902 (March 5, 1996), 61 FR 10043.

⁴ See Letter from Joseph Levin, CBOE, to Howard Kramer, SEC, dated March 29, 1996.

median capitalization of the firms in the Index on February 2, 1996, was 6.581 billion Pesos (US\$889.38 million at the exchange rate of 7.4 pesos per dollar prevailing on February 2, 1996). The average market capitalization of these firms was US\$1.553 billion on the same date and using the same rate for exchange. The individual market capitalization of these firms ranged from US\$11.956 billion to US\$36.29 million on February 2, 1996. The largest stock accounted for 21.99% of the Index, while the smallest accounted for 0.07%. The top five stocks in the Index by weight accounted for 49.71% of the Index.

Calculation

The Index is capitalization weighted and its value is determined by multiplying the price of each stock times the number of shares outstanding, adding those sums and then dividing by a divisor which gave the Index a value of 0.78 on its base date of October 30, 1978. The Index can also be characterized as a "total return" index since it is adjusted for cash distributions. The Index had a closing value of 2862.59 on February 28, 1996.⁹ This divisor is adjusted for pertinent changes as described below in the section titled "Maintenance."

Maintenance

The Index will be maintained by the Bolsa. To maintain Index continuity, the divisor will be adjusted to reflect certain events relating to the component stocks. These events include, but are not limited to, ordinary cash dividends, changes in the number of shares outstanding, spin-offs, certain rights issuances, and mergers and acquisitions. When components are substituted, the Bolsa makes every effort to notify the public in advance of the upcoming changes. If it becomes necessary to replace a component between reviews, the Bolsa maintains a list of stocks for substitution. The Bolsa will publicly communicate these changes (e.g., news release) with as much notice as possible. The main selection criteria utilized by the Bolsa are trading volume and market capitalization. Although the IPC is presently comprised of 35 stocks, there have been as many as 50 components and the Bolsa is not precluded from increasing (or decreasing) this number.

Because the Index is maintained by the Bolsa, CBOE does not have the ability to ensure that the Bolsa maintains the Index in such a manner that guarantees its continued

classification as a broad-based index. Accordingly, CBOE has imposed specific maintenance criteria which, if breached, will result in the Index being re-classified as a narrow-based stock index for index options trading purposes. Upon the occurrence of one of the events listed below, CBOE will immediately re-classify the index as narrow-based: (a) the total market value of the Index falls to less than US\$25 billion for the majority of business days in the previous six-month period;¹⁰ (b) the largest component stock accounts for more than 35% of the weight of the Index for the majority of business days in the previous six-month period; (c) the top three component stocks account for more than 60% of the weight of the Index for the majority of days in the previous six-month period; or (d) the number of Index components falls to less than 20.¹¹

If one of the above events occurs and the Index is reclassified as narrow-based, CBOE will impose margin requirements consistent with those currently applicable to other narrow-based index options. Accordingly, CBOE will raise the initial margin level requirements for positions carried short in a customer's account from 15% to 20%. CBOE will also reduce the position limits from 50,000 contracts on the same side of the market to a level consistent with narrow-based index options. Specifically, CBOE will require that positions in IPC Index options be subject to the highest position limit level then applicable to narrow-based index options, as governed by CBOE Rule 24.4A.¹² CBOE will reduce position limits in the same manner as is currently used for reducing position limits for existing index options. Thus, all series of IPC options¹³ will be scheduled for a position limit decrease effective the Monday following the expiration of the farthest out then trading, non-LEAP option series. If, however, prior to the scheduled decrease or at the time of the subsequent six-month review, the index qualifies again for broadbased treatment, the position limit will not be reduced.¹⁴

¹⁰ See Amendment No. 2. \$25 billion represents the approximate U.S. dollar equivalent of 200 billion Mexican pesos, which CBOE originally proposed.

¹¹ See Amendment No. 1. In this regard, each of an issuer's securities which are included in the Index would be counted as separate components. For example, Cemex SA-A and SA-B would be counted as two components, despite being issued by the same company.

¹² See Amendment No. 2.

