

pursuant to the order of a court of competent jurisdiction.

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Stanley F. Mires,

Chief Counsel, Legislative.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42780; File No. SR-CBOE-00-17].

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Designation of Financial/Operations Principals

May 12, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 11, 2000, the Chicago Board Options Exchange, Incorporated ("CBOE" 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 CBOE. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The CBOE proposes to require each CBOE member subject to Commission Rule 15c3-1 (the "net capital rule") to designate a Financial/Operations Principal ("FINOP") and to register the FINOP with the Exchange. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

RULE 2.22—Other Fees or Charges

(a) No change.

(b) Registration Fees. Member organizations (*and individual members, if applicable,*) shall pay application, maintenance and transfer registration fees for *their* Series 7 qualified Registered Representatives ("RR") as described in Rule 9.3, [*and*] *their* Registered Options Principals ("ROP") as described in Rule 9.2 *and their Financial/Operations Principals ("FINOP") as described in rule 3.6A.* The fees are listed below:

(i) For each new RR, [or] ROP or FINOP applicant—\$35.00

(ii) For the maintenance of each RR, [or] ROP or FINOP Registration—\$30.00/year[.]

(iii) For an RR or ROP who transfers from another organization, or a FINOP who transfers from another organization and does not maintain any other FINOP registrations—\$30.00

* * * * *

Qualification and Registration of Certain Associated Persons

RULE 3.6A. (a) Financial/Operations Principal. Each individual member or member organization subject to Exchange Act Rule 15c3-1 shall designate a Financial/Operations Principal. The duties of a Financial/Operations Principal shall include taking appropriate actions to assure that the member complies with applicable financial and operational requirements under the Rules and the Exchange Act, including but not limited to those requirements relating to the submission of financial reports and the maintenance of books and records. Each Financial/Operations Principal is required to have successfully completed the Financial and Operations Principal Examination (Series 27 Exam). Each Financial/Operations Principal designated by a member shall be registered in that capacity with the Exchange in a form and manner prescribed by the Exchange. A Financial/Operations Principal of a member may be a full-time employee of the member, or with the prior written approval of the Exchange, may be a part-time employee or independent contractor of the member.

(b) Associated Person Statuses Under Chapter IX. Associated person statuses under Chapter IX (along with the primary Exchange Rule concerning the status) include: (i) Registered Options Principal (Rule 9.2); (ii) Registered Representative (Rule 9.3); (iii) Senior Registered Options Principal (Rule 9.8); and (iv) Compliance Registered Options Principal (Rule 9.8).

. . . Interpretations and Policies:

.01 Each person in an associated person status enumerated in paragraph (a) or (b) of this Rule shall, in a form and manner prescribed by the Exchange (i) submit to the Exchange a Uniform Application for Securities Industry Registration or Transfer (Form U-4) and (ii) promptly submit to the Exchange any required amendments to Form U-4.

.02 Any member that discharges or terminates the employment or retention of an associated person enumerated in paragraph (a) or (b) of this Rule shall comply with the termination filing

requirements set forth in Rule 9.3(b) and Rule (9.3(c).

.03 Each person in an associated person status enumerated in paragraph (a) or (b) of this Rule is required to satisfy the continuing education requirements set forth in Rule 9.3A.

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

1. Purpose

The purpose of the proposed rule change is to require each individual member or member organization subject to Exchange Act Rule 15c3-1, the net capital rule,³ to designate a FINOP and to register the FINOP with the Exchange. The Exchange proposes to include this requirement in proposed new CBOE Rule 3.6A, "Qualification and Registration of Certain Associated Persons."

Proposed Rule 3.6A provides that the duties of a FINOP include taking appropriate actions to ensure that the member complies with applicable financial and operational requirements under the CBOE's Rules and the Act, including but not limited to requirements relating to the submission of financial reports and the maintenance of books and records. Additionally, each FINOP would be required to complete successfully the Financial and Operations Principal Examination (Series 27 Exam). Each FINOP designated by a member would also be required to be registered in that capacity with the Exchange in a form and manner prescribed by the Exchange.

