

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41783; File No. SR-AMEX-99-13]

Self-Regulatory Organizations; Order Granting Accelerated Approval to a Proposed Rule Change and Amendment Nos. 1 and 2 and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 by the American Stock Exchange LLC Relating to Specialist Capital Requirements

August 23, 1999.

I. Introduction

On April 2, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), 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 Amex Rule 950(h) to revise the minimum financial requirement for options specialists. In addition, the Amex proposes to revise Amex Rule 950(h), Commentary .01 to codify the Amex's procedures for calculating the minimum financial requirement for specialists that maintain a book in both equities and options (an "equity/options book"). On June 11, 1999, July 16, 1999, and August 23, 1999, the Amex filed with the Commission Amendment Nos. 1, 2, and 3 to the proposal.³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 revised the proposal to: (1) Provide an example comparing the financial requirements for options specialists under the rules of the Amex, the Pacific Exchange, and the Chicago Board Options Exchange; and (2) provide examples demonstrating the calculation of the capital requirements for joint equity/options specialists. See letter from Scott G. Van Hatten, Legal Counsel, Derivatives and Securities, Amex, to Richard Strasser, Division of Market Regulation ("Division"), Commission, dated June 10, 1999 ("Amendment No. 1"). Amendment No. 2 to the proposal provides two charts setting forth specialist financial requirements as of two dates in May 1999. See letter from Scott G. Van Hatten, Legal Counsel, Derivatives and Securities, Amex, to Richard Strasser, Division, Commission, dated July 23, 1999 ("Amendment No. 2"). Amendment No. 3 indicates that the changes to Commentary .01 are a codification of the Amex's current procedures for calculating the minimum financial requirement for a specialist that maintains an equity/options book. See letter from Claire P. McGrath, Vice President and Special Counsel, Derivative Securities, Amex, to Richard Strasser, Assistant Director, Division, Commission, dated August 23, 1999. See also telephone conversation among Claire P. McGrath, Vice President and Special Counsel, Derivative Securities, Amex, James McNeal, Amex, and Yvonne Fraticelli, Special Counsel, Division, Commission, on August 23, 1999 ("August 23 Conversation").

In addition, the Amex filed a letter describing financial safeguards applicable to specialists,

Notice of the proposed rule change and Amendment Nos. 1 and 2 were published for comment in the **Federal Register** on August 9, 1999.⁴ To date, the Commission has received no comment letters regarding the proposal. This order approves the proposal and Amendment Nos. 1, 2, and 3 to the proposal on an accelerated basis.

II. Description of the Proposal

The Amex proposes to amend Amex Rule 950(h) and Commentary .01 to revise the minimum financial requirements for options specialists and to codify in Commentary .01 the Amex's procedures for calculating the minimum financial requirement for a specialist that maintains an equity/options book. Currently, Amex Rule 950(h), which incorporates by reference the specialist financial requirements set forth in Amex Rule 171,⁵ requires a registered options specialist to maintain cash or liquid assets equal to the greater of \$600,000 or an amount sufficient to assume a position of 60 units (*i.e.*, 60 option contracts representing 6,000 shares) of the highest priced puts and calls for each option in which the specialist is registered.⁶ The Amex proposes to revise Amex Rule 950(h) to provide that the minimum financial requirement for an options specialist will be \$600,000 plus \$25,000 for each option issue in excess of the initial ten issues in which the specialist is registered.

For a specialist that maintains an equity/options book, the minimum \$600,000 financial requirement specified in Amex Rule 171 will apply to the entirety of the specialist's business, in both equities and options, provided that the financial requirement for neither the equity allocation nor the

including the clearing firm guarantee of specialists' transactions (for specialists who are not self-clearing), the Amex's daily review of each specialist's financial condition, and the procedures the Amex follows when the Exchange determines that a specialist is approaching the early warning financial requirement level (120% of the minimum specialist financial requirement). See letter from Scott G. Van Hatten, Legal Counsel, Derivatives and Securities, Amex, to Richard Strasser, Assistant Director, Division, Commission, dated June 10, 1999 ("June 10 Letter").

