

(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 35 days after the 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 reason 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 10, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36956; File No. SR-Amex-96-05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Assurances of Delivery for Short Sales of Derivative Securities into an Underwriting Syndicate's Stabilizing Bid

March 11, 1996

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on January 31, 1996, the American Stock Exchange, Inc. ("Amex" 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 self-regulatory organization. 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 Amex proposes to amend its policy to require that members trading derivative securities as Registered Options Traders pursuant to Amex Rule 958 make prior arrangements either to borrow the necessary securities or to obtain other assurances that delivery can be made on settlement date prior to effecting a short sale into an underwriting syndicate's stabilizing bid.

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

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 Amex 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 Amex 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

Since 1989, the Exchange has required members and member organizations effecting short sales for both customer and proprietary accounts

either to make prior arrangements to borrow the securities or to obtain acceptable assurances that delivery can be made on settlement date.¹ Such assurances include knowledge that the security is available for borrowing, conversion privileges, rights exercises or other similar situations so long as the security needed for delivery can be timely obtained. Short sales by specialists, market makers and odd-lot dealers in fulfilling their market making responsibilities are excepted from this requirement. Arbitrageurs and other traders may not rely upon this "market maker" exception.

In 1992, the Exchange amended its rules to permit regular members to register as Registered Options Traders ("ROTs") in order to trade index warrants for their own account subject to Amex Rule 958.² The Exchange deemed it desirable to enable members to trade these equity derivative securities³ subject to Rule 958 (which affords specialist "good faith" margin treatment and an exemption from stabilization requirements) instead of the more restrictive provisions of Rules 111 and 114 applicable to Registered Equity Market Makers because the Exchange believed that application of Rules 111 and 114 to index warrants would make it unlikely that members would trade such securities. However, the 1992 rule change also had the effect of exempting members trading as ROTs from the short sale policy given their market making activities in index warrants.

The Exchange now proposes a narrow modification to its short sale policy which would require members who register as ROTs and trade equity derivatives pursuant to Rule 958 to make prior arrangements to borrow these securities or obtain other acceptable assurances that delivery can be made on settlement date when selling short into the stabilizing bid of an underwriting syndicate. Implementation of the modified short sale policy is expected to provide increased stability to the market for listed Amex equity derivative securities

¹ See Securities Exchange Act Release No. 27542 (Dec. 15, 1989).

² See Securities Exchange Act Release No. 24277 (June 8, 1992). The SEC has recently approved an Amex proposal to allow regular members to trade currency warrants for their own account subject to the provisions of Amex Rule 958. See Securities Exchange Act Release No. 36852 (Feb. 15, 1996).

³ The term "equity derivative security" refers to an underwritten security the value of which is determined by reference to another security, or to a currency, commodity, interest rate or index of the foregoing. Such securities are commonly listed pursuant to Exchange Company Guide Sections 106, 107, 118 or Amex rule 1102.

during a stabilized distribution by reducing the number of "fails", *i.e.*, when a short seller is unable to effect delivery of the security to the purchaser, and resulting "buy-ins", *i.e.*, when a purchaser buys the security for the account of the short seller due to the failure of the short seller to effect delivery in accordance with the procedures of the clearing corporation.

2. Statutory Basis

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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free 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

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Within 35 days of the 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:

(A) By order approve the 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, 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 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 File No. SR-Amex-96-05 and should be submitted by April 10, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-36961; File No. SR-CBOE-96-13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Exchange's Member Death Benefit Program

March 13, 1996.

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 March 11, 1996, 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁴ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 CFR U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

The Exchange proposes to revise its Member Death Benefit Program to expand the coverage of the Program to include certain recently active members and to establish a defined benefit under the Program of \$50,000. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

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 Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (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

The Exchange's Member Death Benefit Program is set forth in CBOE Rule 3.24 and functions in the following manner. The Member Death Benefit Program covers any natural person who is a nominee of a member organization, a Chicago Board of Trade exerciser, a lessee of an Exchange membership, or an owner of an Exchange membership that is not being leased to a lessee. The Exchange refers to the foregoing individuals as "active members." Each active member designates a beneficiary under the Program. Upon the death of an active member, the Exchange pays a member death benefit to that member's designated beneficiary. The amount of the benefit is equal to the number of active members at the time of the member's death multiplied by \$25. Because this benefit is based on the number of active members, the amount of the benefit fluctuates as the number of active members fluctuates. As of December 31, 1995, there were 1,384 active members. Therefore, if a benefit were to have been paid on that date, it would have been equal to \$34,600. After a member death benefit has been paid under the Program, the Exchange bills each active member \$25 in order to recoup the cost of the benefit.

The purpose of the proposed rule change is to revise the Member Death Benefit Program in two primary respects. First, the Exchange proposes to