

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

| From—        | Through—       | Interest rate (percent) |
|--------------|----------------|-------------------------|
| 7/1/95 ..... | 3/31/96 .....  | 9                       |
| 4/1/96 ..... | 6/30/96 .....  | 8                       |
| 7/1/96 ..... | 3/31/98 .....  | 9                       |
| 4/1/98 ..... | 12/31/98 ..... | 8                       |
| 1/1/99 ..... | 3/31/99 .....  | 7                       |
| 4/1/99 ..... | 3/31/00 .....  | 8                       |
| 4/1/00 ..... | 3/31/01 .....  | 9                       |
| 4/1/01 ..... | 6/30/01 .....  | 8                       |
| 7/1/01 ..... | 9/30/01 .....  | 7                       |

### Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates"). The rate for the third quarter (July through September) of 2001 (*i.e.*, the rate reported for June 15, 2001) is 7.00 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

| From          | Through        | Interest rate (percent) |
|---------------|----------------|-------------------------|
| 4/1/95 .....  | 9/30/95 .....  | 9.00                    |
| 10/1/95 ..... | 3/31/96 .....  | 8.75                    |
| 4/1/96 .....  | 6/30/97 .....  | 8.25                    |
| 7/1/97 .....  | 12/31/98 ..... | 8.50                    |
| 1/1/99 .....  | 9/30/99 .....  | 7.75                    |
| 10/1/99 ..... | 12/31/99 ..... | 8.25                    |
| 1/1/00 .....  | 3/31/00 .....  | 8.50                    |
| 4/1/00 .....  | 6/30/00 .....  | 8.75                    |
| 7/1/00 .....  | 3/31/01 .....  | 9.50                    |
| 4/1/01 .....  | 6/30/01 .....  | 8.50                    |
| 7/1/01 .....  | 9/30/01 .....  | 7.00                    |

### Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281)

prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in August 2001 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 10th day of July 2001.

**John Seal,**

*Acting Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 01-17575 Filed 7-12-01; 8:45 am]

BILLING CODE 7708-01-P

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 44528; File No. SR-CBOE-2001-31]

#### In the Matter of Chicago Board Options Exchange, Incorporated; Order of Summary Abrogation

July 9, 2001.

Notice is hereby given that the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(3)(C) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> is summarily abrogating a rule of the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange").

On June 11, 2001, the CBOE filed with the Commission a rule change ("Rule Change") establishing a new fee to be imposed on clearing firms. The new fee applies to each contract that the clearing firm sends to the Exchange's Public Automated Routing ("PAR") system in a given month, if the total number of contracts cancelled by the firm on the PAR system that month exceeds 40% of the total number of contracts that the firm sent to PAR in that same month.

The fee does not apply to any clearing firm that sends fewer than 4,000 contracts to PAR in a given month. The CBOE designated the Rule Change to take effect upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act.<sup>2</sup>

On July 6, 2001, the Commission published notice of the filing and immediate effectiveness of the Rule Change ("Notice").<sup>3</sup> In the Notice, the Commission specifically noted that

section 19(b)(3)(C) of the Act provides that, within 60 days of the filing of the 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.<sup>4</sup>

It appears that the Rule Change raises questions as to whether the fee is consistent with the Act. Accordingly, the Commission believes that the procedures provided by section 19(b)(2) will provide a more appropriate mechanism for determining whether the Rule Change is consistent with the provisions of the Act. Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act to abrogate the Rule Change.

*It Is Therefore Ordered*, pursuant to section 19(b)(3)(C) of the Act, that the Rule Change (File No. SR-CBOE-2001-31) is summarily abrogated as of this date, and that, if the CBOE chooses to refile the Rule Change, it do so pursuant to section 19(b)(2) of the Act.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-17516 Filed 7-12-01; 8:45 am]

BILLING CODE 8010-01-M

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44521; File No. 4-443]

#### Joint Industry Plan; Order Approving a Proposed Options Listing Procedures Plan by the American Stock Exchange LLC, Chicago Board Options Exchange, Incorporated, International Securities Exchange LLC, The Options Clearing Corporation, Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc.

July 6, 2001.

#### I. Introduction

On January 11, 2001, pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> the American Stock Exchange LLC ("Amex"), Chicago Board Options Exchange, Inc. ("CBOE"), International Securities Exchange LLC ("ISE"), The Options Clearing

<sup>4</sup> *Id.*

<sup>5</sup> 17 CFR 200.30-3(a)(58).

