

above \$200, respectively. The Index Multiplier for NYA Options is \$100. CBOE proposes to apply to NYA Options the same 45,000 contract position and exercise limits (no more than 25,000 contracts expiring in the nearest expiration month) and the same hedge exemption that currently apply to such options under NYSE rules. In addition to regular index options, CBOE proposes to provide for trading in Quarterly Index Expiration options ("QIX" options), long-term and reduced-value long-term options ("LEAPs" and "reduced-value LEAPs") and A.M.-settled FLEX Options on the Index pursuant to the same rules and procedures that currently govern trading on CBOE in these types of options.

In addition, the proposed rule change includes a few corrections to the table of position limits set forth in Rule 24.4 in order to add references to classes of index options that were inadvertently omitted from the table when it was last revised, and a few clarifications to the language of Rule 24A.4(b) concerning the specification of the exercise settlement values for FLEX Index Options. No substantive changes will result from these corrections and clarifications.

CBOE believes that it has adequate facilities and resources to provide for the trading, surveillance and data dissemination called for by the transfer of the NYSE options business to its market. In this connection, CBOE intends to construct a new trading facility dedicated solely to NYSE Options, which will be configured and equipped in the same manner as its existing trading floor. The surveillance and regulatory responsibilities resulting from the transfer of the NYSE options business to CBOE are not expected to add significantly to CBOE's existing regulatory workload, and CBOE believes it has adequate resources to assume these added responsibilities. CBOE intends to add one additional output line to the OPRA processor for purposes of transmitting market information pertaining to NYSE Options. This will not increase the total input to OPRA because two lines from NYSE to the OPRA processor will be terminated at the time of the transfer to CBOE.

CBOE believes that the proposed rule change is consistent with and in furtherance of the provisions of Section 6(b)(5) of the Securities Exchange Act of 1934 because, by permitting those NYSE members who have been engaged in options activities on NYSE to continue to conduct an options business in CBOE's regulated exchange marketplace, the proposed rule change is designed to promote just and

equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, 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. Instead, by providing a framework within which all of the members of NYSE who have been active in NYSE's options business may continue to conduct that business on CBOE, the proposed rule change is intended to strengthen the ability of those members to compete with other markets that may also wish to trade the options formerly traded on NYSE. In this regard, CBOE understands that early in 1996, NYSE determined to continue its options business regardless of whether it would be able to transfer that business to CBOE or to any other market. NYSE's effort to transfer its options business to another market was made largely in order to provide a home for those of its options members who wished to continue in the options business, as evidenced by NYSE's emphasis on trading rights for its members in its request for bids for the acquisition of its options business.

The terms governing the transfer of NYSE's options business to CBOE impose no restrictions on the ability of NYSE to resume options trading at any time, except that if NYSE were to resume trading options within one year following the Effective Date, it would have to pay CBOE \$500,000 to offset a small portion of CBOE's costs associated with the transfer. Nor are any restrictions imposed on NYSE members that would limit their ability to trade options on NYSE if that exchange were to resume its options trading program. CBOE notes that any other securities market is also free at any time to trade any or all of the options formerly traded on NYSE, other than NYA Options, which will be exclusively licensed to CBOE.

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 thirty-five 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 ninety 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-97-14 and should be submitted by April 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-6562 Filed 3-14-97; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-38376; File No. SR-NYSE-97-05]

Self-Regulatory Organizations; New York Stock Exchange, Inc., Notice of Filing of Proposed Rule Change Relating to the Agreement Transferring the New York Stock Exchange Options Business to the Chicago Board Options Exchange

March 7, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

⁷ 17 CFR 200.30-3(a)(12).

