1996, 1997 and 1998 accounting years, cable operators should use the list adopted by the Commission for the 1996 must-carry/retransmission consent election, and, for subsequent years, the list adopted by the Commission for each must-carry/retransmission consent election period. If the Commission should make modifications to television markets in accordance with §§ 76.55(e) and/or 76.59, or should generate a television market list for the must-carry/retransmission consent election other than at three-year intervals, those modifications should be applied to their corresponding compulsory license accounting periods in determining the local service area of a broadcast station.

B. Local/Distant Status

In the December 30, 1994, adjustment of our regulations to account for the statutory changes made by the Home Viewer Act, we described the Act's amendment to the local service area definition in 17 U.S.C. 111(f) as ''includ[ing] the area in which the station is entitled to insist upon carriage of its signal by a cable system (i.e. its must-carry zone), in accordance with the rules of the Federal Communications Commission in effect on September 18, 1993, and any subsequent modification of those rules.'' 59 FR 67635 (December 30, 1994). We believe we need to clarify this statement as it relates to cable systems that serve communities in more than one county assigned to different ADIs.

Cable carriage by one system across one or more ADIs does not appear to be an uncommon occurrence. Each county in the United States is allocated to a market based on which home-market stations receive a preponderance of total viewing. Because many larger cable systems typically serve several counties, a ''straddle'' situation can occur where a cable system carries a broadcast signal assigned to one market in communities within counties assigned to other markets. This situation is further complicated when such carriage is pursuant to the FCC's new must-carry rules. How should cable systems straddling different markets report carriage of broadcast signals in those markets for compulsory license purposes?

The Home Viewer Act amendment to the 17 U.S.C. 111(f) local service area definition makes it clear that a broadcast station's television market is its ADI. The Home Viewer Act defines ''television market'' by reference to § 76.55(e) of the FCC's rules, which provides that a broadcast station's television market is ''its Area of Dominant Influence (ADI) as determined by Arbitron and published in its *Television ADI Market Guide* * * *'' 47 CFR 76.55(e)(1). A broadcast station's ADI is also the area in which it is entitled to assert mandatory carriage rights on cable systems located in that ADI. *See Broadcast Signal Carriage Issues,* 8 FCC Rcd 2965, 2976–2977 (1993). Thus, the Office acknowledged in its December 30, 1994, Federal Register notice the correspondence between a broadcast station's must-carry area and its ADI; however, it did not describe what application, if any, this would have to cable systems straddling more than one ADI.

After reviewing the provisions of the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), Public Law No. 102–385, and the FCC's implementing rules, it is apparent that there are circumstances, e.g., the ''straddle'' situation, where the must-carry zone of a broadcast station exceeds its ADI. The FCC stated in its *Report & Order* implementing the 1992 Cable Act's must-carry requirements that in circumstances where a cable system serves a community or communities in more than one county and those counties are assigned to different ADIs, ''all broadcast stations in both ADIs will be considered 'local' for must-carry purposes.'' 8 FCC Rcd at 2976.

We do not believe that the application of the must-carry rules adopted pursuant to the 1992 Cable Act have any direct bearing in determining the size of the local service area of a broadcast station for copyright purposes. The copyright local service area is a broadcast station's television market as defined in 47 CFR 76.55(e), which means that it is the station's ADI, plus any modifications made to the ADI by the Commission under § 76.55 or § 76.59 of its rules.[3] The Office should not have stated in the December 30, 1994, Federal Register notice that the local service area was equal to the station's must-carry zone, since such zone can, in certain circumstances, be considered to extend beyond a station's ADI. Thus, in the ''straddle'' situation, a cable system may only report carriage of a broadcast station as local under 17 U.S.C. 111 in those communities assigned to the station's ADI, even though the system may have must-carry obligations to deliver the signal to communities located in other ADIs.