<sup>1</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>2</sup> 17 CFR 240.11Aa3-2.

<sup>1</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>3</sup> Securities Exchange Act Release No. 44489 (June 28, 2001), 66 FR 35683 (July 6, 2001).

Corporation ("OCC"), Pacific Exchange, Inc. ("PCX"), and Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, the "Sponsors") filed with the Securities and Exchange Commission ("Commission") a proposed options listing procedures plan ("OLPP" or "Plan").<sup>3</sup> The Sponsors filed amendments to the proposed Plan on March 3, 2001<sup>4</sup> and May 9, 2001.<sup>5</sup> The proposed OLPP, as amended, was published in the **Federal Register** on May 16, 2001.<sup>6</sup> No comments were received.

## II. Background

On September 17, 1991, the Commission approved the Joint-Exchange Options Plan ("JEOP"), which sets forth procedures governing the listing of new options.<sup>7</sup> The Amex, CBOE, PCX, Phlx, and New York Stock Exchange<sup>8</sup> were parties to the JEOP.<sup>9</sup> On September 11, 2000, the Commission instituted public administrative proceedings pursuant to Section 19(h)(1) of the Act<sup>10</sup> against,

<sup>3</sup> See Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 ("OLPP"), dated January 11, 2001. The proposed OLPP is available at the Commission's Public Reference Room.

<sup>4</sup> Letter dated March 2, 2001, from Claire P. McGrath, Vice President and Special Counsel, Amex, to Elizabeth King, Associate Director, Division of Market Regulation ("Division"), Commission ("Amendment No. 1"). Amendment No. 1 provided information required by Rule 11Aa3-2(b)(4) under the Act, 17 CFR 240.11Aa3-2(b)(4), regarding implementation of the proposed OLPP, the proposed OLPP's impact on competition, and written agreements or understandings among the Sponsors of the Plan.

<sup>5</sup> Letter dated May 4, 2001, from Claire P. McGrath, Vice President and Special Counsel, Amex, to Elizabeth King, Associate Director, Division, Commission ("Amendment No. 2"). Amendment No. 2 would add procedures for new eligible exchanges to become Sponsors of the Plan and a provision for Sponsors that are no longer eligible to participate in the Plan.

<sup>6</sup> See Securities Exchange Act Release No. 44287 (May 10, 2001), 66 FR 27184.

<sup>7</sup> See Securities Exchange Act Release No. 29698 (September 17, 1991), 56 FR 48954 (September 25, 1991). The JEOP provides specific procedures governing the selecting, listing, challenging, and arbitrating the eligibility of new equity options overlying both exchange-traded and over-the-counter listed securities.

<sup>8</sup> The NYSE later sold its options business to the CBOE. See Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

<sup>9</sup> The parties filed, and the Commission approved, the JEOP as identical proposed rule changes. In addition, the ISE incorporated the JEOP into its rules at the time its application for registration as a national securities exchange was approved by the Commission. See Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000). The proposed OLPP would not replace these rules. The Sponsors would have to file proposed rule changes to amend their rules.

<sup>10</sup> 15 U.S.C. 78s(h)(1).

and simultaneously accepted offers of settlement from, the Amex, CBOE, PCX, and Phlx (collectively, the "respondent exchanges").<sup>11</sup> Under the Settlement Order, the respondent exchanges were ordered to amend the JEOP to eliminate provisions that require advance notice to any other exchange of the intention to list a new option and to eliminate provisions that prevent or delay a market from commencing to list or trade any option.<sup>12</sup>

On January 11, 2001, the respondent exchanges, along with the ISE and the OCC, submitted the proposed OLPP to the Commission to replace and supersede the JEOP and to comply with the respondent exchanges' obligations under Section IV.B.a. of the Settlement Order. Although not parties to the Settlement Order, the ISE and the OCC have elected to become Sponsors of the proposed OLPP to facilitate the listing and trading of standardized options contracts.

## III. Description of the OLPP

The proposed Plan would provide procedures for: (i) Listing and trading new options classes; (ii) selecting new options series; (iii) petitioning the OCC to review the eligibility, pursuant to the exchanges' listing standards, of a selected option class without delaying the trading of that option class; (iv) determining operational details for option contracts adjusted pursuant to OCC By-Laws; (v) admitting new sponsors; and (vi) losing eligibility to participate in the Plan.

