

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1, 2, and 3 to the proposed rule change. 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 Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-96-14 and should be submitted by August 26, 1996.

V. Conclusion

For the reasons discussed above, the Commission finds that the amended proposal is consistent with the Act, and, in particular, Section 6 of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²¹ that the proposed rule change (File No. SR-CBOE-96-14), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37496; File No. SR-CBOE-96-46]

Self-Regulatory Organization: Notice of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Related to Tolling of the Time Period for Settlement of Disciplinary Cases Pursuant to Interpretation and Policy .01(d) Under Exchange Rule 17.8

July 30, 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 July 23, 1996,¹ the Chicago

Board Options Exchange, Incorporated ("CBOE" or the "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 CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The CBOE proposes to amend Interpretation and Policy .01(d) under CBOE Rule 17.8 ("Interpretation .01(d)"), to allow Exchange staff thirty days to respond to a Respondent's document request before tolling the Respondent's settlement period. The text of the proposed rule change is available at the Office of the Secretary, CBOE 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, 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 Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend Interpretation .01(d) to allow the Exchange staff thirty days to respond to a Respondent's document request before tolling the Respondent's settlement period.

Pursuant to CBOE Rule 17.8, after a Respondent is served with a statement of charges for an alleged rule violation, the Respondent has 120 days to attempt to resolve the charges by submitting a written offer of settlement. Pursuant to CBOE Rule 17.4(c), within 60 days after a statement of charges has been served, the Respondent may make a written request for and obtain access to all documents concerning the case that are in the investigative file of the Exchange

except for staff investigation and examination reports and materials prepared by the staff in connection with such reports or in anticipation of a disciplinary hearing or other privileged materials. If such a request is made, Interpretation .01(d) provides that this 120-day time period shall be tolled during the number of days in excess of seven calendar days that it takes staff to provide access to documents in response to a Respondent's request for such access.

The proposed rule change would revise Interpretation .01(d) to provide that the 120 day time period shall be tolled during the number of days in excess of *thirty* calendar days that it takes staff to provide access to documents in response to a Respondent's request. CBOE has found that in most cases staff needs longer than seven days to respond to such a request. Before providing access, Exchange staff must review and organize the file to remove privileged documents or information that is not discoverable and to remove information that may identify the complainant. Consequently, the 120 day settlement period is frequently tolled under Interpretation .01(d) while staff works on responding to the access request.

Exchange staff believes that in some instances Respondents, or their attorneys, have requested access just to gain an extension of the settlement period through tolling. There have been occasions where staff has spent more than 7 days preparing the investigative file for access, but after gaining the benefit of tolling, the Respondent submits an offer of settlement without ever reviewing the file.

CBOE believes it is important to provide a Respondent with access to documents in accordance with Rule 17.4(c); however, CBOE wants to discourage access requests made for the purpose of extending the 120 day settlement period. Therefore, the proposed rule change would amend Interpretation .01(d) to toll the 120 day settlement period only if Exchange staff takes more than 30 days to respond to a Respondent's request. Exchange staff believes that 30 days is generally a realistic estimate of the amount of time needed to respond to an access request. Since in most cases staff will be able to respond within 30 days, access requests should not typically extend the 120 day settlement period.

Under the proposed rule change, a Respondent will still have a sufficient amount of time to settle the matter after obtaining the requested documents. Even if a Respondent waits until the last day the rules allow to file a written

subsequently submitted Amendment No. 1 to the filing. Amendment No. 1 was a minor technical amendment. See Letter from Arthur B. Reinstein, Senior Attorney, CBOE, to Karl Varner, Staff Attorney, Division of Market Regulation, SEC, dated July 23, 1996.

²¹ 15 U.S.C. § 78s(b)(2) (1988).

²² 17 CFR 200.30-3(a)(12).

¹ The proposal was originally filed with the Commission on July 10, 1996. The CBOE

request for documents (60 days after a statement of charges has been served) and staff takes thirty days to respond, the Respondent still has thirty more days to submit a settlement offer within the 120 day time period.

It is also proposed to amend Interpretation and Policy .01 under Rule 17.8 to deal with the situation where a Respondent has elected to proceed in an expedited manner pursuant to Rule 17.3 in an effort to resolve a matter by entering into a letter of consent prior to the issuance of charges. Interpretation and Policy .01(b) under Rule 17.8 provides that if an effort to reach agreement with Exchange staff upon a letter of consent is unsuccessful and charges are issued, any time in excess of 30 days spent in attempting to negotiate a letter of consent is deducted from the 120-day settlement period, but that in any event a Respondent will always have at least 14 days after service of charges within which to submit an offer of settlement. Under the existing provision of Interpretation .01(d), which tolls the settlement period after seven days when a document request has been made, assuming a Respondent makes a document request on the first day of the 14-day settlement period, that Respondent always has at least seven days remaining of the 14-day settlement period after the documents are provided within which to submit an offer of settlement. In order to continue to provide this minimum seven day period in light of the proposal not to commence tolling the settlement period until 30 days after a request for documents, Interpretation .01(d) is proposed to be amended to provide that in no event will a Respondent have less than seven days after the receipt of requested documents within which to submit an offer of settlement.

This proposed amendment to Interpretation .01(d) will be invoked only if, on the day a Respondent receives the requested documents, the time left for settlement is seven days or less. In all other circumstances, tolling of the settlement period begins once Exchange staff has taken more than 30 days to respond to a Respondent's document request.

The CBOE believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(7) of the Act in that it improves the Exchange's procedures for the discipline of members and persons associated with members. The proposal reduces the potential for delay in concluding a disciplinary case by appropriately limiting a Respondent's ability to toll the 120 day settlement period.

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

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

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 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:

(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, 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 all such filings will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. CBOE-96-46 and should be submitted by August 26, 1996.

For the Commission by the Division of Market Regulation, pursuant to the delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37491; File No. SR-CHX-96-19]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Enhanced SuperMAX and Timed Enhanced SuperMAX

July 29, 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 July 2, 1996, the Chicago Stock Exchange, Incorporated ("CHX" 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 CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

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

The Exchange is proposing to extend its Enhanced SuperMAX and Timed Enhanced SuperMAX pilot program, described in subsections (e) and (f) of Rule 37 of Article XX of the Exchange Rules, for five months, until December 31, 1996, and the deadline for filing a report to the Commission describing its experience with the pilot program, to August 31, 1996.

The text of the proposed rule change is available at the Office of the Secretary, CHX, 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 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 CHX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.