

**PENSION BENEFIT GUARANTY CORPORATION****Proposed Submission of Information Collection for OMB Review; Comment Request; Liability for Termination of Single-Employer Plans**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval.

**SUMMARY:** The Pension Benefit Guaranty Corporation ("PBGC") intends to request that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of a collection of information contained in its regulation on Liability for Termination of Single-Employer Plans, 29 CFR Part 4062 (OMB control number 1212-0017; expires September 30, 1998). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments should be submitted by July 6, 1998.

**ADDRESSES:** Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at the address given above or calling 202-326-4040. (For TTY and TDD, call 800-877-8339 and request connection to 202-326-4040). The regulation on Liability for Termination of Single-employer Plans can be accessed on the PBGC's home page at <http://www.pbgc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY and TDD, call 800-877-8339 and request connection to 202-326-4024).

**SUPPLEMENTARY INFORMATION:** Section 4062 of the Employee Retirement Income Security Act of 1974 provides that the contributing sponsor of a single-employer pension plan and members of

the sponsor's controlled group ("the employer") incur liability ("employer liability") if the plan terminates with assets insufficient to pay benefit liabilities under the plan. The PBGC's statutory lien for employer liability and the payment terms for employer liability are affected by whether and to what extent employer liability exceeds 30 percent of the employer's net worth.

Section 4062.6 of the PBGC's employer liability regulation (29 CFR 4062.6) requires a contributing sponsor or member of the contributing sponsor's controlled group who believes employer liability upon plan termination exceeds 30 percent of the employer's net worth to so notify the PBGC and to submit net worth information. This information is necessary to enable the PBGC to determine whether and to what extent employer liability exceeds 30 percent of the employer's net worth.

The collection of information under the regulation has been approved by OMB under control number 1212-0017 through September 30, 1998. The PBGC intends to request that OMB extend its approval for another three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that an average of 13 contributing sponsors or controlled group members per year will respond to this collection of information. The PBGC further estimates that the average annual burden of this collection of information will be 12 hours and \$1800 per respondent, with an average total annual burden of 156 hours and \$23,400.

The PBGC is soliciting public comments to—

- evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, DC, this 27th day of April, 1998.

**David M. Strauss,**  
*Executive Director, Pension Benefit Guaranty Corporation.*

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**PENSION BENEFIT GUARANTY CORPORATION****Proposed Submission of Information Collection for OMB Review; Comment Request; Disclosure to Participants**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval.

**SUMMARY:** The Pension Benefit Guaranty Corporation ("PBGC") intends to request that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of the collection of information under its regulation on Disclosure to Participants, 29 CFR Part 4011 (OMB control number 1212-0050; expires September 30, 1998). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments should be submitted by July 6, 1998.

**ADDRESSES:** Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at the address given above or calling 202-326-4040. (For TTY and TDD, call 800-877-8339 and request connection to 202-326-4040). The regulation on Disclosure to Participants can be accessed on the PBGC's home page at <http://www.pbgc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY and TDD, call 800-877-8339 and request connection to 202-326-4024).

**SUPPLEMENTARY INFORMATION:** Section 4011 of the Employee Retirement Income Security Act of 1974 requires plan administrators of certain underfunded single-employer pension plans to provide an annual notice to plan participants and beneficiaries of the plan's funding status and the limits on the PBGC's guarantee.

The PBGC's regulation implementing this provision (29 CFR Part 4011) prescribes which plans are subject to the notice requirement, who is entitled to receive the notice, and the time, form, and manner of issuance of the notice. The notice provides recipients with meaningful, understandable, and timely information that will help them become better informed about their plans and assist them in their financial planning.

The collection of information under the regulation has been approved by OMB under control number 1212-0050 through September 30, 1998. The PBGC intends to request that OMB extend its approval for another three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that an average of 3,500 plans per year will respond to this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 1.97 hours and \$74 per plan, with an average total annual burden of 6,904 hours and \$258,900.