We believe that this interpretation is consistent with Congress' intent in amending the local service area definition. The legislative history to the Home Viewer Act does not indicate any intention to equate the copyright local service area with the must-carry obligation, and to do so would do violence to 17 U.S.C. 111(d)(1)(B) by substantially reducing the occurrence of partially local/partially distant signals. Furthermore, Congress expressly recognized in the 1992 Cable Act that broadcast stations could be considered distant signals for copyright purposes in communities where they enjoyed must-carry rights. 1992 Cable Act, section 614(h)(1)(b)(ii). Nothing in the Home Viewer Act indicates an intention to change this result.

Dated: December 4, 1995.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–30458 Filed 12–15–95; 8:45 am]

BILLING CODE 1410–31–P

[3] We acknowledge that changes made to a station's ADI under 47 CFR 76.55(e) or 76.59 will undoubtably be for reasons related to the must-carry rules; however, it is only changes made to a station's ADI under these two rules that matter for copyright purposes.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36568; Filed No. SR–CBOE–95–62]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Regarding Book-Entry Settlement of Securities Transactions and Depository Eligibility Requirements

December 8, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 19, 1995, the Chicago Board Options Exchange, Incorporated (''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by CBOE. On October 26, 1995, CBOE filed an amendment to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] CBOE amended its proposal to correct a typographical error in the filing. Letter from Michael L. Meyer, Schiff, Hardin & Waite, to Mark Steffensen, Division of Market Regulation (''Division''), Commission (October 26, 1995).

proposed rule change from interested persons.

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

CBOE proposes to adopt new Rules 30.136 and 30.137 in order to conform its rules to those of other self-regulatory organizations regarding book-entry settlement of transactions in depository eligible securities and regarding the establishment of depository eligibility requirements for issuers that apply to list securities on CBOE.

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.[3]

The purpose of the proposed rule change is to encourage book-entry settlement of securities transactions by adding two new rules to Chapter XXX of the CBOE rules.[4] Both of the proposed new rules are substantially the same as rules previously adopted by six other national securities exchanges and the National Association of Securities Dealers (''NASD'') in response to recommendations of the Group of Thirty, U.S. Working Committee (''U.S. Working Committee''), Clearance and Settlement Project (''Project''), regarding book-entry settlement of securities transactions.[5] In connection with the Project, several years ago the U.S. Working Committee recommended that settlements and other movements of corporate and municipal securities for transactions among financial intermediaries (brokers, dealers, and banks) and between financial intermediaries and their institutional clients be effected only by book-entry movements within a depository. Thereafter, six national securities exchanges and the NASD adopted uniform rules in conformity with the U.S. Working Committee's recommendation.[6]

Because CBOE did not then provide a market in depository-eligible securities, it did not adopt the uniform rule. It now is proposing the adoption of Rule 30.136, which would implement such a book-entry settlement requirement for securities listed on CBOE. The addition of Rule 30.136 will conform the rules of CBOE to those of other U.S. self-regulatory organizations, which rules are designed to ensure that the vast majority of securities transactions effected in the U.S. markets will be settled by book-entry.

Subject to certain exceptions set forth in the text of the rule and described below, Rule 30.136 will require the use of the facilities of a registered securities depository for the book-entry settlement of all transactions in depository eligible securities between a member firm and a financial intermediary or a member of a national securities exchange or a registered securities association. The rule also will apply to transactions in depository eligible securities between member firms and their clients if settlement is to be effected on a delivery-versus-payment (''DVP'') or receipt-versus-payment (''RVP'') basis. As is the case under comparable rules adopted by other self-regulatory organizations, Rule 30.136 will not apply to or affect the manner in which member firms settle transactions with traditional retail customers,[7] the settlement of transactions in securities that are not depository eligible,[8] or transactions in which settlement occurs outside the U.S. Rule 30.136 also will not apply to transactions where the securities to be delivered in settlement of a transaction are not on deposit at a securities depository and (1) the transaction is for same-day settlement and the deliverer cannot by reasonable efforts deposit the securities prior to a depository's cut-off time for same-day crediting of deposited securities or (2) the deliverer cannot by reasonable efforts deposit the securities prior to a cut-off date time established for that issue of securities by the depository. The latter exception is intended to address corporate reorganizations and other extraordinary activities.

