

2001, the Commission granted the requested exemption to the CBOE, as well as all national securities exchanges, pursuant to Rule 11Ac1-1(e), permitting them to treat foreign broker-dealers the same as U.S. broker-dealers for purposes of the Quote Rule.⁶⁷ Notwithstanding the requirements of Rule 11Ac1-1(c)(2),⁶⁸ the Commission exempted responsible brokers or dealers from the requirement under paragraph (c)(2) of the Quote Rule⁶⁹ to execute any order for the account of a foreign broker or dealer to buy or sell an options series in an amount up to such responsible brokers' or dealers' published quotation size for orders for the account of a customer. This exemption was conditioned on such responsible brokers and dealers executing orders for the accounts of foreign brokers and dealers at a price at least as favorable as the responsible broker's or dealer's published bid or published offer in an amount up to their published quotation size for orders for the account of brokers and dealers. The Commission's exemption applies to responsible brokers and dealers on each of the exchanges that trade listed options.

G. Proposed CBOE Rule 8.51(b)(3), Proposed Phlx Rule 1015(a)(v), and Proposed Options Floor Procedure Advice A-11(a)(v)

As discussed above, CBOE currently has a rule that provides that when multiple orders for the same class from the same beneficial owner are represented at the trading station at approximately the same time, only the first of such orders that cumulatively equal or add up to less than the firm quote requirement would be entitled to an execution pursuant to CBOE's rules.⁷⁰ CBOE proposes that responsible broker-dealers also would be relieved of the obligations under Rule 11Ac1-1 in these circumstances.⁷¹ Similarly, Phlx proposes to retain a provision from its current rules in Proposed Phlx Rule 1015(a)(v) and Proposed Options Floor Procedure Advice A-11(a)(v) that would prohibit orders from being "unbundled" for the primary purpose of availing upon the execution guarantee requirement provided by the Phlx.

The Commission notes that neither exchange has provided a basis for why such provisions are consistent with the

Quote Rule.⁷² Although the Commission approved these provisions as being consistent with each exchange's rules, the Commission believes that these rules are not consistent with the Quote Rule. Therefore, these rules cannot be used to relieve the Exchanges' members from their obligations under the Quote Rule to be firm for the disseminated price up to their published quotation size. The Commission, however, is soliciting comment on whether it would be appropriate for it to grant responsible brokers or dealers an exemption from their obligations under the Quote Rule when multiple orders are submitted for the account of the same beneficial owner in the same options class at approximately the same time.

The Commission finds good cause for granting the Exchanges' request for the Pilots prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that April 1, 2001 is the compliance date for the amendments to the Quote Rule extending its application to the options markets. The Commission believes that granting accelerated approval to the Pilots will allow the Exchanges to implement the conforming amendments to the Quote Rule on its compliance date.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Exchange Act,⁷³ that only the portions of the proposed rule changes relating to the Pilots proposed by the Exchanges (File Nos. SR-Amex-01-18, SR-CBOE-01-15, SR-ISE-01-07, SR-PCX-01-18, and SR-Phlx-01-37), as amended, are approved until June 1, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-8740 Filed 4-9-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44147; File No. SR-CBOE-01-11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Clarify Certain Provisions in Its Rules Relating to the Trading of Options on Securities That Represent an Interest in Registered Investment Companies

April 3, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, notice is hereby given that on March 16, 2001, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") file 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 Exchange. CBOE filed the proposal as a "non-controversial" rule change under Rule 19b-4(f)(6)³ under the Act. 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

CBOE hereby proposes to clarify certain provisions in its rules relating to the trading of options on securities that represent an interest in registered investment companies, including margin requirements and strike price intervals.

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.

⁶⁷ See letter from Annette L. Nazareth, Director, Division, Commission, to Timothy H. Thompson, Esq., Assistant General Counsel, CBOE, dated April 2, 2001.

⁶⁸ 17 CFR 240.11Ac1-1(c)(2).

⁶⁹ 17 CFR 240.11Ac1-1(c)(2).

⁷⁰ Current CBOE Rule 8.51(a)(3).

⁷¹ Proposed CBOE Rule 8.51(b)(3).