⁴ See Securities Exchange Act Release No. 41682 (August 2, 1999), 64 FR 43233.

⁵ Amex Rule 171, "Specialist Financial Requirements," requires every registered specialist to maintain a cash or liquid asset position in the amount of \$600,000 or an amount sufficient to assume a position of 60 trading units of each security in which the specialist is registered, whichever is greater.

⁶ The "cost to carry" 60 option contracts is determined pursuant to Rule 15c3-1a(b)(2)(iii)(C) under the Act, which provides that a broker or dealer that is long puts or calls must deduct 50 percent of the market value of the net long put and call positions in the same options series.

options allocation exceeds \$600,000.⁷ Thus, the minimum financial requirement for a specialist allocated one equity and one option would be \$600,000, provided that the financial requirement for neither the equity allocation nor the options allocation exceeded \$600,000.⁸

For an equity/options book where the financial requirement for either the equity allocation or the options allocation exceeds \$600,000, the specialist's minimum financial requirement will be calculated by combining the requirements of Amex Rules 171 and 950(h). For example, a specialist with three equity allocations and two options allocations, whose financial requirement for the three equity allocations exceeded \$600,000, would be required to maintain capital sufficient to assume a position of 60 trading units of each equity allocation plus \$50,000 for the two options allocations. A specialist allocated 11 options and one equity security would be required to maintain capital of \$625,000 for the 11 options allocations plus any additional amount over \$600,000 required to assume a position of 60 trading units of the equity security.⁹

The Amex recently compared its financial requirements for options specialists to the capital requirements of other exchanges. For example, the Amex notes that a Lead Market Maker ("LMM") on the Pacific Exchange ("PCX") that performs the function of an Order Book Official ("OBO") must maintain minimum net capital of \$500,000 plus \$25,000 for each issue over five issues for which the LMM performs the function of an OBO.¹⁰ An LMM that does not perform the function of an OBO must maintain minimum net capital of \$350,000 plus \$25,000 for each issue over eight issues that has been allocated to the LMM.¹¹ The Chicago Board Options Exchange ("CBOE") currently requires a Designated Primary Market Maker ("DPM") to maintain cash or liquid assets equal to the greater of \$100,000 or an amount sufficient to assume a position of 20 trading units of each security in which the DPM holds an appointment.¹² The Philadelphia Stock Exchange ("PHLX") requires an options

⁷ See proposed Amex rule 950(h), Commentary .01.

⁸ See Amendment No. 1, *supra* note 3.

⁹ See Amendment No. 1, *supra* note 4. Thus, in this example, if the cost to assume a position of 60 trading units in the equity allocation is \$700,000, then the specialist's minimum financial requirement would be \$725,000.

¹⁰ See PCX Rule 6.82(h), Commentary .04.

¹¹ See PCX Rule 6.82(c)(11).

specialist exempt from Securities Exchange Act Rule 15c3-1 to maintain a minimum of \$75,000 in net liquid assets, and requires an equity and options specialist exempt from Securities Exchange Act Rule 15c3-1 to maintain a minimum of \$100,000 in net liquid assets.¹³

The Amex submits that the cost to Amex options specialists to satisfy the Amex's financial requirements has been increasing relative to the financial requirements for competing options specialists or market makers at other exchanges. The Amex maintains that its current financial requirements effectively reduce the number of options issues that may be allocated to an Amex options specialist and provide an incentive for Amex members to consider moving their business operations to

exchanges with less restrictive financial requirements. The Exchange believes that the proposed rule change is necessary to address any increase in the number of options issues traded on the Exchange that may occur as a result of competitive marketplace conditions. The Exchange believes that the proposed change in the specialist financial requirement will help to ensure that Amex options specialists continue to maintain adequate capital reserve while remaining competitive with their counterparts at other exchanges.