("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 3, 1997, the New York Stock Exchange, Inc. ("NYSE" 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 NYSE. 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 NYSE has determined to cease maintaining a trading facility for transactions in options issued by The Options Clearing Corporation ("OCC") and proposes to facilitate transfer of its options business to the Chicago Board Options Exchange, Incorporated ("CBOE").³

As more fully described below, under the agreement between the Exchange and CBOE that sets forth the terms and conditions pursuant to which the transfer will take place ("Transfer Agreement"),⁴ CBOE will issue trading permits to NYSE options firms in accordance with the number of NYSE floor badges held by the firms' partners, employees and affiliates. Subject to certain limitations described in the Transfer Agreement, the Exchange proposes to have discretion to condition the issuance of permits upon the payment of any amounts owed to the Exchange by the options firms or their badge holders or other affiliates, as the case may be, which may include holders of the corresponding NYSE Options Trading Rights ("OTRs").

In addition, the Transfer Agreement gives the Exchange control over possible payments to certain holders of OTRs or their transferees arising from a lease pool of permits called for by the Transfer Agreement, as more fully described elsewhere in this notice. The Exchange proposes to have discretion to withhold permission for such payments until (1) any amounts owed to the Exchange by the OTR holder or its affiliates are paid (which may be effected by directing CBOE to make the payments directly to the Exchange until the indebtedness is satisfied) and (2) in

the case where the OTR has been separated, the holder transfers his OTR to the Exchange.

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

In its filing with the Commission, the NYSE 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 NYSE 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

(a) Purpose

The purpose of the proposed rule change is to effect the fair and orderly transfer of the Exchange's options business to CBOE and to secure for traders and brokers who currently make their living on the Exchange's options floor an opportunity to continue their occupations at CBOE.

The basic parameters of the transfer and their purposes, as well as the environmental factors that led to the transfer and molded the negotiations between the Exchange and CBOE, are described below.

(i) Overview

CBOE will acquire the options business conducted through the Exchange's options facilities pursuant to the Transfer Agreement. The effective date of the acquisition is scheduled for April 28, 1997, subject to fulfillment of conditions specified in the Transfer Agreement and approval of this proposed rule change and the parallel filing by CBOE.

(ii) Background

In April 1996, the Exchange undertook a strategic review of the 13-year operation of its options business. In the course of the review, the Exchange considered the potential for overall growth in the options industry; explored the needs of the order-providing firms and the relationships through which the options business is done; assessed the existing capacity and structure in the options industry and the Exchange's existing and potential competitive position; and examined the scale of the effort necessary to make the Exchange's options business line profitable. The Exchange concluded that remaining in

the options business, even at the then-current market share, would require significant capital expenditures, and that any effort to significantly improve market share would require an enormous expenditure of capital and human resources.

On May 2, 1996, upon presentation of the strategic review to the Exchange's Board of Directors, it was determined that further investigation would be made into the possibility of exiting the options business and directing the resources previously expended on that business to the Exchange's core equity business.

Publicity via Reuters and other news media followed this determination, resulting in numerous inquiries from options exchanges, commodities exchanges, member firms and others as to the possible acquisition of the Exchange's options business. Several of these inquiries mentioned the possibility of granting special trading privileges, relocation payments and other benefits to the Exchange's options members in connection with their collective relocation to the acquirer, as well as the possibility of paying licensing fees and other amounts to the Exchange.

In light of these inquiries and other factors, on June 24, 1996, the Exchange notified its members and member organizations that it would transmit to the various exchanges and others that had expressed interest in acquiring its options business the proposed terms for the sale of the business, as well as certain operational and other statistical data. This information was sent on or about June 27, 1996, except as to one recipient to whom it was sent on July 19, 1996.

These transmissions resulted in a series of telephone and face-to-face discussions with a variety of potential purchasers. The American Stock Exchange ("AMEX"), CBOE and the Philadelphia Stock Exchange ("PHLX") provided detailed, written preliminary bids and executed confidentiality agreements with the Exchange.⁵

During these discussions, it became clear that because there are as many

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

³ On March 3, 1997, the CBOE filed with the Commission a proposed rule change, SR-CBOE-97-14, regarding the transfer of the NYSE options business.

⁴ CBOE's parallel filing includes the Transfer Agreement as Exhibit B to the filing. The Exchange's proposed rule change and this notice incorporate Exhibit B to SR-CBOE-97-14.