Proposed Rule 3.6A also provides that a FINOP of a member could be a full-time employee of the member or, with the prior written approval of the

³ 17 CFR 240.15c3-1. Certain options market makers are not subject to the net capital rule, see 17 CFR 240.15c3-1(b)(1)(i), and therefore are not subject to proposed CBOE Rule 3.6A.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Exchange, a part-time employee or independent contractor of the member.⁴

The Exchange states that its proposal to require designation of a FINOP is comparable to requirements of other securities self-regulatory organizations, such as the New York Stock Exchange, Inc. and the National Association of Securities Dealers, Inc.

The Exchange also states that it intends to monitor firms for compliance with the requirements relating to FINOPs during the course of the Exchange's financial examination program for CBOE member organizations for which CBOE is the designated examining authority.

To promote ease of reference by CBOE members, the Exchange also proposes to set forth in Rule 3.6A and its Interpretations certain existing requirements with respect to associated persons required to be registered with the Exchange under Chapter IX of CBOE's Rules. Accordingly, Rule 3.6A(b) lists the persons that have associated person status under Chapter IX, and cross-references the primary CBOE Rule concerning each of those persons. These persons include Registered Options Principals with Rule 9.2 as the primary CBOE rule, Registered Representatives (Rule 9.3), Senior Registered Options Principals (Rule 9.8), and Compliance Registered Options Principals (Rule 9.8).

The Interpretations to Rule 3.6A reference certain existing requirements applicable to individuals having associated person status under Chapter IX and provide that these requirements shall be applicable to each FINOP. Thus, Interpretation .01 provides that each person having associated person status as described in Rule 3.6A (including a FINOP) shall, in a form and manner prescribed by the Exchange, submit to the Exchange a Uniform Application for Securities Industry Registration or Transfer (Form U-4) and promptly submit to the Exchange any required amendments to Form U-4. Interpretation .02 provides that any member that discharges or terminates the employment or retention of an associated person enumerated in Rule 3.6A shall comply with the termination filing requirements set forth in CBOE

Rules 9.3(b) and 9.3(c).⁵ Interpretation .03 provides that each associated person enumerated in Rule 3.6A is required to satisfy the continuing education requirements set forth in CBOE Rule 9.3A.

The Exchange will allow members subject to Rule 15c3-1 under the Act six months from the date of approval of this rule filing by the Commission in which to designate a FINOP in accordance with Rule 3.6A. The purpose of that time period is to provide the Exchange with an opportunity to notify the Exchange's membership of the new requirement and to provide members that do not currently employ or retain an individual who functions as a FINOP a reasonable period of time in which to employ or retain such an individual.

The Exchange also proposes to amend existing CBOE Rule 2.22(b) to assess application, maintenance, and transfer registration fees with respect to the designation of FINOPs. These fees would be the same as those that the Exchange assesses on Registered Representatives and Registered Options Principals under Rule 2.22(b).⁶ Thus, the fee for each new FINOP designated by a member is proposed to be \$35.00, the annual maintenance fee for each FINOP registration is proposed to be \$30.00 per year, and the transfer fee for a FINOP who transfers from another organization and does not maintain any other FINOP registration is proposed to be \$30.00. Each member organization (or individual member, if applicable) would have to pay a registration fee for a FINOP, regardless of whether the FINOP also acts in that capacity for another firm.

2. Statutory Basis

The Exchange states that the proposed rule change would enhance compliance with financial and operational requirements under CBOE's Rules and the Act and make it easier for the Exchange's membership to reference registration requirements under CBOE's Rules. Accordingly, the proposed rule is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5),⁸ in particular, in that it is designed to promote just and equitable principles of trade, to prevent

fraudulent and manipulative acts and practices, and to protect investors and the public interest. The proposed rule change also would further the objectives of Section 6(b)(4) of the Act⁹ 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 CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

The CBOE represents that the proposed rule change (i) would not significantly affect the protection of investors or the public interest, (ii) would not impose any significant burden on competition, and (iii) would not become operative for 30 days from the date it was filed. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. For the foregoing reasons, this rule filing qualifies for expedited approval as a "non-controversial" rule change under Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)¹¹ thereunder and will become operative 30 days from April 11, 2000, the date on which it was filed.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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, including whether the proposed rule

⁴ The Commission interprets the term "associated person" to include any independent contractor, consultant, franchisee, or other person providing services to a broker-dealer equivalent to those service provided by persons specifically referenced in the Act. Accordingly, a FINOP is an associated person of a firm, making the FINOP and the firm subject to all requirements that accompany associated person status, regardless of the nature of the employment relationship or contractual relationship between the FINOP and the firm.

