

For the Nuclear Regulatory Commission.
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OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy FAR Part 15 Rewrite

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Request for Comments via the Internet.

SUMMARY: In response to the report of the National Performance Review (NPR), the Federal Acquisition Regulatory Council has embarked on a rewrite of FAR Part 15 to simplify, update and streamline rules related to negotiated procurements. The intent of this notice is twofold: first, to announce a future rulemaking action; second, to inform the public that electronic means will be used to engage the public in electronic discussions about issues important to the rewrite of the rules governing negotiated procurements. For those who do not want to participate electronically or cannot access the World Wide Web but would like to provide initial input for the rewrite, a notice of proposed rulemaking was published requesting paper comments and announcing a public meeting. This notice, which was issued by the Department of Defense, in concert with the Federal Acquisition Regulations Council, appeared in the Federal Register on December 8, 1995 (60 FR 63023).

DATES: The initial round for electronic discussions will be conducted during the period December 1, 1995 through January 22, 1996. We anticipate further rounds as the rulemaking progresses.

FOR FURTHER INFORMATION CONTACT:
Susan E. Alesi at 202-395-3301.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1993, the Vice President released the report of the NPR which advocated simplification of the procurement process by, in part, rewriting the Federal Acquisition Regulation (FAR). As a first step in this project, a set of core guiding principles was formulated to guide the federal acquisition system. These principles are now included in FAR Part 1. The project has now resumed with the rewrite of

FAR Part 15 dealing with the rules on negotiated rulemaking under the direction of the Federal Acquisition Regulatory Council (FAR Council).

The FAR Council has established a team of 11 individuals from civilian agencies, DOD components and the Office of Federal Procurement Policy, with co-chairs from DOD and NASA to participate in rewriting Part 15. The actual drafting of the regulatory language is scheduled to start no later than February 1, 1996, with a target finish date of October 1996. This delayed starting date was proposed and agreed upon to allow time to solicit input and to identify those areas that need the most attention. The initial public input will be accomplished in a number of ways. In addition to such traditional methods as requesting the submission of written comments and holding a public meeting, additional methods of obtaining public comment are being used, one of which is through on-line discussions via the Acquisition Reform Network (ARnet).

The ARnet was established in June 1, 1995, as an initiative of the NPR to help government workers communicate electronically. The purpose of the Internet based World Wide Web Network is to inform the members of the acquisition community about reform initiatives, give them electronic access to references, training materials and other electronic sources of information, and engage them in on-line discussions about issues important to improving our acquisition system.

Use of the ARnet On-Line Forum to assist the FAR Part 15 Rewrite Team provides an additional avenue for two-way communication with the acquisition community. This support will initially be used as a call for inputs organized around a series of key Part 15 issues. Some of these issues are government-industry communications via draft solicitations, discussions and oral proposals; Part 15 and commercial items; source selection and best value determinations; selection of proposals for competitive range; and the use of "shall" in governmentwide regulations governing negotiated procurements. We anticipate that the ARnet will subsequently be used to publicize proposed rule(s) and provide another round of discussions on these rule(s) during the public comment period.

Electronic Access to the FAR Part 15 Rewrite Forum on the Internet

General: This Forum can be accessed through the World Wide Web by using any HTML viewer at the following URL address: <http://www-far.npr.gov>. Anyone with access to the World Wide

Web can participate through using comment options residing on the Web Site.

Participation Options: The method for participating in this forum which is currently operational is through the World Wide Web. However, we are also working to provide access to these discussions through E-mail; if E-mail access can be arranged, a supplemental notice will be issued announcing how interested persons can participate in the forum via E-mail. In addition, individuals who cannot participate through these electronic methods, or would prefer to provide their comments through alternative means, will be able to participate through non-electronic means as described above (i.e., by submitting written comments or participating in a public meeting).

Steven Kelman,
Administrator.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36575; File No. SR-CBOE-95-69]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Membership Fees

December 12, 1995.

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 November 29, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 hereby gives notice that it is proposing to amend certain membership fees imposed by the Exchange.

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

II. Self-Regulatory Organizations' 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 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 purpose of this proposed rule change is to amend the membership fees imposed by the Exchange in two respects. These amendments will take effect on January 1, 1996.