⁵ NYSE also met on several occasions with the New York Cotton Exchange ("Cotton Exchange"), but the Cotton Exchange did not make a written submission to NYSE and did not comply with any deadlines under NYSE's tender process during August and September 1996. Moreover, the cotton Exchange faced barriers to entry not applicable to the other exchanges, including absence of registration as a national securities exchange with the Commission and lack of requisite systems and regulatory capacity. By letter to NYSE dated December 16, 1996, (attached as a part of Exhibit A to this filing), the Cotton Exchange indicated that it had no interest in acquiring NYSE's options business.

OTRs as there are Exchange members (a total of 1366), but only 92 OTRs were directly involved in the options business, there was an excess of 1,274 OTRs, thus complicating negotiations to obtain cost-free trading permits. Accordingly, by resolution on September 5, 1996, the Exchange's Board limited the universe of OTR holders potentially entitled to direct benefits from the transfer to present and future holders of the 92 "activated" OTRs, that is, to: (1) Regular members who already were using or leasing out their OTRs, (2) holders of OTRs separated from equity memberships, and (3) subsequent purchasers from them.

Based upon review of these preliminary bids and other factors, the Exchange sent to those three preliminary bidders a letter dated September 10, 1996, requesting firm, written bids (the acceptance of which by NYSE would create a letter of intent between the parties), providing parameters for the bids, and asking that the bids be submitted within a week. The Exchange received written bids from CBOE and AMEX, each dated September 17, 1996, and from PHLX, dated September 16, 1996.

Based upon its comparison of these bids, telephone conferences and discussions with representatives of the bidders, the Exchange staff recommended the CBOE bid to the Exchange's Board of Directors. The recommendation was based on several factors, including that CBOE's bid was competitive with the other bids financially and generally superior in terms of the opportunity it promised for NYSE options traders and brokers to continue to make their livings in the options business. In particular, the CBOE bid, which was competitive from the standpoint of trading rights, offered a separate, state-of-the-art facility for the transferred business. The likelihood that CBOE would remain viable for the long term was also a key factor.

On October 3, 1996, the Board indicated its preference for negotiations with CBOE based upon CBOE's bid. By letter to CBOE dated October 3, 1996, NYSE accepted CBOE's bid, thereby creating a letter of intent between NYSE and CBOE.

On November 7, 1996, following further clarification of CBOE's bid and extensive discussions between CBOE and NYSE, the Board authorized execution and delivery of the requisite agreements and other appropriate actions with CBOE to consummate the proposed transaction.

On December 5, 1996, the Exchange and CBOE executed a revised letter of

intent for the purpose of further clarifying certain points. On December 9, 1996, the Exchange distributed on its options floor a memorandum explaining the proposed transaction and, shortly thereafter, mailed copies thereof to the 92 OTR holders discussed above. The Exchange and CBOE executed the Transfer Agreement as of February 5, 1997.

(iii) Trading Permits and How They Benefit Exchange Options Firms and Options Trading Rights

This section highlights the key elements of the rights, privileges and benefits available to transferring NYSE options members pursuant to the rules CBOE proposes to adopt in accordance with the Transfer Agreement.

(aa) Creation and Issuance of CBOE Trading Permits

CBOE will create and issue 75 trading permits, each having a seven-year duration. Subject to limited exceptions, the permits may not be sold, leased or transferred for a period of one year after the effective date under the Transfer Agreement. The permits will provide for trading on a new and separate trading floor at CBOE's Chicago facility. Representatives of the Exchange's options community will have the opportunity to participate in the design of the new trading floor, which will have services and support facilities comparable to those used on CBOE's principal options trading floor. Upon qualification pursuant to CBOE rules, permit recipients will have (1) the right to act as broker or dealer in transferred options (i.e., options traded on NYSE and not dually listed on CBOE), as well as in options subsequently allocated to the program by CBOE; (2) the right to trade "by order" as principal on CBOE's principal trading facility those options dually listed on NYSE and CBOE; and (3) the right to trade "by order" as principal on CBOE's principal trading facility any other classes of CBOE options up to an aggregate of 20 percent of the holder's quarterly contract volume on CBOE.