In addition, the Amex believes that because the financial requirements for specialists do not consider the extent to which a specialist maintains a hedged position in his registered options, the recent increases in premiums for some

stock options have caused specialist financial requirements to increase dramatically beyond the level of risk associated with a specialist's market making activities.

The following charts illustrate the fluctuations in the capital requirement for an options specialist as calculated under the Amex's current rule and the impact of premium appreciation on the specialist's minimum financial requirements.¹⁴ Both charts are based on actual capital requirements for options traded on the Amex. The calculations in the first chart are based on premiums for six options as of the close of business on May 6, 1999, while the calculations in the second chart show the premiums for the same options as of the close of business on May 13, 1999.

WEEK 1

Option	Call		Put		Total
	Premium	Requirement	Premium	Requirement	
1	56 ⁷ / ₈	\$5,687.50× ⁶⁰ / ₂	67 ¹ / ₄	\$6,725.00× ⁶⁰ / ₂	\$372,375
2	14 ¹ / ₂	1,450.00× ⁶⁰ / ₂	7 ⁵ / ₈	762.50× ⁶⁰ / ₂	66,375
3	4 ⁷ / ₈	412.50× ⁶⁰ / ₂	17	1,700× ⁶⁰ / ₂	63,375
4	9	900.00× ⁶⁰ / ₂	5 ¹ / ₄	525.00× ⁶⁰ / ₂	42,750
5	15 ¹ / ₄	1,525.00× ⁶⁰ / ₂	5 ¹ / ₄	525.00× ⁶⁰ / ₂	61,500
6	58 ¹ / ₂	5,850.00× ⁶⁰ / ₂	33 ⁵ / ₈	33,362.50× ⁶⁰ / ₂	276,375
Total .....	.....	.....	.....	.....	882,750

WEEK 2

Option	Call		Put		Total
	Premium	Requirement	Premium	Requirement	
1	75 ³ / ₈	\$7,537.50× ⁶⁰ / ₂	55 ³ / ₄	\$5,575.00× ⁶⁰ / ₂	\$393,375
2	13 ⁷ / ₈	1,387.50× ⁶⁰ / ₂	16 ¹ / ₈	1,612.50× ⁶⁰ / ₂	90,000
3	5 ¹ / ₄	525.00× ⁶⁰ / ₂	22 ¹ / ₄	2,225.00× ⁶⁰ / ₂	82,500
4	9 ⁷ / ₈	912.50× ⁶⁰ / ₂	8 ³ / ₈	837.50× ⁶⁰ / ₂	52,500
5	14 ⁷ / ₈	1,487.50× ⁶⁰ / ₂	8 ³ / ₈	837.50× ⁶⁰ / ₂	69,750
6	61 ³ / ₄	6,175.00× ⁶⁰ / ₂	39 ⁷ / ₈	3,987.50× ⁶⁰ / ₂	304,875
Total .....	.....	.....	.....	.....	993,000

The Amex notes that, under the proposal, a specialist's financial requirement would not fluctuate with the premiums of the highest priced option series, but would change only when the specialist unit voluntarily changes the number of option issues it trades. Thus, the proposal will allow options specialists to maintain relative

control over their level of financial requirements by determining their respective number of options allocations.

The Exchange also notes the presence of various safeguards, including circuit breakers, the Amex's daily review of specialist capital reserves, and the Exchange's early warning signals, which trigger a more intense level of surveillance of Exchange specialists during volatile market situations.¹⁵

clearing maintains an agreement with a clearing firm that guarantees the specialist's transactions. A specialist that is self-clearing guarantees directly to the National Securities Clearing Corporation and the Options Clearing Corporation all transactions effected by its specialists on the Amex floor. In addition, the June 10 Letter states that the Amex reviews all specialist financial requirements each day and contacts the specialist's principal(s) to request the deposit of additional funds on any day when the specialist approaches the early warning financial requirement level (120% of the minimum specialist financial requirement). If the specialist is unable to deposit additional capital, the Amex obtains a written guarantee from the specialist's clearing firm stating that the clearing firm will guarantee the specialist's transactions. The process of obtaining a written guarantee serves to notify the clearing firm of the specialist's current financial condition. Finally, the Amex notes that the