⁷² In fact, as noted above, the Commission has received a request for an exemption from CBOE that would allow its responsible brokers or dealers to be relieved of their obligations under the Quote Rule with respect to multiple orders for the same class of options received from the same beneficial owner at approximately the same time. See *supra* note 34.

⁷³ 15 U.S.C. 78s(b)(2).

⁷⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 2, 1998, the Commission approved a CBOE rule change relating to the listing and trading of options on securities that represent an interest in listed, open-end, registered investment companies that hold securities comprising or based on broad-based indexes or portfolios of securities.⁴ On August 3, 2000, the Commission approved a CBOE rule change proposing to allow for the trading of options on securities that represent interests in registered investment companies based on narrow-based indexes or portfolios of securities.⁵ The Exchange is now proposing to clarify certain rules relating to the trading of these products ("Fund Shares").⁶ More specifically, the Exchange is proposing to make clear in its rules (1) the margin requirements applicable to options on Fund Shares and (2) strike price intervals applicable to trading in certain Fund Shares.

In SR-CBOE-97-03, the Commission approved margin requirements for options on Fund Shares at the same levels that apply to options generally under CBOE Rule 12.3, except that margin must be deposited and maintained equal to 100% of the current market value of the option plus 15% of the market value of equivalent units of the underlying security value.⁷ Because that filing only contemplated options on Fund Shares based on broad-based indexes, it had the effect of making these margin requirements comparable to margin requirements for broad-based index options traded under CBOE Chapter 24. However, as a result of a CBOE rule filing making broad revisions to Rule 12.3 governing margin requirements that was filed after SR-CBOE-97-03 but approved before SR-CBOE-97-03,⁸ the margin provisions adopted in SR-CBOE-97-03 were mistakenly never incorporated into the text of CBOE Rule 12.3 despite the fact that they were approved.

⁴ See Securities Exchange Act Release No. 40166 (July 2, 1998) 63 FR 37430 (July 10, 1998) (File No. SR-CBOE-97-03).

⁵ See Securities Exchange Act Release No. 43114 (August 3, 2000) 65 FR 49041 (August 10, 2000) (File No. SR-CBOE-00-31).

⁶ There are several Fund Share structures that can be listed and traded on CBOE, including Index Portfolio Receipts and Index Portfolio Shares.

⁷ The margin requirement is subject to CBOE Rule 12.3(c)(5).

⁸ See Securities Exchange Act Release No. 36709 (June 2, 1997), 62 FR 31643 (June 10, 1997) (File No. SR-CBOE-97-17).

The Exchange now merely seeks to incorporate into CBOE Rule 12.3 the omitted language previously approved in SR-CBOE-97-03. The Exchange also proposes to formalize margin requirements for options on Fund Shares based on narrow-based indexes or portfolios of securities. As with broad-based Fund Share options, these narrow-based Fund Share options would be comparable to their index option equivalent. Accordingly, the Exchange proposes to amend CBOE Rule 12.3 to provide that, for options on Fund Shares based on narrow-based indexes or portfolios of securities, minimum margin must be deposited and maintained equal to 100% of the current market value of the option plus 20% of the market value of equivalent units of the underlying security value.⁹ The Exchange notes that these proposed changes are consistent with the American Stock Exchange's ("Amex") margin requirements for Fund Shares set forth in Amex Rule 462.

The CBOE is also proposing to clarify in CBOE Rule 5.5 that the intervals for strike prices of series of options on Fund Shares based on the Nasdaq-100 Index shall be \$1.00. The Exchange notes that the Amex, Philadelphia Stock Exchange, and International Securities Exchange trade such options with \$1.00 strike intervals.¹⁰

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with the requirements of section 6(b)(5) Act.¹¹ Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to facilitate transactions in securities; to remove impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest.

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

CBOE does not believe that the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁹ The margin requirement is subject to CBOE Rule 12.3(c)(5).

¹⁰ See Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998); Securities Exchange Act Release No. 44037 (March 2, 2001), 66 FR 14613 (March 13, 2001); and Securities Exchange Act Release No. 44055 (March 8, 2001), 66 FR 15310 (March 16, 2001).

¹¹ 15 U.S.C. 78f(b)(5).

