

Exchange a certified copy of preambles and resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the Amex and by setting forth in detail to the Exchange the reasons for the proposed withdrawal, and the facts in support thereof. In making the decision to withdraw its Securities from listing on the Amex, the Company considered, among other things, the potential increased liquidity for its Securities if the Securities were traded on the NYSE. The Exchange has informed the Company that it has no objection to the withdrawal of the Company's Securities from listing on the Amex.

The Company's application relates solely to the withdrawal from listing of the Company's Securities from the Amex and shall have no effect upon the continued listing of the Securities on the NYSE. By reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before, March 9, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41052; File No. SR-CBOE-99-04]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to New Series of Options Based on the Standard and Poor's 100 Index.

February 12, 1999.

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 January 21, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" 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 CBOE. 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 CBOE proposes to amend CBOE Rule 24.9 to change the permissible range of new series of Standard & Poor's 100 Index options ("OEX") under unusual market conditions. 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, 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 Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase from ten percent (10%) to twenty percent (20%) the percentage level away from the current index value under which additional series may be listed on options on OEX

under unusual market conditions. Under existing Interpretation and Policy .01 of CBOE Rule 24.9, when the Exchange introduces trading in a new expiration month, or when additional series of options in an existing expiration month are opened, CBOE may list series of options that are "reasonably related to the current value of the underlying index." Under normal market conditions, "reasonably related" is defined to be within eight percent (8%) of the current index value. Under unusual market conditions (such as at times of increased volatility), "reasonably related" is defined to be within ten percent (10%) of the current index value.

For example, if a new expiration month is introduced in an OEX option during normal market conditions, and the value of the Standard & Poor's 100 Index is 478, the lowest put option strike available for trading would be the 400 strike. In unusual market conditions, the Exchange would be permitted to list a 430 strike price option. Over the life of the option contract, the Exchange would be permitted to list additional series only as the value of the underlying index moved substantially from the 478 level.

Recently, the Exchange has discovered that it has been limited in listing additional option contracts in incidences of increased market volatility. The adverse consequence of this is exemplified in at least two ways: (1) the number of OEX put options eligible for trading through the Exchange's retail automatic execution system ("RAES") is limited; and (2) retail customers have fewer low-priced OEX put options contracts to trade. Each of these negative consequences is discussed in detail below.

##### Fewer OEX Series on RAES

The guidelines followed by the Index Floor Procedure Committee ("IFPC") in designating series of OEX options as eligible for trading on RAES provide that all contracts may be so designated, provided that the option in any designated series is priced below \$10. For example, at the opening of trading on September 1, 1998, the morning after the significant market volatility of August 31, 1998, there were only three RAES-eligible put option contracts, all in the September contract month. No put option series in the October contract month were RAES-eligible. In this case, the value of the underlying index was approximately 477 and the lowest put option contract available had a 430 strike price. With the volatility of the market on that day, at approximately the opening of trading, the prices of the

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

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

three September put option contracts that were RAES-eligible (the 430, 440 and 450 contracts) ranged from five dollars (\$5.00) to nine dollars (\$9.00). The price of the least expensive October put option contract (with a 430 strike price) was approximately fourteen dollars and fifty cents (\$14.50). In these circumstances, the Exchange found it was unable to provide an adequate number of OEX put option contracts for automatic execution to satisfy the demand of its firms and retail customers. In general, and especially in times of heightened market volatility, retail customers overwhelmingly prefer to have their option orders executed as quickly as possible at the published market quotes.

#### Lower-Priced OEX series Available for Customers

The Exchange is aware that historically, OEX order flow from retail customers is concentrated in lower-priced options, generally those under ten dollars (\$10). When the number of available lower-priced options series decreases, so does retail customer order flow. Under the current index levels, in light of the significant increases in market volatility and the existing restriction under CBOE Rule 24.9, Interpretation and Policy .01, there are few low-priced OEX put option series available. For instance, in the aforementioned example, for the September contract month, no put option contract was available for under five dollars (\$5), and the least expensive October put option contract was priced at more than fourteen dollars (\$14). The effect of this limitation is to preclude investors from participating in the OEX put option market, except at higher than desired price levels. Smaller dollar value investors therefore lose the opportunity to enter into protective option strategies at a time when they may find it especially necessary to do so.

In response to these concerns, CBOE is proposing to change the percentage level under which additional series may be listed under unusual market conditions. The Exchange proposes to increase the percentage level for unusual market conditions from ten percent (10%) to twenty percent (20%). Under the unusual market conditions present on August 31, 1998, had the Exchange been able to list option contracts within twenty percent (20%) of the underlying index value, there would have been a sufficient number of series eligible for RAES and appropriately priced for retail customers. The theoretical option pricing model used by the Exchange's

Research Department estimates that had the twenty percent (20%) limit been in effect, the lowest priced September put option contract available would have been the 390 with an estimated price of \$0.625 (5/8). The estimated price of the corresponding October contract would have been four dollars (\$4.00).

The number of additional series that will result from this proposed rule change, which affects only OEX options, will not be significant. For this reason, CBOE does not believe that the proposed rule change raises any capacity issues. The Exchange routinely monitors inactive option contracts and removes from listing those that do not have open interest and have little chance of trading.

By responding to the historically high volatility of the market in a manner that addresses the needs of its valued customers, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act, and Section 6(b)(5) of that Act in particular, in that it will promote just and equitable principles of trade, will protect investors and the public interest, and will remove impediments to and perfect the mechanisms of a free and open market.

#### 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, 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 CBOE. All submissions should refer to File No. SR-CBOE-99-04 and should be submitted by March 16, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>3</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41053; File No. SR-MSRB-97-16]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Activities of Financial Advisors

February 12, 1999.

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 January 14, 1999,<sup>3</sup> the Municipal Securities

<sup>3</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 Board originally filed the proposed rule change on December 23, 1997. On April 6, 1998, the Board filed what would have been Amendment No. 1, but it was withdrawn because it did not adequately address certain disclosure and consent issues.

The Board filed Amendment No. 1 to the proposed rule change on April 16, 1998, which made certain technical changes and revised statements made by the Board concerning comments received on the draft amendment published by the Board for comment from its members. After further discussion with Commission staff, the Board filed Amendment No.