In addition, each NYSE options specialist unit will be appointed as the CBOE Designated Primary Market-Maker ("DPM") in its transferred specialty options. CBOE will allocate to the new program securities underlying at least 14 options classes per year for the first seven years after the transfer.

Permit holders will be subject generally to the same obligations under the CBOE rules as are regular CBOE members, except that application fees will be waived in certain instances. Under certain circumstances, recipients

of permits or their nominees who move their principal residence to Chicago and qualify under CBOE rules may receive up to \$10,000 per permit for customary moving expenses.

(bb) Recipients of Permits; Manner of Issuing Permits; Lease Pool

The 75 Permits are to be issued as follows:

(1) *Non-Specialist Firms* ("Homesteader Rule"). Each Exchange non-specialist options firm, including sole proprietors, doing business on the NYSE options floor will be offered the same number of permits as that firm had in valid NYSE floor badges as of December 5, 1996. However, in order for the firm to actually receive permits, the firm's individual badge holders on that date must personally qualify and trade on CBOE as individual permit holders or as "nominees" of the firms owning permits. Consistent with CBOE rules permitting partnerships and corporations to be members, the firms themselves may own permits. CBOE may impose limits on transfers of permits and prohibit substitution of nominees in a manner designed to assure that permits are not transferred, and that nominees remain with the firm at CBOE, for one year after issuance.

(2) *Specialist Firms*. As in the case of non-specialist firms, each Exchange specialist options firm, including joint books, will be offered the same number of permits as that firm had in valid NYSE floor badges as of December 5, 1996. However in contrast to non-specialist firms, no specified individual will be required to be a specialist firm's nominee or to move to or remain at CBOE as a condition of a permit's effectiveness. Instead, the specialist firms can select the persons to become nominees and use the permits. Nominees may be freely substituted, but CBOE may impose limits on transfers of permits designed to assure that permits are not transferred for one year after issuance.

(3) *Creation of Lease Pool and Distribution of Proceeds*. CBOE will lease out any of the 75 permits not issued as specified above, as well as any permits revoked due to violation of CBOE restrictions on transfer and substitution of nominees, through an auction or other competitive process. The proceeds from the leases will be distributed pro rata to the approximately 92 persons who, as a result of their OTRs, were entitled to possible benefits, as discussed above.

(cc) Transfer Agreement Provisions As Pragmatic Compromises

The elements of the transfer outlined above represent a series of pragmatic compromises negotiated to reconcile the respective goals of the Exchange and CBOE. As noted above, the Exchange sought to minimize the disruption in the lives of the option badge holders and to maximize the opportunity for its options traders and brokers to continue to make their livings in the options business after the transfer.

In contrast, CBOE sought to maximize the success of the transferred market as a whole by seeking to assure (1) That the NYSE options specialists participated in the transfer, (2) that NYSE option traders and brokers with trading experience moved to Chicago, and (3) that the number of permits issued optimized the viability of the transferred market as a whole and of the businesses of the permit holders individually. Thus, for example, the Transfer Agreement's "homesteader" element was designed to support CBOE's general goal of attracting experienced traders. However, the omission of a homesteading requirement for specialists reflects the higher priority attached by CBOE to assuring that all of the options specialists participated in the transfer.

(iv) Purchase Price and Economic Rationale

The purchase price under the Transfer Agreement is \$5,000,000. Following is a discussion of the economic basis supporting this purchase price and the transaction, generally.

By acquiring the Exchange's options business, CBOE will obtain a trained pool of talent with experience in the trading characteristics of the transferring option classes and customer relationships. Assuming that these attributes and CBOE's own assets enable it at least to retain the Exchange's market share, CBOE will acquire a substantial revenue stream offset by only marginal increases in operating costs. CBOE also will face a one-time investment in facilities.