¹² See CBOE Rule 8.80, Interpretation and Policy .01. The CBOE has filed a proposal with the Commission that would require a DPM to maintain: (1) Net liquidating equity in its DPM account of not less than \$100,000; and (2) net capital sufficient to comply with Securities Exchange Act Rule 15c3-1. See Securities Exchange Act Release No. 41325 (April 22, 1999), 64 FR 23691 (May 3, 1999) (notice of filing of File No. SR-CBOE-98-54). The Commission has not acted on the CBOE's proposal.

¹³ See PHLX Rule 703.

¹⁴ See Amendment No. 2, *supra* note 3.

¹⁵ The Amex's June 10 Letter describes additional safeguards relating to specialists' financial requirements. Among other things, the June 10 Letter notes that a specialist unit that is not self-

III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5)¹⁶ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

The Amex proposes to amend its rules to revise the minimum financial requirement for options specialists and to codify the Exchange's procedures for calculating the minimum financial requirement for specialists that maintain an equity/options book. Under the proposal, the minimum financial requirement for an options specialist will be \$600,000 plus \$25,000 for each option issue in excess of the initial ten issues in which the specialist is registered. For a specialist with an equity/options book, the minimum \$600,000 financial requirement specified in Amex Rule 171 will apply to the entirety of the specialist's business, in both equities and options, provided that the financial requirement for neither the equity allocation nor the options allocation exceeds \$600,000. If either allocation exceeds \$600,000, the specialist's minimum financial requirement of Amex Rules 171 and 950(h). Thus, as described more fully above, an equity/options specialist with a financial requirement over \$600,000 for his equity allocation will be subject to a capital requirement of \$25,000 for each options allocation. Similarly, an equity/options specialist with a financial requirement of \$625,000 for his options allocation and \$700,000 for his equity allocation will have a financial requirement of \$725,00.¹⁷ The proposal will lower the minimum financial requirement for most Amex options specialists.¹⁸

The Commission finds that the proposed capital requirements are designed to assure that Amex options specialists and specialists maintaining an equity/options book are capable of making deep, liquid, and competitive markets. Although the proposal will

reduce the minimum financial requirement for most Amex options specialists, the Commission finds, based on the representatives of the Amex, that there are sufficient safeguards (in addition to the proposed minimum capital requirement) to assure that the Amex's options specialists are adequately capitalized. In this regard, the Amex in its June 10 Letter notes, first, that the transactions of a specialist unit that is not self-clearing are guaranteed by the specialist's clearing firm. Second, the Amex states that it reviews all specialist financial requirements each day and, on any day when it determines that a specialist is close to the early warning financial requirement level (120% of the minimum specialist financial requirement), the Amex contacts the specialist's principal(s) and requests the deposit of additional cash or liquid assets. If the specialist fails to deposit additional capital, the Amex contacts the specialist's clearing firm and obtains a written guarantee from the clearing firm that it will guarantee the specialist's transactions; this process ensures that the clearing firm is aware of the specialist's current financial condition and that the clearing firm's guarantee is based upon current market conditions. Third, the Amex believes that the proposed financial requirements will help to ensure that Amex specialists are able to make deep, liquid, and competitive markets, while competing vigorously with specialists on other options exchanges in multiply-traded issues.¹⁹

The Commission finds that the proposed financial requirements are comparable to the financial requirements at other options exchanges.²⁰ Accordingly, the Commission believes that the proposal will help Amex options specialists compete effectively with specialists at other exchanges in multiply-traded issues. Increased competition, in turn,

should benefit investors by producing a more efficient marketplace.