The PBGC is soliciting public comments to—

- evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, DC, this 27th day of April, 1998.

**David M. Strauss,**

*Executive Director, Pension Benefit Guaranty Corporation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39923; File No. SR-CBOE-97-50]

### Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1 and 2 to Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to "Go Along" Orders

April 27, 1998.

#### Introduction

On September 25, 1997,<sup>1</sup> 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")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> a proposed rule change to issue a regulatory circular which would establish the representation of "go along" orders on the floor of the Exchange as a violation of just and equitable principles of trade pursuant to Exchange Rule 4.1.

The proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 39261 (October 20, 1997) 62 FR 55663 (October 27, 1998). One comment letter was received in response to the proposal.<sup>4</sup> The Exchange subsequently filed Amendment Nos. 1 and 2 to the proposed rule change on January 20, 1998 and February 10, 1998, respectively.<sup>5</sup>

<sup>1</sup> The Exchange originally submitted this proposal as SR-CBOE-96-67 on November 11, 1996, and withdrew it at the request of the Commission on February 18, 1997.

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See letter and attachment from Trent Cutler, TSC Partners, L.P., to Jonathan Katz, Secretary, Commission, dated January 7, 1998.

<sup>5</sup> Amendment No. 1 clarifies the definition of "go along" orders in the regulatory circular that the Exchange expects to issue to its members. Amendment No. 1 deletes "generally" from the first sentence of the circular entitled "Definition of Go Along Orders." In addition, Amendment No. 1 clarifies the definition by explaining there are two elements that an instruction to a floor broker must meet before those instructions make an order a "go along" order. First, the floor broker must be

## II. Background and Description

The purpose of the proposed rule change is to prohibit floor brokers from representing or executing "go along" orders (as further described below) on the floor of the Exchange. The Exchange will consider the representation or execution of such orders an act inconsistent with just and equitable principles of trade pursuant to Exchange Rule 4.1. The Exchange proposes to set forth the prohibition against the representation of "go along" orders in a regulatory circular describing the types of conduct which would be considered to be violative of just and equitable principles of trade. The proposed regulatory circular will state the following:

#### Definition of "Go Along" Orders

A "go along" order, or a "not held with the crowd" order, is an order that instructs a floor broker to bid or offer (as appropriate for the type of order) on a contract only (i) when a particular market-maker in the trading crowd are bidding or offering on the contract and (ii) at the price or prices established by such market-makers in the trading crowd. The prohibition of "go along" orders does not limit a floor broker's use of discretion in representing an order on behalf of a customer. Instead, the prohibition is intended to prohibit a floor broker from accepting a specific instruction to trade in a manner that mimics the trading behavior of one or more market-makers.

Generally, customers submitting "go along" orders to floor brokers will specify whether the order is to buy or sell, the number of contracts, the series, and the strike price. Typically, the floor broker will be instructed to buy when

instructed to bid or offer when one or more participant in the trading crowd are bidding or offering. Second, the floor broker must be instructed to bid or offer at the price established by the other participants in the trading crowd. Furthermore, the Exchange is proposing to add a sentence to make clear that the prohibition against "go along" orders is not intended to prohibit a floor broker from properly exercising discretion in the representation of an order. Amendment No. 2 further clarifies the definition of "go along" order to state that the floor broker must be instructed to bid (offer) on a contract only when particular market-makers in the trading crowd are bidding (offering) on that contract, that the floor broker must be instructed to bid (offer) at the prices established by such market-makers in the trading crowd. Amendment No. 2 also amends the last sentence of the first paragraph of the definition section to state that the prohibition against "go along" orders prevents a floor broker from accepting a specific instruction to trade "in a manner that mimics the trading behavior of one or more market makers." See letters from Timothy H. Thompson, Senior Attorney, CBOE, to Michael Walinskas, Senior Special Counsel, Market Regulation, Commission, dated January 16, 1998 ("Amendment No. 1") and February 9, 1998 ("Amendment No. 2").