The second rule being proposed by CBOE, Rule 30.137, also reflects a response to a directive from the Group of Thirty to address the need to raise clearing and settlement standards. The rule is substantially identical to a uniform depository eligibility rule that was developed through the coordinated effort of six national securities exchanges and the NASD and that has been incorporated into the rules of those self-regulatory organizations.[9]

Rule 30.137 will require that before a domestic issuer's issue of securities is listed that the issuer represent to CBOE that the CUSIP number identifying the issue has been included in the file of eligible issues maintained by a registered securities depository. This requirement will not apply to a security if the terms of such security cannot be reasonably modified to meet the criteria for depository eligibility at all registered securities depositories. In addition, the rule will not apply to American Depository Receipts for securities of a foreign issuer.

Rule 30.137 also sets forth additional requirements that must be met before a security will be deemed to be ''depository eligible'' within the meaning of the rule. The rule specifies different requirements for depository

[3] The Commission has modified the text of the summaries provided by CBOE.

[4] The rules in Chapter XXX govern the listing and trading of debt and equity securities, warrants, UIT interests, and such other securities as may be determined by CBOE's Board of Directors. Chapter XXX does not apply to the trading of option contracts.

[5] The Group of Thirty is an independent, nonpartisan, nonprofit organization established in 1978. In its March 1989 report, the Group of Thirty made nine recommendations for harmonizing clearance and settlement practices worldwide. The U.S. Working Committee, comprised of representatives from brokerage firms, banks, other financial intermediaries, and major industry organizations was formed to study the existing U.S. clearance and settlement system and to recommend reforms consistent with the Group of Thirty recommendations. After reviewing the nine Group of Thirty recommendations, the U.S. Working Committee concluded that at that time the U.S. substantially complied with all but two of those recommendations, T+3 settlement and same-day funds settlement. In order to achieve T+3 settlement, the U.S. Working Committee recommended requiring book-entry settlement between financial intermediaries and between financial intermediaries and their institutional clients and depository eligibility for all new issuances. U.S. Working Committee, Implementing the Group of Thirty Recommendations in the United States (November 1990). The U.S. Working Committee's recommendations were supported strongly by the report of the Bachmann Task Force. Bachmann Task Force on Clearance and Settlement Reform in U.S. Securities Markets, Report Submitted to the Chairman of the Securities and Exchange Commission (May 1992).

[6] Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679 (order approving proposed rule change of the American Stock Exchange (''Amex''), Boston Stock Exchange (''BSE''), Midwest Stock Exchange (now the Chicago Stock Exchange) (''CHX''), New York Stock Exchange (''NYSE''), Pacific Stock Exchange (''PSE''), Philadelphia Stock Exchange (''PHLX''), and NASD regarding the book-entry settlement of securities transactions).

[7] Because retail customers do not settle their trades on a DVP/RVP basis, the rule will not alter their current method of settlement.

[8] Under proposed Rule 30.136(d), depository eligible securities means securities that (i) are part of an issue (as identified by a single CUSIP number) of securities that is eligible for deposit at a securities depository and (ii) with respect to a particular transaction are eligible for book-entry transfer at the depository at the time of settlement of the transaction.

[9] Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909 (order approving proposed rule change of Amex, BSE, CHX, NYSE, PSE, PHLX, and NASD regarding uniform depository eligibility rules).

eligibility depending upon whether a new issue is distributed by an underwriting syndicate before or after the date a securities depository system is available for monitoring repurchases of the distributed shares by syndicate members (*i.e.*, a ''flipping tracking system'').

