

booths for members who desire this service. The Exchange proposes to impose a one time satellite television installation fee of \$500, and a monthly maintenance fee of \$35.

The proposed rule change is consistent with Section 6(b) of the Act<sup>3</sup> in general, and further the objectives of Section 6(b)(4) of the Act<sup>4</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

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

The CBOE 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.*

The CBOE has neither solicited nor received written comments on 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 imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>5</sup> and subparagraph (e)(2) of Rule 19b-4 thereunder.<sup>6</sup> At any time within 60 days of the filing of the proposed rule change, 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.<sup>7</sup>

### **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 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-98-36 and should be submitted by September 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-24096 Filed 9-8-98; 8:45 am]

BILLING CODE 8010-01-M

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-40384; File No. SR-CHX-98-12]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Joint Back Office Arrangements**

August 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 28, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX.<sup>2</sup> 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 CHX proposes to amend Interpretation .01 to CHX Article VI, Rule 3, "Training and Examination Requirements," and CHX Article X,

Rule 3, "Initial Margin Rule." The CHX also proposes to adopt new CHX Rule 3A, "Joint Back Office Participants," to CHX Article XI, "Financial Responsibility and Reporting Requirements." This proposal establishes examination, margin, and net capital requirements for joint back office ("JBO") participants and clearing firms.

The text of the proposed rule change is attached as Exhibit A.

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

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

##### **1. Purpose**

The Exchange proposes to amend Interpretation .01 to CHX Article VI, Rule 3 and CHX Article X, Rule 3, and to adopt new CHX Rule 3A to CHX Article XI to establish examination, margin and net capital requirements for JBO participants and clearing firms. JBO arrangements permit a participating broker-dealer to be deemed to be self-clearing for margin purposes and entitled to good faith credit.

In recent amendments to Regulation T,<sup>3</sup> the FRB placed its reliance on the authority of self-regulatory organizations ("SROs") to ensure the reasonableness of JBO arrangements.<sup>4</sup> When the provision permitting JBO arrangements was first adopted, the FRB assumed there would be a reasonable relationship between the good faith credit extended to a JBO participant and its ownership interest in the clearing firm. Consequently, the FRB did not establish any explicit requirement for the amount of ownership each participant should have in the JBO. Because Regulation T does not provide an ownership standard,<sup>5</sup> however, good

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> On July 16, 1998, the CHX amended its proposal to replace incorrect references to Section 220.11 of Regulation T, "Credit by Brokers and Dealers," of the Board of Governors of the Federal Reserve System ("FRB") with reference to Section 220.7 of Regulation T. See Letter from David T. Rusoff, Foley & Lardner, to Yvonne Fraticelli, Attorney, Division of Market Regulation ("Division"), SEC, dated July 16, 1998 ("Amendment No. 1").

<sup>3</sup> 15 U.S.C. 78f(b).

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</sup> 17 CFR 240.19b-4(e)(2).

<sup>7</sup> In reviewing this proposal, the Commission considered its impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>3</sup> 12 CFR 220. Regulation T is administered by the FRB pursuant to Section 7 of the Act.

<sup>4</sup> See FRB Docket No. R-0722 (April 26, 1996), 61 FR 20386 (May 6, 1996).

<sup>5</sup> According to the CHX, Section 220.7(c) of Regulation T only requires that a JBO clearing firm

faith credit has been extended to "owners" holding merely a nominal interest in a clearing firm.

In conjunction with other SROs, which received input from representatives of the securities industry, the Exchange has established standards for JBO participants and clearing firms.<sup>6</sup> These standards will permit the extension of good faith credit to clearing firm "owners" only when the owners maintain meaningful assets on deposit with the JBO clearing firm, and the clearing firm maintains sufficient net capital and risk control procedures to carry such accounts. The Exchange's proposal will establish the following requirements:

**Notification.** The proposed rule change will require a member or member organization for which the Exchange is the Designated Examining Authority ("DEA") that wishes either to carry a JBO account or to be a JBO participant<sup>7</sup> to notify the Exchange in writing of its intention.

**Net capital requirements.** Proposed new Rule 3A to CHX Article XI will require each JBO participant to be a registered broker-dealer subject to the net capital requirements prescribed by SEC Rule 15c3-1.<sup>8</sup> JBO participants may not claim the net capital exemption available to option market makers under SEC Rule 15c3-1(b)(1)(i).<sup>9</sup> JBO participants will be required to deposit and maintain minimum account equity of \$1,000,000, with each broker-dealer where an account of the JBO participant is carried. JBO participants also will be subject to Financial and Operational Combined Uniform Single Report ("FOCUS") filings and certified audits. In addition, each JBO participant must meet and maintain the ownership standards established by the JBO clearing member.

