

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49723; File No. SR-CBOE-2004-26)

May 18, 2004

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. to Remove from the Exchange Rules References to Certain Indexes and Trading Permits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 10, 2004, the Chicago Board Options Exchange, Inc. (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CBOE. Pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ CBOE has designated this proposal as non-controversial, which renders the proposed rule change effective upon filing with the Commission. 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 Exchange proposes to remove from its rules references to “Options Trading Permits” and “IPC Permits” as these permits are no longer valid on the Exchange. The Exchange also proposes to remove from its rules references to the “IPC Index.” In addition, the Exchange is making a housekeeping change to Appendix A of Chapters XLVII to XLIX. The text of the proposed rule change is available at CBOE and at the Commission.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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

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

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

1. Purpose

The Exchange is removing from its membership rules references to certain permits that granted the holders of the permits certain trading rights on the Exchange. Specifically, the Exchange is proposing to remove from its rules references to "IPC Permits" and related references and "Options Trading Permits" as these permits either are no longer valid on the Exchange or have since expired pursuant to their terms.

The Exchange represents that it previously entered into a license agreement with Bolsa Mexicana de Valores ("Bolsa") pursuant to which Bolsa licensed the Exchange to trade options on the Indice de Precios y Cotizaciones ("IPC"). CBOE states that in consideration for the grant of this license, it agreed to issue IPC permits to Bolsa members to trade options on the IPC and amended its membership rules to provide for the issuance of IPC permits that granted to the holder of an IPC permit limited trading rights. CBOE represents that since it never issued any IPC permits and because IPC Index options are no longer listed on the Exchange, the Exchange is removing all references in its rules relating to the IPC Index and IPC permits.

In addition, the Exchange states that in 1997, it entered into an agreement (the "NYSE

Agreement") with the New York Stock Exchange, Inc. ("NYSE") whereby the NYSE transferred its options business to the Exchange. The Exchange states that in connection with the transfer of NYSE's options business, it made available to the individuals who had traded options on the NYSE a certain number of Options Trading Permits ("OTPs"), whose rights and obligations are set forth in Rule 3.27, "Options Trading Permits". On April 27, 2004, in accordance with the terms of the NYSE Agreement, the OTPs expired. Holders of OTPs who wished to continue trading on the Exchange needed to either purchase or lease a CBOE membership or obtain CBOE membership trading rights through the exercise of a full Chicago Board of Trade membership. The Exchange represents that it is removing rule text relating to OTPs because all OTPs have expired.

The Exchange is also making a housekeeping change to Appendix A of Chapters XLVII to XLIX of the Exchange rules ("Appendix") to update the Appendix as a result of the removal of Rules 3.26 and 3.27 from the Exchange rules and certain other rule changes to the Exchange rules that are not reflected in the Appendix.

2. Statutory Basis

The proposed rule change removes from Exchange rules certain provisions that are no longer applicable and makes a nonsubstantive housekeeping change to certain other provisions and therefore, the Exchange believes, is consistent with Section 6(b) of the Act⁵ in general and furthers the objectives of Section 6(b)(5) of the Act⁶ in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public

⁵ 15 U.S.C. 78f(b).

interest.

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 not necessary or appropriate in furtherance of purposes of the Act.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6)⁸ thereunder because the proposed rule change (1) does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) does not become operative for 30 days from the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.⁹ 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.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

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. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2004-26 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2004-26. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also

⁹ As required under Rule 19b-4(f)(6)(iii), CBOE provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2004-26 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Jill M. Peterson
Assistant Secretary

¹⁰ 17 CFR 200.30-3(a)(12).