¹³ Such series include all long-term index option series ("LEAPS®") and reduced-value LEAPS, as discussed below, on the Index.

¹⁴ See Amendment No. 3.

Index Option Trading

The Exchange proposes to base trading in options on the Index on one-tenth of the value of the Index as expressed in U.S. dollars; these are known as full-value options. The Exchange also may provide for the listing of full-value LEAPS and reduced-value LEAPS on the Index. For reduced-value LEAPS, the underlying value would be computed at one-tenth of the value of the full-value options. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth. The Exchange will list expiration months for Index options and Index LEAPS in accordance with CBOE Rule 24.9.

The trading hours on the Bolsa are the same as those on the New York Stock Exchange—8:30 a.m. to 3:00 p.m. Chicago time. The trading hours for options on the Index will be from 8:30 a.m. to 3:15 p.m. Chicago time.¹⁵ The Bolsa calculates the value of the IPC based upon the prices of the component securities as traded or quoted on the Bolsa and disseminates this value to vendors of financial information. CBOE or its designee will disseminate the reduced IPC value (i.e., 1/10th of IPC value) through the Options Price Reporting Authority ("OPRA") every 15 seconds throughout the trading day.

Exercise and Settlement

IPC options will be p.m.-settled and expire on the Saturday following the third Friday of the expiration month. Thus, trading in the expiring contract month will normally cease on Friday at 3:15 p.m. (Chicago time) unless a holiday occurs. The exercise settlement value of Index options at expiration will be based upon the closing prices of component stocks on the regular Friday trading sessions in Mexico, ordinarily at 3:00 p.m. Mexico time. If a stock does not trade during this period or if it fails to open for trading, the last available price of the stock will be used in the calculation of the Index. When expirations are moved in accordance with Exchange holidays, such as when the CBOE is closed on the Friday before expiration, the last trading day for expiring options will be Thursday and the exercise settlement value of Index options at expiration will be determined at the close of the regular Thursday trading sessions in Mexico even if the

¹⁵ IPC options will continue to trade for 15 minutes after the Bolsa closes. This is consistent with trading times for other broad-based index options and also gives market participants the opportunity to adjust their positions after the Bolsa closes.

² As noted below, CBOE intends to trade index options based on 1/10th of the full value of the IPC.

Mexican markets are open on Friday. If the Mexican markets are closed on the Friday before expiration and CBOE is open for trading, the last trading day for expiring options will be Thursday.

Surveillance Agreements

The Exchange expects to apply its index option surveillance procedures of IPC options. In addition, the Exchange is aware of a Memorandum of Understanding ("MOU") between the Commission and the Comision Nacional Bancaria y de Valores ("CNBV"), which has oversight responsibility for the Mexican securities and derivatives markets. This MOU will enable the Commission to obtain information concerning the trading of the component stocks of the IPC. The Exchange also will make every effort to enter into an effective surveillance agreement with the Bolsa.

Position Limits

The Exchange is proposing to establish position limits for the Index options equal to 50,000 contracts on the same side of the market, with no more than 30,000 contracts in the series with the nearest expiration date. CBOE represents that these limits are roughly equivalent, in dollar terms, to the limits applicable to options on other indices. Ten reduced-value options will equal one full-value contract for such purposes. Furthermore, the hedge exemption rule applicable to broad-based index options, commentary .01 to CBOE Rule 24.4, will apply to IPC Index options.¹⁶ As discussed above, if the Index is re-classified as narrow-based, CBOE will reduce the position limits to the highest position limit tier then in effect for narrow-based index options.¹⁷

Exchange Rules Applicable

Except as modified herein, the Rules in Chapter XXIV will be applicable to IPC options. CBOE has the necessary systems capacity to support new series that would result from the introduction of IPC options and has also been informed that OPRA has the capacity to support such new series.¹⁸

II. Findings and Conclusions

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, and, in particular, the

requirements of Section 6(b)(5).¹⁹ The commission finds that the trading of options based on the IPC, including long-term options based on either the full or a reduced value of the Index, will serve to protect investors, promote the public interest, and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with the Mexican equity market and provide a risk management instrument for positions in the Mexican securities market.²⁰ The trading of options on the Index will permit investors to participate in the price movements of the Mexican equity securities underlying the Index. As a result, the trading of options on the Index will allow investors holding some or all of the underlying components to hedge the risks associated with those positions and should reflect accurately the overall movement of the Mexican equity market.