To ensure that adequate procedures exist for complying with these requirements, JBO participants will be required to designate one registered

person associated with the member or member organization as a financial and operations principal. That person must successfully complete the Series 27 Financial and Operations Principal Examination ("Series 27 Examination") administered by the National Association of Securities Dealers. JBO participants must file a Form U-4 (Uniform Application for Securities Industry Registration or Transfer) for the financial and operations principal and list such person as a "control person" on Schedule A of its Form BD (Uniform Application for Broker-Dealer Registration).

The financial and operations principal will have to register to take the Series 27 Examination within 30 days of the Exchange's publication of the order approving this requirement in a Notice to Members and promptly notify the Exchange that they have so registered. They will have six months from the date of the Notice of Members in which to pass the Series 27 Examination. A financial and operations principal who (i) does not file such registration within the time frame specified above, (ii) does not notify the Exchange of such registration, or (iii) fails to successfully complete the Series 27 Examination within the time frame specified above will not be allowed to serve as a financial or operations principal for JBO participant until he or she successfully completed the Series 27 Examination. Further, a JBO participant that has designated a financial and operation principal that has not met the requirement listed above concerning the Series 27 Examination will not be allowed to participate in JBO arrangements until it has a financial and operations principal that has successfully completed the Series 27 Examination.

In addition, the proposed rule change will require a member or member organization for which the Exchange is the DEA that wishes to carry the accounts of JBO participants to comply with additional net capital requirements prescribed by the Exchange. Such a member must maintain either: (i) Tentative net capital of \$25 million;<sup>10</sup> or (ii) net capital of \$10 million, if the member's primary business is the clearance of option market maker accounts.<sup>11</sup> A member carrying the

accounts of JBO participants will be deemed to conduct a primary options market maker business if at least 60% of the gross haircuts calculated for all options market maker and accounts of JBO participants in aggregate is attributable to options market maker transactions. A member carrying the accounts of JBO participants and conducting a primary options market maker business must include the gross deductions calculated for all accounts of JBO participants in its ratio of gross options market maker deductions to adjusted net capital.

Future, each member carrying the accounts of JBO participants shall adjust its net worth daily by deducting any deficiency between a JBO participant's account equity and the proprietary haircut calculated pursuant to SEC Rule 15c3-1 for the positions maintained in the JBO account. As previously referenced, each member carrying the accounts of JBO participants must require and maintain equity of \$1,000,000 for each JBO participant. The member carrying the accounts of JBO participants must issue a margin call if the JBO participant's account equity falls below the \$1,000,000 threshold. Finally, each member carrying the accounts of JBO participants must establish and maintain written ownership standards for JBO accounts. The member carrying the accounts of JBO participants also must develop risk analysis standards for assessing the amount of credit extended to JBO participants, which shall be made available to the Exchange upon request.

**Margin requirements.** The Exchange proposes to revise CHX Article X, Rule 3 to permit a member organization to carry the accounts of JBO participants on a good faith margin basis. The JBO accounts must comply with the requirements established in Regulation T Section 220.7 and CHX Article XI, Rule 3A. JBO participants must maintain equity of not less than \$1,000,000 in their accounts. If the equity falls below \$1,000,000, then the carrying member must make a call for additional funds or securities and the JBO participant must make a deposit in an amount sufficient to eliminate the deficiency within five business days.

**Phase-In of \$1,000,000 equity requirement.** To ease the burden on existing JBO participants,<sup>12</sup> the

be "a clearing and servicing broker or dealer owned jointly or individually by other [broker-dealers]."

<sup>6</sup> The CHX's proposal is substantially similar to proposals filed with the Commission by other SROs. See Securities Exchange Act Release Nos. 39418 (December 10, 1997), 62 FR 66154 (December 17, 1997) (notice of filing of File No. SR-CBOE-97-58); 39419 (December 10, 1997), 62 FR 66169 (December 17, 1997) (notice of filing of File No. SR-PHLX-97-56); 39497 (December 29, 1997), 63 FR 899 (January 7, 1998) (notice of filing of File No. SR-NYSE-97-28); and 39680 (February 18, 1998), 63 FR 9622 (February 25, 1998) (notice of filing of File No. SR-PCX-97-49).

<sup>7</sup> The proposal defines a JBO participant as a member or member organization for which the CHX is the DEA that maintains a JBO arrangement with a carrying broker-dealer.

<sup>8</sup> 17 CFR 240.15c3-1.

<sup>9</sup> 17 CFR 240.15c3-1(b)(i).

<sup>10</sup> "Tentative net capital" refers to a member's net capital before the application of haircuts and undue concentration deductions.

<sup>11</sup> Currently, the CHX does not act as the DEA for any member whose primary business is the clearance of option market maker accounts. However, the Exchange proposes to adopt this provision so that the CHX will have a rule in place if, in the future, the CHX becomes the DEA for a

member whose primary business is the clearance of option market maker accounts. Telephone conversation between David T. Rusoff, Foley and Lardner, and Yvonne Fraticelli, Attorney, Division, Commission, on July 21, 1998.

