

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, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the SR-Amex-98-16 and should be submitted by August 19, 1998.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-Amex-98-16) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 98-20188 Filed 7-28-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40250; File No. SR-CBOE-98-28]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Notice of Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Exchange Fees

July 22, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 24, 1998,<sup>3</sup> 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant partial accelerated approval of the fees relating to non-members.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to change the subscription fee structure for the Exchange Bulletin by adding a fee for a new alternative of receiving the Bulletin via e-mail.

#### 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 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 the Statutory Basis for, Proposed Rule Change

###### 1. Purpose

The Exchange proposes to change the subscription fee structure for members and non-members receiving the Exchange Bulletin, and provide for the option of obtaining the Bulletin via e-mail. The proposed change would be effective beginning July 1, 1998, for members. For non-members the fees would be effective upon the date the Commission approves that portion of the proposal. Currently, one hard copy of the Bulletin is provided free of charge to all effective members, and each additional copy is \$100.00. For non-members, the Bulletin subscription fee is \$100.00 for each hard copy. The Exchange proposes to give the option of subscribing to the Bulletin via e-mail over the Internet to both members and non-members. Under the proposed changes a member's first copy (whether hard copy or via e-mail) will be free of

charge, and each additional copy via e-mail delivery would be \$50.00. The fee to non-members for e-mail delivery will be \$50.00 for each copy.

###### 2. Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>5</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and others using the Exchange's facilities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

##### 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

Because the foregoing rule change establishes or changes a due, fee, or other charge, for members,<sup>6</sup> imposed by the Exchange, the change effecting members has become effective as of July 1, 1998, pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (e)(2) of Rule 19b-4 thereunder.<sup>8</sup> At any time within 60 days of the filing of the proposed rule change, affecting members, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Exchange filed Amendment Nos. 1 and Amendment No. 2 to the proposed rule change on July 14, 1998, and July 15, 1998, respectively. See Letter from Stephanie C. Mullins, Attorney, CBOE, to Heather Seidel, Attorney, Division of Market Regulation ("Division"), Commission, dated July 13, 1998 ("Amendment No. 1"); and Letter from Stephanie C. Mullins, Attorney, CBOE to Kelly McCormick, Attorney, Division, Commission, dated July 14, 1998 ("Amendment No. 2"). Amendment No. 1 amends the part of the filing relating to fees charged to non-members to request the Commission's approval pursuant to Section 19(b)(2) under the Act, and to ask for accelerated approval for that portion of the filing. In Amendment No. 2,

the Exchange explained the procedure for informing its membership and the affected non-members of the proposed rule change.

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> The proposed rule change also amends fees charged to non-members for delivery of the Exchange Bulletin. The portion of this proposed rule change that affects non-members has been filed pursuant to Section 19(b)(2) of the Act and the Commission is granting partial accelerated approval for that part of the filing.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(e)(2).

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 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the File No. SR-CBOE-98-28 and should be submitted by August 19, 1998.

#### **V. Commission's Findings and Order Granting Partial Accelerated Approval of the Proposed Rule Change**

The Commission finds that the Exchange's proposal to provide the option of obtaining the Exchange Bulletin via e-mail to non-members at a cost of \$50.00 per copy is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act<sup>9</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate because the Exchange is merely adding an alternative method for non-members to receive the Exchange Bulletin that will facilitate access to the Bulletin by both members and non-members at a cost less than the current fee for a hard copy of the Exchange Bulletin.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>10</sup> that the proposed rule change relating to non-members, is hereby partially approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-20190 Filed 7-28-98; 8:45 am]

BILLING CODE 8010-01-M

#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-40253; File No. SR-NYSE-98-12]

#### **Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc., Relating to Changes in Bond Listing Procedures and Practices**

July 23, 1998.

#### **I. Introduction**

On April 15, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its bond listing procedure and practices. On April 30, 1998, the NYSE submitted to the Commission Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on May 13, 1998.<sup>4</sup> No comments were received regarding the proposal. This order approves the proposed rule change, as amended.

#### **II. Description of the Proposal**

The NYSE proposes to amend its Listed Company Manual ("Manual") to alter certain provisions regarding listing requirements for debt securities and other debt security practices. Those provisions in the Manual include:

(i) *Interest Payments*. Currently, Paragraph 204.18 requires that an issuer or its paying agent notify the Exchange whenever the issuer makes an interest payment, and the Exchange also requires an issuer to notify the press and

the Exchange whenever the issuer does not meet its interest obligations. The proposal would delete the obligation to inform the Exchange of interest payments made, whether by confirmation cards or otherwise. And, the proposal also adds to the end of Paragraph 204.18 a cross-reference to 202.00, which reminds issuers that they are required to disclose material information (including the inability to meet payment obligations).

(ii) *Multiple Facsimile Signatures*. Paragraph 501.06 presently requires bonds to be executed, either manually or by facsimile machine, by two of the issuer's officers. Whether the issuer uses one facsimile signature (and one manual signature) or two facsimile signatures, the Exchange currently requires the issuer to submit an opinion of counsel that states that the use of each facsimile signature (a) is specifically authorized by (or at least is not inconsistent with) the issuer's charter or by-laws and the issue's indenture, and (b) is valid and effective under the laws of the state of the issuer's incorporation. When a single facsimile signature is used, the opinion of counsel also must state that the actual facsimile signature to be used has been duly adopted. Where two facsimile signatures are used, the issuer must submit to the Exchange the board resolution adopting the actual signatures to be used.

Although the Exchange would continue to require issuers to authorize the use of facsimile signatures, to adopt the specific facsimile signatures to be used, to comply with charter, by-law and indenture provisions, and to comply with state laws, it proposes to discontinue the practice of requiring issuers to submit opinions of counsel and board resolutions in respect of those requirements.

(iii) *Discharge of Obligation upon Default of Funds*. Paragraph 602.01 and Subparagraph (D) of Paragraph 703.06 currently each require, in part, that a debt security's indenture may not discharge the issuer's payment obligation if the funds representing payment are deposited with the trustee, depository or paying agent more than ten days before the date on which the funds become available to bond holders. The Exchange would remove this requirement from the Manual.

(iv) *Clearance of Terms*. Subparagraph (B) of Paragraph 703.06 presently asks an issuer to submit the indenture and registration terms to the Exchange prior to applying to list a bond and to receive the Exchange's clearance of the terms of those documents before the company is permitted to use a "listing intention

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, the Exchange made technical corrections to the proposed rule change and clarified the purpose of the proposal. See Letter from James E. Buck, Senior Vice President and Secretary, Exchange, to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, dated April 29, 1998. ("Amendment No. 1").

<sup>4</sup> Securities Exchange Act Release No. 39973 (May 7, 1998), 63 FR 26660.