The trading of Index options and Index LEAPS, however, raises several issues related to index design and structure, customer protection, and surveillance. The Commission believes, for the reasons discussed below, that CBOE has adequately addressed these issues.

A. Index Design and Structure

The Commission finds that it is appropriate and consistent with the Act to apply the Exchange rules applicable to broad-based index options to IPC Index options.²¹ First, the Index consists of 35 of the largest and most liquid stocks (issued by 28 issuers) on the Bolsa.²² Second, stocks in the Index are among the most highly capitalized stocks on the Bolsa. For example, on February 2, 1996, the market capitalization of the individual stocks in the Index ranged from a high of US\$11.95 billion to a low of US\$36 million, with a mean value of US\$1.55 billion. Third, the total capitalization of

the Index on the same date was US\$54.3 billion.²³ Although this capitalization amount is not large in relation to other broad-based indexes previously approved for options trading, it is nonetheless a substantial capitalization for a foreign market and represents approximately half of the total capitalization of the Bolsa.²⁴ Fourth, the Index includes stocks of companies from eighteen separate industries. Fifth, the Commission recently approved the CBOE Mexico 30 Index ("Mexico 30 Index"), which is a broad-based, modified capitalization weighted index comprised of thirty Mexican stocks. The Commission notes that the IPC and Mexico 30 Index are substantially similar. Accordingly, the Commission is satisfied that the Index adequately represents the Mexican equity market.

Furthermore, the Commission believes that the general broad diversification of the Index component stocks, as well as their high capitalizations and trading activity, minimize the potential for manipulation of the Index. First, as discussed above, the Index represents a broad cross-section of highly-capitalized Mexican stocks, with no single industry group or stock dominating the Index. Second, the overwhelming majority of stocks that comprise the Index are relatively actively traded. Third, the Commission believes that the Bolsa's index selection and maintenance criteria should serve to ensure that the Index continues to represent stocks with the highest capitalizations and trading volumes on the Bolsa. In addition, the Exchange has proposed position and exercise limits for the Index options that are consistent with other broad-based index options.

Because CBOE is not responsible for Index maintenance, however, the Commission recognizes that certain events beyond CBOE's control may result in the Index changing in a manner such that it is no longer broad-based. In this regard, CBOE has adopted maintenance criteria which, if breached, will result in the re-classification of the Index as narrow-based. If this occurs, CBOE will decrease position limits and increase margin requirements to levels consistent with other narrow-based index options. The Commission believes these criteria are adequate and should serve to prevent a narrow-based index from trading pursuant to more favorable broad-based index option rules.

¹⁹ 15 U.S.C. 78f(b)(5) (1988 & Supp. V 1993).

²⁰ Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of rule changes pertaining to any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

²¹ The reduced value IPC, which is calculated by dividing the full-value Index to be traded on CBOE by ten, is essentially identical to the IPC.

²² As CBOE notes, while some of the stocks in the Index have relatively low trading volume, they account for only a small percentage of the Index weighting.

²³ In the event the aggregate capitalization of the Index falls below \$25 billion, CBOE will re-classify the Index as narrow-based, as discussed above.

²⁴ A foreign index capitalization that is smaller than that of the IPC would raise questions regarding whether that particular index warranted broad-based index options treatment.

¹⁶ Telephone conversation between Eileen Smith, CBOE, and Steve Youhn, SEC, on February 28, 1996.

¹⁷ See Amendments No. 2 and 3.

¹⁸ See Letter from Joe Corrigan, OPRA, to Eileen Smith, CBOE, dated February 21, 1996.