The Amex also notes that under its current rule the financial requirement for options specialists fluctuates with the options premiums. The proposed capital requirement for options specialists will be based on the number of issues a specialist trades rather than on the fluctuating prices of the options premiums. This method for determining the minimum financial requirement has the advantages of simplifying the specialist's capital calculation and avoiding a significant increase in the capital requirement that occurs under the Amex's current rule if the price of the underlying stock rises dramatically.

Finally, the Commission finds that it is reasonable for the Amex to codify in Amex Rule 950(h), Commentary .01, its existing procedures for calculating the minimum financial requirement for specialists that maintain an equity/options book.²¹ The Commission believes that codifying these provisions will clarify the Amex's procedures and help to ensure compliance with the Amex's financial requirements.

The Commission finds good cause for approving the proposed rule change and Amendment Nos. 1, 2, and 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission finds that accelerated approval of the proposal will help Amex options specialists to compete effectively with specialists and market makers on other options exchanges in multiply-traded issues. The Commission finds that Amendment Nos. 1 and 2 clarify the Amex's proposal by providing examples and additional explanations of the operation of the proposed rule. Amendment No. 3 clarifies the Amex's proposal by indicating that the provisions of the proposal relating to the minimum financial requirement for a specialist that maintains an equity/options book codify the Exchange's current procedures for calculating the minimum financial requirement for an equity/options book. Accordingly, the Commission believes that granting accelerated approval of the proposal and Amendment Nos. 1, 2, and 3 is appropriate and consistent with Sections 6(b)(5) and 19(b)(2) of the Act.²²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

Exchange may reallocate the specialist's allocation to another specialist unit if the specialist fails to satisfy the Amex's financial requirement. See June 10 Letter, *supra* note 3.

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ See Amendment No. 1, *supra* note 3.

¹⁸ See August 23 Conversation, *supra* note 3.

¹⁹ See June 10 Letter, *supra* note 3.

²⁰ For example, as noted above, an LMM on the PCX that performs the function of an OBO must maintain minimum net capital of \$500,000 plus \$25,000 for each issue over five issues for which the LMM performs the function of an OBO. An LMM that does not perform the function of an OBO must maintain minimum net capital of \$350,000 plus \$25,000 for each issue over eight issues that has been allocated to the LMM. The CBOE currently requires a DPM to maintain cash or liquid assets equal to the greater of \$100,000 or an amount sufficient to assume a position of 20 trading units of each security in which the DPM holds an appointment. The PHLX requires an option specialist exempt from Securities Exchange Act Rule 15c3-1 to maintain a minimum of \$75,000 in net liquid assets, and requires an equity and options specialist exempt from Securities Exchange Act Rule 15c3-1 to maintain a minimum of \$100,000 in net liquid assets.

²¹ See Amendment No. 3 and August 23 Conversation, *supra* note 3.

²² 15 U.S.C. 78f(b)(5) and 78s(b)(2).

arguments concerning Amendment No. 3, including whether Amendment No. 3 is consistent with the Act. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-99-13 and should be submitted by September 22, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (SR-Amex-99-13), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41782; File No. SR-CBOE-99-17]

Self-Regulatory Organizations; Notice of Filing of Amendment #2 and Order Granting Partial Accelerated Approval to a Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Operation of the Retail Automatic Execution System

August 23, 1999.