<sup>12</sup> For purposes of the proposal, existing JBO participants are CHX members or member

Continued

Exchange proposes to give existing JBO participants six months from the date of the Exchange's publication in a Notice to members of information contained in the order approving the requirement in which to comply with the \$1,000,000 requirement. Existing JBO participants who fail to comply with the equity requirement within the time frame specified above will not be allowed to continue the JBO arrangement until they have complied with this requirement.

## 2. Statutory Basis

The CHX believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that it is designed to perfect the mechanism of a free and open market and a national market system and to protect investors and the public interest. In addition, the CHX believes that the proposed rule change is designed to ensure the reasonableness of JBO arrangements in accordance with the FRB's directive in its recent amendments to Regulation T.

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

The CHX believes that no burden will be placed on competition as a result of the proposed rule change.

### *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.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or, (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

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

organizations that are part of a JBO arrangement approved by the CHX as of the date of the filing of the current proposal with the SEC. According to the CHX, there were 15 existing JBO arrangements as of the date of the filing of the CHX's proposal. Conversation between David T. Rusoff, Foley & Lardner, and Yvonne Fratecelli, Attorney, Division, Commission, on July 20, 1998.

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 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 CHX. All submissions should refer to File No. SR-CHX-98-12 and should be submitted by September 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

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

## Exhibit A

Additions are italicized.

## Article VI

### Restrictions and Requirements

### Training and Examination Requirements

Rule 3. No change in text.  
Interpretations and Policies:  
.01 (a)-(b). No change in text.

### (3) Joint Back Office Participants

*All registered persons associated with Joint Back Office ("JBO") Participants (as defined in Article XI, Rule 3A, section (a)) designated as financial and operations principals must successfully complete the Financial and Operations Principal Examination, Series 27.*

## Article X

### Margins

### Initial Margin Rule

Rule 3.(a)-(b) No change in text.

### Exceptions to Rule

(c)(1)-(6) No change in text.

*(7) Joint Back Office Participant Accounts—A member or member organization may carry the accounts of joint back office ("JBO") participants upon a margin basis which is satisfactory to both parties, provided the*

*requirements of Regulation T Section 220.7 (or any successor thereto) and Article XI, Rule 3A are adhered to.*

### • Interpretations and Policies:

.01 Under the provisions of Regulation T Section 220.7 a clearing broker may extend good faith financing to an owner of the clearing broker under certain conditions. Such financing is typically provided under what is termed a joint back office arrangement.

(d) No change in text.

## Article XI

### Financial Responsibility and Reporting Requirements

### Joint Back Office Participants

*RULE 3A. An arrangement may be established between two or more registered broker-dealers pursuant to Regulation T Section 220.7 to form a joint back office ("JBO") arrangement for carrying and clearing or carrying accounts of participating broker-dealers. Members and member organizations for which the Exchange is the Designated Examining Authority ("DEA") shall provide written notification to the Exchange prior to becoming a JBO Participant (as defined below) and prior to carrying a JBO account.*

*(a) Requirements for Joint Back Office Participants. In addition to complying with the requirements of Rule 3 of this Article XI, a member or member organization for which the Exchange is the DEA that maintains a joint back office ("JBO") arrangement (a "JBO Participant") with a carrying broker-dealer subject to the requirements of Regulation T Section 220.7 (or any successor thereto) of the Federal Reserve System shall:*

*1. Be registered as a broker-dealer pursuant to Section 15 of the Securities Exchange Act of 1934;*

*2. Be subject to the capital requirements prescribed by Rule 15c3-1 therein, and shall not be eligible to operate under the provisions of SEC Rule 15c3-1(b)(i)[sic];*

*3. Meet and maintain a minimum account equity requirement of \$1,000,000 with each broker-dealer where an account of the JBO Participant is carried. If equity decreases below \$1,000,000 the JBO Participant shall deposit an amount sufficient to eliminate this deficiency within five business days;*

*4. Meet and maintain the ownership standards established by the carrying broker-dealer; and*

*5. Designate one registered person associated with such member as a financial and operations principal, whose responsibilities shall include:*

<sup>13</sup> 17 CFR 200.30-3(a)(12).

(A) final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body;

(B) final preparation of such reports;

(C) Supervision of individuals who assist in the preparation of such reports;

(D) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived;

(E) supervision and/or performance of the member's responsibilities under all Exchange or SEC financial responsibility rules; and

(F) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations.

Such person shall successfully complete the Series 27 Financial and Operations Principal Examination.