Under CBOE's maintenance criteria, no single stock may account for more than 35% of the Index weight and no three components may exceed 60% of the total Index weight. In addition, the number of Index components may not fall below 20 and the total capitalization of the Index may not fall below US\$25 billion. If any of these events occur, the Index will be re-classified as narrow-based. The Commission believes that these standards will ensure that if the Index becomes dominated by one or a few components, or if it fails to be broadly representative of the Mexican equity market, it will cease to trade pursuant to broad-based index option rules.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Index options and Index LEAPS, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Index options and Index LEAPS.²⁵

C. Surveillance

In evaluating derivative instruments, the Commission, consistent with the protection of investors, considers the degree to which the derivative instrument is susceptible to manipulation. The ability to obtain information necessary to detect and deter market manipulation and other trading abuses is a critical factor in the Commission's evaluation. It is for this reason that it is important for the SEC to determine that there is an adequate mechanism in place to provide for the

exchange of information between the market trading the derivative product and the market on which the securities underlying the derivative product are traded. Such mechanisms enable officials to surveil trading in both the derivative product and the underlying securities.²⁶ For foreign stock index derivative products, such mechanisms are especially important for the relevant foreign and domestic exchanges to facilitate the collection of necessary regulatory, surveillance and other information.

With respect to the CBOE proposal, CBOE and the Bolsa do not have a written surveillance sharing agreement that covers the trading of IPC options at the time.²⁷ Moreover, it is the Commission's understanding that the Bolsa currently is not able to provide the requisite information for a comprehensive surveillance sharing instrument. Thus it would be impossible for the CBOE to secure a comprehensive agreement. In such cases, the Commission has relied in the past on surveillance sharing arrangements between the relevant regulators. In regard to the IPC, the Commission notes that the Bolsa is under the regulatory oversight of the CNBV, which has responsibility for both the Mexican securities and derivatives markets. The Commission and the CNBV have concluded a Memorandum of Understanding, dated October 18, 1990, that provides a framework for mutual assistance in investigatory and regulatory issues.²⁸ Based on the relationship between the SEC and CNBV and the terms of the MOU, the Commission understands that both it and the CNBV could acquire information from and provide information to the other similar to that which would be required in a comprehensive surveillance sharing

agreement between exchanges.²⁹ Moreover, the agencies could make a request for information under the MOU on behalf of an SRO that needed the information for regulatory purposes. Thus, should the CBOE need information on Mexican trading in the Index component securities to investigate incidents involving trading of Index options, the SEC could request such information from the CNBV under the MOU. While this arrangement certainly would be enhanced by the existence of direct exchange to exchange surveillance sharing agreements, it is nonetheless consistent with other instances where the Commission has explored alternatives when the relevant foreign exchange was unwilling or unable to enter into a comprehensive surveillance sharing agreement.³⁰

Accordingly, the Commission believes the MOU provides sufficient basis for the exchange of necessary surveillance information. The Commission continues to believe strongly, however, that the Bolsa and the CBOE should continue to work together to consummate a formal surveillance sharing agreement to cover IPC Index options as soon as practicable.

The Commission finds good cause for approving the Amendments to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. The Amendments outline CBOE's maintenance criteria with respect to the IPC and the procedures for reducing position limits, if necessary. As discussed above, although CBOE is not responsible for maintenance of the IPC, it has adopted criteria which, if breached, will result in the re-classification of the index to narrow-based. Because CBOE does not have the ability to maintain the Index in order to ensure that it remains broad-based, the Commission believes the adoption of these standards are reasonable to address the trading issues presented by a significant change in the character and composition of the Index. In addition, the Commission believes that the standards are sufficient to ensure that if the IPC does not continue to be representative of the Mexican equity market, or if the Index becomes dominated by one or a small number of stocks, it will cease to be classified as broad-based for U.S. index options

²⁶ The Commission believes that a comprehensive surveillance sharing agreement should provide the parties thereto with the ability to obtain information necessary to detect and deter market manipulation and other trading abuses. Consequently, the Commission generally requires that such agreements require that the parties provide each other, upon request, with information about market trading activity, clearing activity, and the identity of the purchasers and sellers of securities underlying the derivative product. See, e.g., Securities Exchange Act Release No. 31529 (Nov. 27, 1992), 57 FR 57424.