Typically in the sale of a going business, the seller receives a multiple of annual revenues, especially if lower fixed or marginal costs, or other factors, allow the purchaser a better opportunity than the seller to realize benefits from existing or anticipated revenues. The Exchange believes that the Transfer Agreement does no more than recognize an appropriate sharing of these revenues.

(v) Use of Proceeds

The Exchange will retain \$1.2 million of the purchase price to partially offset Exchange exit costs and as compensation for a ten-year license given to CBOE to list and trade options on the NYSE Composite Index. The Exchange will distribute the remaining \$3.8 million of the purchase price, net of an appropriate tax reserve, on a pro rata basis to all of its 1366 members, subject to a determination of whether or not the distribution will be taxed both to the Exchange and to the member recipients. The tax reserve recognizes that the distribution of the lease pool proceeds discussed elsewhere in this notice may also result in imputed income to the Exchange. The Exchange will apply to the Internal Revenue Service for Private Letter Rulings to resolve the two tax question. Pending receipt of the rulings, CBOE will pay the \$3.8 million into an Escrow Account.

If the Exchange receives an adverse ruling on the lease proceeds, a portion of the escrow account will be released annually as needed to fund tax payments, with any surplus reverting to the Exchange's treasury after the lease pool terminates in the year 2004. If the Exchange receives an adverse ruling on the distribution to the 1366 members, distribution (net of any tax reserve for the lease pool proceeds) of some or all of the escrow account may be made to the NYSE Foundation⁶ instead of the 1366 members. Under no circumstances will escrow funds, except for amounts owed to the Exchange and any tax reserves or reserve surplus, be distributed other than to the 1366 members or the NYSE Foundation.

(vi) Conditions to Receipt of Permits and Lease-Pool Payments

The discretionary conditions requiring payment of outstanding amounts owing to the Exchange implement similar existing requirements under the Exchange's Constitution and rules. (See, e.g., NYSE Constitution, Article II, Section 8; NYSE Rule 795(d)(i); and NYSE Rule 795.10, Supplementary Material.) The discretionary condition requiring transfer of separated OTRs to the Exchange is a housekeeping matter designed to assure that all OTRs, which

⁶The NYSE Foundation, authorized by the Board of Directors of the Exchange in October 1983 and incorporated as a not-for-profit organization in November 1983, provides funds for educational, civic and charitable purposes. The Foundation's charitable giving focuses on three main areas: education, quality of life, and community. The escrow funds would be available for any such purposes other than those specifically targeted at the securities industry.

will have only speculative value at the conclusion of the transfer, are held either by regular members or the Exchange itself.

(b) Basis

The Exchange believes the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a full and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 Act.

The Exchange notes that in CBOE's parallel filing, Item 4 of SR-CBOE-97-14, CBOE outlines the way in which the transfer enhances the competitive environment and imposes no restrictions on trading by NYSE or other markets of the stock options now traded on NYSE, other than options on the NYSE Composite Index subject to the license agreement with CBOE. The Exchange's proposed rule change and this notice incorporate Item 4 of CBOE's filing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has received the following written comments from members or other interested parties:

Letter to Richard Grasso, Chairman and Chief Executive Officer of the Exchange, from Stephen G. O'Grady, Frank Barbato and Greg Tenbekjian, Exchange options traders, dated November 22, 1996, objecting to the proposed transaction with CBOE on the grounds that various classes of options participants were not treated equally. The Exchange has not made and could not make any representation to members concerning exact equality of treatment. As more fully explained elsewhere in this notice, the bid process initiated by the Exchange brought to bear the dictates of the market which, generally, placed a higher premium on specialist participation in any transfer than on participation by brokers. The Exchange, which was under no obligation to obtain any benefits for any options participants, felt it was unreasonable to

reject potential benefits to almost all options participants, including brokers whose badge holders were willing to transfer to CBOE, because the marketplace placed a higher premium on participation by one group than another.

Letter to Lewis J. Horowitz, Executive Vice President of the Exchange, from Joseph J. O'Neill, President of the New York Cotton Exchange, dated December 16, 1996, to the effect that the Cotton Exchange had no interest in acquiring the Exchange's options operations.