⁵ The requirements set forth in CBOE Rules 9.3(b) and 9.3(c) relate to the filing of a Uniform Termination Notice for Securities Industry Registration (Form U-5) and the filing of required amendments to Form U-5.

⁶ The fees applicable to Registered Representatives and Registered Options Principals were last raised in 1999. See Exchange Act Release No. 41,748 (Aug. 16, 1999); 64 FR 46,218 (Aug. 24, 1999).

⁷ 17 U.S.C. 78f(b).

⁸ 17 U.S.C. 78f(b)(5).

⁹ 17 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

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, NW, Washington, DC 20549-0609. 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-00-17 and should be submitted by June 6, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-12759 Filed 5-19-00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42783; File No. SR-NASD-00-05]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Release of Disciplinary Information

May 15, 2000.

I. Introduction

On February 16, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "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 IM-8310-2 of the Association, to provide for the publication of all final, litigated decisions issued by the Office of Hearing Officers ("OHO"),³ the National

Adjudicatory Council ("NAC"), and the NASD Board, regardless of sanctions imposed.

The proposed rule change was published for comment in the **Federal Register** on April 11, 2000.⁴ No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

Some NASD disciplinary decisions are currently available in electronic legal research databases, such as Westlaw, Lexis-Nexis, and Books on Screen. Interpretative Material 8310-2 (the "Interpretation") permits the NASD to release any disciplinary decision: (1) Imposing a suspension, cancellation or expulsion of a member; (2) imposing a suspension or revocation of the registration of any associated person; (3) imposing a suspension or barring a member or associated person from association with all members; (4) imposing monetary sanctions of \$10,000 or more on a member or associated person; (5) containing on alleged violation of a Designated Rule; or (6) deemed by the President of NASD Regulation to involve a significant policy or enforcement determination where the release of information would be in the public interest.

The Association is proposing to amend the Interpretation to provide for the publication of all final, litigated decisions issued by the OHO, the NAC, and the NASD Board, regardless of sanctions imposed. However, the names of the parties and other identifying information mentioned in the decisions that do not meet the current enumerated publication criteria, as outlined in the Interpretation (listed above), will be redacted from these decisions.

Settlements, Letters of Acceptance, Waivers and Consents ("AWCs"), and Minor Rule Violation Plan letters are excluded from this proposal. The proposed rule change will not have any impact on the information contained in or disclosed by the Central Registration Depository system. The NASD will make available all decisions covered under this proposal that were issued after August 7, 1997, the effective date of the most recent significant changes to the NASD Code of Procedure.⁵

III. Discussion

The Commission finds that the proposal is consistent with Section 15A(b)(6) of the Act,⁶ which requires,

among other things, that the rules of an association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. In particular, the Commission finds that the proposal is consistent with Section 15A(b)(7) of the Act⁷ in that it works to adequately safeguard the interest of investors while establishing fair rules for its members and persons associated with its members.

The Commission believes that providing the public with this expanded information on disciplinary decisions will provide a clearer picture of the Association's current application and interpretation of its substantive and procedural rules. The NASD will make the information available to vendors of legal research databases. Members will have additional insight into how NASD rules are enforced, making it easier for them to comply with the rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NASD-00-05) is approved. The NASD will announce the effective date of this rule in a Notice to Members to be published within 60 days of the date on this order. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3253]

State of California

Los Angeles County and the contiguous counties of Kern, Orange, San Bernardino, and Ventura in the State of California constitute a disaster area as a result of severe storms that occurred on April 18, 2000. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 10, 2000 and for economic injury until the close of business on February 9, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The OHO issues decisions rendered by Hearing Officers (default decisions) and Hearing Panels.

⁴ Securities Exchange Act Release No. 42607 (April 3, 2000), 65 FR 19421.

⁵ See Special NASD Notice to Member 97-55 (August 1997).

⁶ 15 U.S.C. 78-o 3(b)(6).

⁷ 15 U.S.C. 78-o 3(b)(7).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).