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 proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate) it has become effective pursuant to section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)¹³ thereunder. At any time within 60 days of the filing of the proposed rule change, 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 the furtherance of the purposes of the Act.¹⁴

CBOE has requested that the Commission waive the 30-day pre-operative period because the CBOE believes that the proposed rule change does not significantly affect the protection of investors or the public interest or impose any significant burden on competition. The Commission agrees with the CBOE and believes that it is consistent with the protection of investors and the public interest that the proposed rule change become effective immediately. Accordingly, the commission finds good cause to waive the 30-day operative waiting period and to designate that the proposal become operative immediately.¹⁵

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ Upon request from the CBOE, the Commission has waived the requirement that the Exchange provide written notice of its intent to file the proposed rule change at least five business days prior to the date of filing. 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 Exchange. All submissions should refer to File No. SR-CBOE-01-11 and should be submitted by May 1, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-8770 Filed 4-9-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44140; File No. SR-EMCC-00-08]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Order Approving a Proposed Rule Change To Permit Members To Satisfy Clearing Fund Obligations With Either Immediately Available Funds or Eligible Treasury Securities

March 30, 2001.

On November 3, 2000, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-EMCC-00-08) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on January 11, 2001.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Prior to this order, EMCC's Rule 4, section 5(B)(iii) required that members satisfy their obligation to make

additional required deposits ("margin") to the clearing fund in immediately available funds. EMCC Rule 4, section 8 permits the substitution of eligible collateral for clearing fund cash. Members may substitute on the same day a cash deposit is made eligible treasury securities³ or an eligible letter of credit⁴ for all or a portion of any such deposited cash provided the member maintains the requisite minimum ratios of cash to securities and/or letters of credit.⁵

To accommodate the member requests, EMCC proposed changing Rule 4, section 5(b)(iii) to allow members the option of meeting clearing fund margin calls with either cash or eligible treasury securities. The proposed rule change increases operating efficiencies by transforming what is currently a two-step process into a single step process. Eligible treasury securities so deposited will be valued at 95% of their current market value as provided in EMCC Rule 4, section 8. Notwithstanding the change, EMCC retains the discretionary right to require additional deposits to be made in cash.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.⁶ The Commission believes that the approval of EMCC's rule change is consistent with this Section because

³ As defined in EMCC Rule 1, the term "eligible treasury security" means an unmatured, marketable debt security in book-entry form that is a direct obligation of the United States Government.

⁴ As defined in EMCC Rule 1, the term "eligible letter of credit" means a letter of credit that:

- (a) is issued by an approved letter of credit issuer;
- (b) contains the unqualified commitment of such issuer to pay a specified sum of money upon demand (properly drawn under the letter of credit) at any time prior to the expiration of the letter of credit;

- (c) is irrevocable and may be neither revoked nor amended to reduce its amount except upon the issuer's written notice to EMCC of its intent to revoke or amend, which must be given not less than five full business days prior to the date fixed for such revocation or amendment, and EMCC's consent to the revocation or amendment, which shall be given promptly upon EMCC's determination that the member either has substituted other collateral of at least equal value prior to such revocation or amendment or otherwise will have sufficient remaining value in its clearing fund deposit at the time of such revocation or amendment to satisfy its anticipated required fund deposit;
- (d) states that (1) it will be duly honored upon presentation of it to the issuing bank and (2) partial drawings are permitted; and
- (e) is in a form and contains such other terms and conditions as may be required by EMCC.

⁵ EMCC Rule 4, sections 2 and 8(c).
⁶ 15 U.S.C. 78q-1(b)(3)(F) (1988).

this merely allows firms to meet a call for additional clearing fund collateral with a deposit of government securities valued at 95% of current market value instead of with a deposit of immediately available funds immediately followed by a substitution of government funds. The Commission also notes that EMCC has retained the right to require firms to meet calls for additional clearing fund in immediately available funds.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the act and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-EMCC-00-08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3330]

Commonwealth of Massachusetts

Middlesex County and the contiguous Counties of Essex, Norfolk, Suffolk and Worcester in Massachusetts; Hillsborough County in the State of New Hampshire constitute a disaster area as a result of damages caused by a fire that occurred on March 25, 2001.

Applications for loans for physical damage may be filed until the close of business on June 4, 2001 and for economic injury until the close of business on January 4, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	8.000

⁷ 17 CFR 200.30-3(9a)(12).

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 43808 (January 4, 2001), 66 FR 2463.