First, the Exchange proposes to reduce from \$1,500 and \$500 the fee that it assesses member organizations that apply for Exchange approval to conduct a non-member customer business.

Second, the Exchange proposes to amend its Inactive Nominee Status Change Fee. Currently, the Exchange assesses member organizations a \$55 whenever an inactive nominee of a member organization becomes an active nominee of the member organization, regardless of when the Exchange's Membership Department is notified of that status change. As is more fully described below, in order to encourage member organizations to provide the Membership Department which advance notice of such status changes, the Exchange is proposing to make the amount of this fee depend on when the Membership Department receives notice of these status changes.

In order to consummate a nominee status change, a member organization is required to submit a Notification of Change in Nominee Status Form ("Notification Form") to the Membership Department setting forth, among other things, the designated effective date of the status change. If the Notification Form is submitted prior to the opening of trading on the designated effective date of the status change, the status change becomes effective upon the opening of trading on such designated effective date. If the Notification Form is submitted subsequent to the opening of trading on the designated effective date of the status change, the status change becomes effective upon the submission

of the Notification Form. Upon the effectiveness of the status change, the person moving from inactive to active nominee status is granted trading privileges on the Exchange.

Although a nominee status change can become immediately effective (or can become effective within minutes) if notice of the status change is submitted to the Membership Department on its designated effective date, it takes time for the Membership Department to update the Exchange's membership records to reflect the status change. Specifically, the Membership Department must enter the status change information into the Exchange's membership database and must validate the acronym for the person moving from inactive to active nominee status in the Exchange's Trade Match System so that trades can be matched to the nominee by that System. Ordinarily, the Membership Department is able to quickly process nominee status changes and to validate the acronyms of nominees moving from inactive to active status before these nominees begin consummating trades on the Exchange. However, if the Membership Department receives notification of a number of nominee status changes either late in the day on the date prior to the designated effective date of such status changes and/or on the designated effective date of such status changes, it is more difficult for the Membership Department to process all of the changes before the newly activated nominees begin their trading activities. This can result in outtrades being created because the Trade Match System is unable to match trades with the acronyms of those nominees whose status changes have not yet been processed, and these outtrades then need to be corrected later in the day.

In order to encourage member organizations to provide the Membership Department with sufficient notice of nominee status changes so that the Membership Department has time to process such changes prior to the time that the newly activated nominees begin to trade, the Exchange is proposing the following three-tiered fee structure for nominee status changes: If a Notification Form is submitted before 4 p.m. on the date prior to the designated effective date of the status change, the fee is proposed to be \$40. If a Notification Form is submitted after 4 p.m. on the date prior to the designated effective date of the status change or before 8 a.m. on the designated effective date of the status change, the fee is proposed to be \$75. If a Notification Form is submitted after 8 a.m. on the designated effective

date of the status change, the fee is proposed to be \$150.

The CBOE represents that the proposed rule change is consistent with section 6 of the Act, in general, and furthers the objectives of Section 6(b)(4) of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate 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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule changes, 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.

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 20549. Copies of such

filings will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the File No. SR-CBOE-95-69 and should be submitted by January 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36576; File No. SR-CHX-95-25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Establishment of a Minor Rule Violation Procedure and Reporting Plan

December 12, 1995.

Pursuant to Sections 19(b)(1) and (d)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1) and (d)(1), and Rules 19b-4 and 19d-1(c)(2) thereunder,¹ notice is hereby given that on October 11, 1995, the Chicago Stock Exchange, Inc. (''CHX'' 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.² On December 8, 1995, the Exchange submitted Amendment No. 1 to the proposed rule change.³ 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 is proposing to add a minor rule violation procedure as Article XII, Rule 9 of the Exchange's rules, adopt a minor rule violation reporting plan,⁴ and renumber existing Article XII, Rule 9.

¹ 17 CFR 200.30-3(a)(12) (1994).

² 17 C.F.R. 240.19b-4 and 19d-(c)(2).