Letter to Rudolph Giuliani, Mayor of the City of New York, from Mark Green, Public Advocate of the City of New York, dated January 8, 1997, regarding possible loss of jobs in New York City as a result of the transfer to CBOE.

Letter to the Exchange from Isaac M. Ovadiah, an OTR lessor, dated January 9, 1997, reflecting the writer's intent to arbitrate against the Exchange's future plans concerning trading rights and to apply to the federal courts seeking injunctive relief. The Exchange knows of no basis pursuant to which arbitration would be available to Mr. Ovadiah and no basis for the granting of an injunction or similar relief with respect to any of the proposed transactions with CBOE. The Exchange has received no further written communication from Mr. Ovadiah concerning the matters referred to above.

Letter to William Johnston, President and Chief Operating Officer of the Exchange, from Cohen, Duffy, McGowan & Co., LLC, dated January 16, 1997, to the effect that the Exchange's process for the proposed transfer to CBOE was fair and that the economic benefit to members choosing to go to CBOE will surpass anything they could have achieved elsewhere.

Memorandum to William Johnston, President and Chief Operating Officer of the Exchange, from Mark Duffy, an Exchange options trader, dated January 20, 1997, to the effect that the proposed CBOE transaction is fair and provides beneficial opportunities.

Letter to William Johnston, President and Chief Operating Officer of the Exchange, from Lawrence Helfant, Inc., dated February 4, 1997, indicating that the firm did not support any possible legal action against the Exchange by OTR holders with respect to the proposed transfer to CBOE and that it endorsed the proposed transfer.

Letter to William Johnston, President and Chief Operating Officer of the Exchange, from BE Partners, dated February 12, 1997, to the effect that the CBOE proposal was the best of the

proposals from the major exchanges for transfer of the options business.

Undated notice entitled "An Open Letter To The Members, Directors, and Chairman of the New York Stock Exchange" from certain NYSE options participants named therein, as distributed on the Exchange's Options floor, reflecting opposition to the proposed transaction. The Exchange notes that it could simply have terminated its options business and sought no benefits for any options participants.

However, as is more fully explained elsewhere in this notice, the Exchange has obtained substantial benefits for a broad cross-section of options participants. The objections voiced in this notice do not take into account the foregoing fact or the limitations and trade-offs inherent in the negotiation process necessarily undertaken by the Exchange in connection with the proposed transaction. The Exchange believes that all objections set forth in the notice from the options participants have been addressed in the Exchange's notice and rule filing and that the proposed transaction will be beneficial to the Exchange's overall membership.

Undated and unsigned notice entitled "NYSE Options Update", as distributed on the Exchange options floor, alleging various shortcomings in the proposed transaction, all of which were responded to or explained in the body of the Exchange's notice. An abbreviated reiteration of those responses with respect to all substantive issues in the notice follows: (i) The assertion that NYSE members who have not activated their OTRs will receive no compensation is not correct; depending upon rulings from the Internal Revenue Services with respect to tax treatment of certain proceeds from the transaction, members may receive a pro rata distribution of some or all of such proceeds, or will benefit indirectly from contribution of amounts to the NYSE Foundation; (ii) as to OTR lessors "losing their income" for OTR leases, it is anticipated that, subject to certain contingencies, OTR lessors will receive, for 7 years, payments from the lease pool to be maintained by CBOE which will exceed lease payments now received for OTRs; and (iii) as to current "operatives" of OTRs receiving "severely limited trading rights on CBOE", in fact, CBOE is creating a new and separate trading floor with new and very broad-based trading rights available in former NYSE options and other options to transferring NYSE participants who meet CBOE rules and requirements.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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. Persons making written submissions should file six copies thereof with the Secretary, Security and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-97-05 and should be submitted by April 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-6560 Filed 3-14-97; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

State of Mississippi Declaration of Disaster #2936

Union County and the contiguous Counties of Benton, Lafayette, Lee, Marshall, Pontotoc, Prentiss, and

⁷ 17 CFR 200.30-3(a)(12).