(b) Requirements for Members or Member Organizations Carrying the Accounts of JBO Participants. A member or member organization that carries the accounts of JBO Participants shall:

1. Maintain (i) tentative net capital of not less than \$25 million as computed pursuant to SEC Rule 15c3-1 or (ii) net capital of not less than \$10 million as computed pursuant to SEC Rule 15c3-1, provided that such member or member organization has as its primary business the clearance of options market maker accounts and provided that at least 60% of the sum of gross haircuts calculated for all options market maker accounts and accounts of JBO Participants, without regard to related account equity or clearing firm net capital charges, is attributable to options market maker transactions. Any member or member organization operating pursuant to subsection (ii) of this paragraph must include the gross deductions calculated for all accounts of JBO Participants in such member's or member organization's ratio of gross options market maker deductions to adjust net capital in accordance with the provisions of SEC Rule 15c3-1;

2. Require and maintain equity of \$1,000,000 for each JBO Participant. If equity decreases below \$1,000,000 the member or member organization carrying the JBO Participant's account shall issue a call for additional funds or securities which shall be obtained within five business days;

3. Adjust its net worth daily by deducting any deficiency between a JBO Participant's account equity and the proprietary haircut calculated pursuant to SEC Rule 15c3-1 for the positions maintained in such account;

4. Establish and maintain written ownership standards for accounts of JBO Participants; and

5. Develop risk analysis standards for assessing the amount of credit extended to JBO Participants which shall be made available to the Exchange upon request.

• Interpretations and Policies:

.01 JBO Participants shall not be considered self-clearing for any purpose other than the extension of credit under Article X, Rule 3 or under the comparable rules of another self regulatory organization.

[FR Doc. 98-24092 Filed 9-8-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40385; File No. SR-NYSE-98-20]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to an Interpretation of Article IV, Section 14 of the Exchange Constitution

August 31, 1998.

#### I. Introduction

On July 10, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("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 interpret Article IV, Section 14 of the Exchange Constitution to provide that decisions of the Director of Arbitration regarding jurisdiction and hearing situs are not subject to review by the Exchange's Board of Directors ("Board").

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 40229 (July 17, 1998), 63 FR 40150 (July 27, 1998). No comments were received on the proposal. This order approves the proposed rule change.

#### Description

The Exchange proposes to interpret Article IV, Section 14 of the Exchange Constitution so that decisions of the Director of Arbitration on issues of jurisdiction and hearings situs are not subject to review by the Exchange's Board at the request of a member, member organization, allied member or approved person. Article IV, Section 14

of the Exchange Constitution provides that where the Board has delegated its powers to an officer or employee, "a member, member organization, allied member or approved person affected by a decision of any officer or employee . . . may require a review by the Board of such decision."<sup>3</sup> No explicit exception is made for actions taken by the Director of Arbitration. Article IV, Section 13 also provides the Board with authority to interpret the Constitution. Article XI, Section 1 of the Exchange Constitution and Exchange Rule 600 establish the jurisdiction of the Exchange's arbitration forum.<sup>4</sup> The Director of Arbitration is "charged with the duty of performing all ministerial duties in connection with matters submitted for arbitration."<sup>5</sup> These duties include making the initial decisions regarding jurisdiction and hearing situs.<sup>6</sup> When a claim is submitted for arbitration at the Exchange, the Director of Arbitration determines whether the claim submitted falls within the parameters of the Exchange's jurisdiction. Exchange Rule 613 deals with the situs of a hearing and provides that "[t]he time and place for the initial hearing shall be determined by the Director of Arbitration and each hearing thereafter by the arbitrators."

The Exchange believes that Exchange Rule 621 and applicable law provide for the review of the Director's decisions by arbitrators or the courts. Under Exchange Rule 621, arbitrators are empowered to interpret and determine the applicability of all provisions of the Arbitration Rules; thereby the Exchange believes arbitrators can overturn decisions of the Director of Arbitration regarding situs of the first hearing. In

<sup>3</sup> The NYSE notes that in the past, members have requested, and the Board has granted, review of the Director of Arbitration's decisions on jurisdiction and hearing situs.

<sup>4</sup> "Any controversy between parties who are members, allied members or member organizations and any controversy between a member, allied member or member organization and any other person arising out of the business of such member, allied member or member organization, or the dissolution of a member organization, shall at the instance of any such party, be submitted for arbitration in accordance with the provisions of this Constitution and such rules as the Board may from time to time adopt." (Article XI, Sec. 1).

"All dispute, claim or controversy between a customer or non-member and a member, allied member, member organization and/or associated person arising in connection with the business of such member, allied member, member organization and/or associated person in connection with his activities as an associated person shall be arbitrated under the Constitution and Rules of the New York Stock Exchange, Inc. as provided by any duly executed and enforceable written agreement or upon the demand of the customer or non-member." Exchange Rule 600.

<sup>5</sup> Exchange Rule 635.

<sup>6</sup> Exchange Rules 600 and 613.

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

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