

Offer of Exchange

38. The owners of a Policy may ask, so long as both insureds are alive, to exchange the Policy for two individual policies insuring each of the insureds separately. Since the individual policies may be variable life policies issued by a separate account of Minnesota Mutual, including the Account, which is registered under the Act as a unit investment trust, the exchange provision may be viewed as an offer of exchange within the prohibition of Sections 11 (a) and (c). Applicants request an order pursuant to Section 11 of the Act permitting the exchange of a Policy for two individual variable insurance policies in accordance with the provision described above.

39. An exchange pursuant to the Policy provision is subject to satisfactory evidence of insurability of both insureds. If the exchange is permitted by Minnesota Mutual, each of the new individual policies issued will have one-half of the death benefit, Policy value and Policy loan of the Policy surrendered, and the scheduled premiums to be paid to the new policies will be based on the age, gender and risk class of each insured on the date of exchange. The purpose of Section 11 is to prevent "switching." "Switching" is a term of art that refers to the practice of inducing security holders of one investment company to exchange their securities for those of a different investment company solely for the purpose of exacting additional selling charges. Because the new policies together will have a policy value equal to the policy value of the surrendered security, the exchange will be made on the basis of the relative net asset values of the policies involved. Furthermore, no charge, administrative or otherwise, will be made in connection with the exchange, and no sales charge will be imposed under the new policies on policy values transferred to the new policies in connection with the exchange. Applicants conclude that the terms of the proposed offer of exchange do not involve any of the switching abuses that led to the adoption of Section 11 of the Act.

Class Relief

40. Extending the relief herein requested to Future Contracts, Future Accounts and Future Underwriters is appropriate in the public interest. An order so providing should promote competitiveness in the variable life insurance market by eliminating the need for filing redundant exemptive applications, thereby reducing Minnesota Mutual's costs. The delay

and expense of repeatedly seeking exemptive relief for substantially similar contracts, new separate accounts or new principal underwriters could impair Minnesota Mutual's ability to take effective advantage of business opportunities that might arise. There is no benefit or additional protection afforded to investors by requiring Applicants to repeatedly seek exemptive relief with respect to the same issues addressed in this application.

Conclusion

For the reasons summarized above, Applicant represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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Agency Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [61 FR 36944, July 15, 1996].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: July 15, 1996.

CHANGE IN THE MEETING: Cancellation.

The closed meeting scheduled for Wednesday, July 17, 1996, at 10:00 a.m., has been cancelled.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942-7070.

July 15, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-18300 Filed 7-15-96; 4:41 pm]

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[Release No. 34-37421; File No. SR-CBOE-96-02]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Liability of the Exchange and its Directors, Officers, Employees, and Agents, Precluding Certain Types of Legal Actions by Members Against Such Persons, and Requiring Members to Pay the Exchange's Costs of Litigation Under Specified Circumstances

July 11, 1996.

I. Introduction

On January 18, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend various Exchange rules pertaining to the liability of the Exchange, to adopt new Rule 6.7A prohibiting a member from instituting certain types of legal proceedings against Exchange officials, and to adopt new Rule 2.24 requiring a member to pay the Exchange's costs of litigation under specified circumstances.

Notice of the proposed rule change appeared in the Federal Register on February 27, 1996.³ No comments were received on the proposed rule change.⁴ This order approves the CBOE's proposal.

*II Background and Description**A. Exchange Liability*

The principal rule concerning Exchange liability is Rule 6.7(a), which currently provides that the Exchange shall not be liable to members, member organizations, or to associated persons for loss, damages, or claims arising out of the use or enjoyment of the facilities afforded by the Exchange, whether the loss, damages, or claims resulted from negligence or other unintentional errors or omissions, or from a cause not within the control of the Exchange. The proposed amendment to Rule 6.7(a) clarifies that, except as otherwise specifically provided in the rules of the Exchange, neither the Exchange nor its

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 36863 (February 20, 1996), 61 FR 7285 (February 27, 1996).

⁴ The CBOE submitted a letter regarding the enforceability of the proposed rules under state law. See letter from Michael L. Meyer, Schiff Hardin & Waite, to Matthew Morris, Division of Market Regulation, Commission, dated June 27, 1996.