²⁷ The CBOE has committed to make every effort to enter into a comprehensive surveillance sharing agreement with the Bolsa.

²⁸ The CNBV is the successor to the Comision Nacional de Valores of Mexico, which was merged with the Mexican Banking Commission in April 1995 to form the CNBV. See National Banking and Securities Commission Act, Mexico, dated April 24, 1995.

²⁹ This information could include transaction, clearing, and customer identity information necessary to conduct an investigation.

³⁰ See, e.g., Securities Exchange Act Release No. 36070 (Aug. 9, 1995), 60 FR 42205 (Aug. 15, 1995) (Order Approving Proposed Rule Changes Relating to the Listing and Trading of Warrants on the Deutscher Aktienindex).

²⁵ As discussed above, CBOE has represented that it and OPRA have the necessary systems capacity to support those new series of options that would result from the introduction of Index options and Index LEAPS. See Memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated February 21, 1996.

trading purposes. If reclassified as narrow-based, Amendment No. 3 establishes procedures for reducing position limits which, the Commission notes, are consistent with existing procedures for reducing narrow-based index option position limits.

Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve the Amendments on an accelerated basis.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the Amendments. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 7, 1996.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,³¹ that the proposed rule change (SR-CBOE-96-09) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-12385 Filed 5-16-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37201; File No. SR-CBOE-96-24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to as of Add Submissions

May 10, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 15, 1996, 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 the self-regulatory organization. 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 CBOE proposes to terminate its fee program for members who, for more than a prescribed percentage of transactions, submit trade information pursuant to CBOE Rule 6.51 after the date on which the trade is executed. (These post-trade date submissions are commonly referred to as "as of adds.") In conjunction with the foregoing, the Exchange also proposes to revise the structure of its as of add summary fine program. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

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. The 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

CBOE Rule 6.51 requires, among other things, that (i) a participant in each transaction to be designated by the Exchange shall immediately report the transaction to the Exchange and (ii) each business day, each Clearing Member shall file with the Exchange trade

information covering each Exchange transaction made by it or on its behalf during the business day.

On October 1, 1993, the Exchange instituted an as of add fee program to collect fees from members who, for more than a prescribed percentage of transactions, submit trade information pursuant to Rule 6.51 after the date on which the trade is executed. This program is set forth in CBOE Rule 2.26 and currently functions in the following manner. Each individual member is assessed a \$10.00 fee for each as of add submitted by the member during a given month that is in excess of 2.4% of the member's trade submissions during that month. Similarly, each Clearing Member is assessed a \$3.00 fee for each as of add submitted by the Clearing Member during a given month that is in excess of 1.2% of the Clearing Member's trade submissions during that month. In addition, the total fee under the program that may be assessed against a member in a given month are capped at \$500 for individual members and at \$1,000 for Clearing Members.

The reason the Exchange implemented the as of add fee program was to allocate the costs borne by the Exchange in processing as of add submissions to those members most responsible for generating those costs and thereby to encourage the submission of information with respect to a trade on the date the trade is executed by creating an economic incentive to submit the information on that day. During the first year of the program, the percentage of as of add submissions declined by 10% even though the Exchange experienced a 37% increase in trading volume. Based on past experience, the Exchange estimates that had the program not been in effect during that time period, the percentage of as of add submissions would have doubled. Since November, 1994, however, the percentage of as of add submissions has remained relatively constant. Therefore, although the program has clearly been effective in reducing the percentage of as of add submissions, it no longer appears to be causing a reduction in the rate of those submissions.

Accordingly, the Exchange is proposing to terminate the as of add fee program and to seek further reductions in the percentage of as of add submissions by revising the structure of the Exchange's as of add summary fine program.

The Exchange instituted its as of add summary fine program on February 1, 1995. The program is a part of the Exchange's minor rule violation plan and is set forth in CBOE Rule

³¹ 15 U.S.C. 78s(b)(2) (1988).

³² 17 CFR § 200.30-3(a)(12) (1994).