³ The Exchange is submitting to the SEC concurrently with the proposed rule change a minor rule violation reporting plan in accordance with Rule 19d-1(c)(2) under the Act. See Letter from David Rusoff, Attorney, Foley & Lardner, to Glen Barrentine, Senior Counsel, SEC, dated October 6, 1995.

⁴ See Letter from David Rusoff, Attorney, Foley & Lardner, to Glen Barrentine, Senior Counsel, SEC, dated December 8, 1995. Amendment No. 1 renumbers existing Article XII, Rule 9 to Article XII, Rule 10.

⁵ In Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984), the SEC

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 self-regulatory organization 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 self-regulatory organization 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 proposed minor rule violation procedure (''Procedure'') authorizes the Exchange, in lieu of commencing a disciplinary proceeding, to impose a fine, not to exceed \$2,500, on any member, member organization, associated person or registered or non-registered employee of a member or member organization for any violation of an Exchange rule which the Exchange determines to be minor in nature. The Committee on Floor Procedure will have the same authority for violations relating to decorum on the Exchange trading floor.

If the fine is to be imposed by the Exchange (as opposed to the Committee on Floor Procedure) the fine shall be imposed in accordance with the method set forth in paragraph (b) of the Procedure. Specifically, prior to imposing the fine, the staff of the Exchange shall present the facts supporting such violative conduct to a

adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations to submit for SEC approval plans for the abbreviated reporting of minor disciplinary infractions. Under the amendments, any disciplinary action taken by a self-regulatory organization against any person for violation of a rule of the self-regulatory organization that has been designated as a minor rule violation pursuant to a plan filed with the SEC shall not be considered ''final'' for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies with respect to the matter.

The SEC has approved minor disciplinary rule plans by virtually every stock exchange and the National Association of Securities Dealers, Inc. *See, e.g.*, Securities Exchange Act Release No. 21919 (April 3, 1985), 50 FR 14068 (April 9, 1985) (File No. 4-260) (Amex); Securities Exchange Act Release No. 22415 (September 17, 1985), 50 FR 38600 (September 23, 1985) (File No. 4-284) (NYSE); Securities Exchange Act Release No. 22654 (November 21, 1985), 50 FR 48853 (November 27, 1985) (File No. 4-285) (PSE).

Minor Rule Violation Panel (''Panel''), which shall consist of three floor members (one member of the Committee on Floor Procedure, one member of the Committee's Rules Subcommittee, and one member not on the Committee or any of its subcommittees) appointed by the President of the Exchange. The Panel is then authorized to impose the fine. In the event the Panel does not impose the fine, the staff shall, under circumstances set forth in the Procedure, issue a report to the President. The President, in turn, may either impose the fine, direct the staff to prefer formal charges or reject the staff's recommendation entirely.

If a fine is to be imposed under the Procedure, the Exchange will serve a written statement on the person against whom a fine is imposed setting forth the rule violated, the act or omission constituting the violation, the fine imposed and the date of imposition, the date the fine must be paid and the date by which such determination must be contested.

If the person against whom a fine is imposed pursuant to the Procedure chooses not to contest the matter and pays the fine, he or she waives his or her right to a disciplinary proceeding under Article XII of the Exchange's rules and any right to review or appeal (to the extent such right would otherwise exist under current Exchange rules). Alternatively, any person may choose to contest a fine by submitting a written answer, at which point the matter becomes a ''disciplinary proceeding'' subject to the applicable provisions of Article XII, including all disciplinary sanctions available thereunder (except for contests of a fine by the Committee on Floor Procedure, which will be subject to the provisions of Article XII, Rule 3).

Under the Procedure, the Exchange will periodically prepare and announce to its members and member organizations a list of Exchange rules and policies as to which the Exchange may impose fines pursuant to the Procedure as well as the fines that may be imposed for their violation. The Procedure, however, expressly states that the Exchange is not required to impose a fine under the Procedure with respect to any violation of any rule included on such list. In addition, whenever the Exchange determines that a rule violation is not minor in nature, it has the discretion to commence disciplinary proceedings under Article XII of the CHX rules.

The Exchange also proposes to adopt a minor rule violation reporting plan (''Plan''). Under its Plan, the Exchange designates certain specified rule