I. Introduction

On April 16, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 amending the CBOE's rules governing the operation of its Retail Automatic Execution System ("RAES"). On May 21, 1999, the CBOE filed with the Commission Amendment No. 1 to the proposal.³ Today, the CBOE filed Amendment No. 2 to the proposal.⁴

a. The Initial Proposal

The proposal as amended by Amendment No. 1 ("Initial Proposal") seeks to increase the maximum order size of certain RAES-eligible options from 20 to 50 contracts. It also contains provisions relating to the authority of the CBOE Floor Procedure Committees ("FPCs") to change RAES order assignment procedures (including the authority to implement a procedure called "Variable RAES," described below) and improve the execution price of RAES orders in multiple listed options to match a better price on another market. Notice of the Initial Proposal was published in the **Federal Register** on June 17, 1999.⁵ The Commission received no comments on the proposal. The proposal is pending with the Commission.

b. The Current Amendment

Amendment No. 2 ("Current Amendment" or "Proposed Rule Change") will permit the CBOE to immediately implement a new order assignment procedure called "Variable RAES" for CBOE options transactions in five stocks that are dually listed on both the Philadelphia Stock Exchange ("Phlx") and the CBOE. Those stocks are Dell Computer Corporation ("DLQ"), International Business Machines ("IBM"), Johnson & Johnson ("JNJ"), Coca-Cola ("KO"), and Ford Motor Company ("F"). The Current Amendment was filed in tandem with a related rule proposal, SR-CBOE-99-47, which increases the maximum RAES order size from 20 to 50 contracts in options on those five stocks only. SR-CBOE-99-47 becomes effective today. The CBOE seeks immediate Commission approval of the Current Amendment so that Variable RAES can be used today, when the new order size maximum on the five dually traded options goes into effect.

² 17 CFR 240.19b-4.

³ See letter from Timothy Thompson, Director, Regulatory Affairs, CBOE, to Gordon Fuller, Special Counsel, Division of Market Regulation, SEC, dated May 20, 1999 ("Amendment No. 1").

⁴ See letter from Christopher R. Hill, Attorney, CBOE, to Michael Walinskas, Associate Director, Division of Market Regulation, SEC, dated August 23, 1999 ("Hill Letter").

⁵ See Securities Exchange Act Release No. 41501 (June 9, 1999), 64 FR 32568.

II. Description of the Proposal

Under former procedures, RAES orders were randomly assigned to market makers, and each market maker had to buy or sell the entire order assigned to him or her. By contrast, Variable RAES as implemented in the Current Amendment will enable market maker to designate a maximum number of contracts he or she is willing to buy or sell when a RAES order for any of the five dually listed options is assigned to that market maker.⁶ The CBOE represents that, "[w]ith a higher size limit for RAES orders, this flexibility to choose their own maximum participation in any one RAES trade will encourage more market makers to participate in RAES, since it will give them greater control over the risks they take by participating in RAES."⁷

III. Discussion

We believe that accelerated approval of Variable RAES for the five dually listed options is appropriate for three reasons. First, it allows RAES market makers to choose the level of risk they are comfortable with. This is important because the CBOE today is increasing the maximum size of orders eligible for RAES from 20 to 50 contracts in those five dually listed options, thus increasing the potential exposure of RAES market makers to risk in those options. Second, the proposal does not otherwise change the way RAES operates from a customer perspective. Third, the Commission previously published for comment the Initial Proposal, which included a much more expansive provision permitting implementation of Variable RAES for all options classes, not just the five classes at issue here. We received no comments on the Initial Proposal, and we believe the Current Amendment does not raise any new issues.

We are not now approving the textual changes to the RAES rules proposed by the CBOE in its Initial Proposal. Rather, we are continuing to work with the CBOE to address outstanding issues raised by those rules relating to the

⁶ The maximum order size selected by the market maker must be equal to or greater than a minimum order size set by the FPC. The FPC will initially set the minimum at 20 contracts per order for each of the five options covered by the Current Amendment, and may adjust that level up or down in the future for any of these options. If the FPC decides to increase the 20-contract minimum in the future, it will take into account the ability of market makers to accept the heightened risk associated with that increase. Telephone conversation between Tim Thompson, Director, Regulatory Affairs, CBOE, and Christopher R. Hill, Attorney, CBOE, and Gordon Fuller, Special Counsel, Division of Market Regulation, SEC (August 23, 1999).

⁷ See Hill Letter, *supra* note 4, at 1.

²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).