Currently, a flipping tracking system is being developed that will include a securities depository service that (i) can be activated upon the request of the managing underwriter for a period of time that the managing underwriter specifies, (ii) in certain circumstances will require the delivering participant to provide to the depository information sufficient to identify the seller of such shares as a precondition to the processing of book-entry delivery instructions for distributed shares, and (iii) will report to the managing underwriter the identify of any other syndicate member or selling group member whose customer(s) sold distributed shares (but will not report to the managing underwriter the identity of such customer[s]) and in certain circumstances will report to such syndicate member or selling group member the identity of such customer(s). Prior to the availability of a flipping tracking system, the managing underwriter may delay the date a security is deemed ''depository eligible'' for up to three months after trading has commenced in the security. After the availability of a flipping tracking system, a new issue must be depository eligible before commencement of trading on CBOE.

The proposed rule change is consistent with Section 6(b)(5) of the Act in that by reducing the number of transactions in depository eligible securities for which settlement is effected by the delivery of physical securities, by requiring that transactions between member firms and transactions between member firms and clients that settle on a DVP or RVP basis generally occur in a book-entry environment, and by requiring securities listed in CBOE be depository eligible, the efficiency of the U.S. clearance and settlement system will be enhanced and the potential for systemic risk will be reduced. Furthermore, the proposal is designed to foster cooperation and coordination with persons engaged in regulatory, clearing, settling, and facilitating transactions in securities and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(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

Written comments on the proposed rule change were neither solicited nor received.

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

Within thirty-five 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 ninety 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 CBOE 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 in 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 CBOE. All submissions should refer to File No. SR–CBOE–95–62 and should be submitted by January 8, 1996.

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

[10] 17 CFR 200.30–3(a)(12) (1994).

Margaret H. McFarland,
Deputy Secretary.

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BILLING CODE 8010–01–M

[Release No. 34–36573; File No. 600–27]

Self-Regulatory Organizations; Clearing Corporation for Options and Securities; Order Approving Application for Exemption From Registration as a Clearing Agency

December 12, 1995.

On December 14, 1992, the Clearing Corporation for Options and Securities (''CCOS'')[1] filed with the Securities and Exchange Commission (''Commission'') an application for exemption from registration as a clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934 (''Act'')[2] and rule 17Ab2–1 thereunder.[3] Notice of CCOS's application was published in the Federal Register on June 23, 1993.[4] Fourteen comment letters were received in response to the notice of filing of the CCOS application.[5] On October 7, 1993, CCOS filed an amendment to its application[6] setting forth its intention to register Chicago Board Brokerage, Inc. (''CBB'') as a U.S. government securities broker pursuant to Section 15C of the Act[7] and to proceed with CBB's membership with the National Association of Securities Dealers (''NASD'') as required by that section.[8] Notice of the amendment was published in the Federal Register on April 22, 1994, to solicit comments.[9] One hundred eleven comment letters were received in response to the notice of filing of the amendment.[10] This Order grants CCOS's application for

[1] CCOS is a wholly-owned subsidiary of the Board of Trade Clearing Corporation (''BOTCC'') which provides clearing services for futures and commodities transactions executed on the Board of Trade of the City of Chicago (''CBOT'').

[2] 15 U.S.C. § 78q–1 (1988).

[3] 17 CFR 240.17Ab2–1 (1994).

[4] Securities Exchange Act Release No. 32481 (June 16, 1993), 58 FR 34105 [File No. 600–27] (notice of filing of application for exemption from registration as a clearing agency) (''CCOS Release'').

[5] A complete list of comment letters for File No. 600–27 is available for review in the Commission's Public Reference Room.

[6] Letter from Dennis Dutterer, Executive Vice President and General Counsel, BOTCC, to Jonathan Katz, Secretary, Commission (October 6, 1993). Letter from Fred Grede, Vice President, Board of Trade of the City of Chicago (''CBOT''), to Brandon Becker, Director, Division of Market Regulation (''Division''), Commission (October 6, 1993).

[7] 15 U.S.C. § 78o-5 (1988).

[8] 15 U.S.C. § 78o-5(e)(1) (1988).

[9] Securities Exchange Act Release No. 33911 (April 15, 1994) 59 FR 19263 [File No. 600–27] (notice of filing of amendment to application for exemption from registration as a clearing agency).

[10] *Supra* note 5.