### A. Selection of an Option Class

Under the proposed OLPP a Sponsor that seeks to trade an option on an equity security ("Selecting Exchange") would be required to submit a certificate notifying the OCC of its intention to trade the option. If the option was not currently trading on another exchange, or had not been certified for listing and trading on another exchange, the Selecting Exchange would be required to provide the options symbol, initial exercise prices, expiration cycle, and the position and exercise limits for the

selected option class. The OCC would notify all Selecting Exchanges and all other exchanges that traded the option class of identity of each Selecting Exchange.

### B. Selection of a New Option Series

The proposed OLPP would provide procedures for each of the Sponsors to trade additional series of an option class it currently trades. The OLPP would require different procedures if the addition of a new series would involve the introduction of a new expiration month. With respect to adding new option series and melding LEAP series into near-term series, the proposed OLPP would permit an exchange they wanted to trade a new series and any other exchange that traded the same option class to determine jointly, when necessary, the symbol and trading codes for the new series.

### C. Petition To Review the Eligibility of a New Option Class

Under the proposed Plan, a Sponsor would be permitted to petition the OCC to review whether an option class was eligible for listing on the day a Selecting Exchange certified the option for listing and trading. The exchange listing and trading the option class would be permitted to continue to do so unless and until the OCC determined that the class was ineligible. The proposed OLPP would set forth the procedures to be followed by the petitioning exchange, the OCC, and the Selecting Exchange. If the OCC determined that the option class was ineligible, each Selecting Exchange would be required, on the first trading day after the OCC's determination, to delist any option series written open interest and allow only closing transaction in any series with open interest. If the option class subsequently became eligible, any Sponsor would be permitted to submit a certificate to the OCC to list and trade the option class.

### D. Adjustment Pursuant to OCC By-Laws

The OCC's By-Laws permit a securities committee composed of representatives from each registered options exchange trading options on a particular security to determine whether to make adjustment to reflect particular events affecting the underlying security, as well as operational issues attendant to the adjustment.<sup>13</sup> Events affecting the underlying security that may require an

<sup>11</sup> See Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000) ("Settlement Order"). The Settlement Order states that the respondent exchanges have significantly impaired the operations of the options markets by, among other things, refraining from multiply listing a large number of options.

<sup>12</sup> See Section IV.B.a. of the Settlement Order. The Settlement Order requires an exchange to provide to the OCC (i) not more than one business day's notice of the exchange's intent to list an existing option, and (ii) reasonable advance notice of the exchange's intention to list a new option. *Id.*

<sup>13</sup> See Article VI, Section 11 of the OCC By-Laws. Operational issues attendant to the adjustment could include option symbols and trading codes, contract multipliers, and position and exercise limits applicable to the adjusted option class.

adjustment would include, among other things, stock dividends or distributions, stock splits, rights offerings mergers, and reorganizations. The proposed OLPP would permit the Sponsors to make these adjustments, as well as determine operational issues in connection with such adjustments.

#### E. New Plan Sponsors

The proposed OLPP contains a self-effecting provision for the addition of new sponsors, in which an "Eligible Exchange" would be able to become a sponsor of the Plan by: (i) Executing a copy of the Plan; (ii) providing each then-current Plan Sponsor with a copy of such executed Plan; and (iii) effecting an amendment to the Plan reflecting the addition of the new sponsor's name.<sup>14</sup> An Eligible Exchange would be defined as a national securities exchange registered with the Commission in accordance with section 6(a) of the Act<sup>15</sup> that: (i) has effective rules for the trading of option contracts issued and cleared by OCC approved in accordance with the provisions of the Act and the rules and regulations thereunder; and (ii) is a party to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information.<sup>16</sup>

#### F. Loss of Eligibility

An exchange would no longer be an Eligible Exchange when it ceased trading OCC issued and cleared option contracts, or, if it had become a Plan Sponsor and it had not commenced, within one year of becoming a Plan Sponsor, to list and trade OCC issued and cleared option contracts.

#### IV. Discussion

In section 11A of the Act,<sup>17</sup> Congress directed the Commission to facilitate the development of a national market system consistent with the objectives of the Act. Section 11A(a)(3)(B) of the Act<sup>18</sup> authorizes the Commission "by rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under this title in planning, developing, operating,

or regulating a national market system (or a subsystem thereof) or one or more facilities thereof." Rule 11Aa3-2 under the Act<sup>19</sup> establishes the procedures for filing, amending, and approving national market system plans. Pursuant to paragraph (c)(2) of Rule 11Aa3-2, the Commission must approve a national market system plan if it finds that the proposed plan "is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act."<sup>20</sup>

After careful review, the Commission has determined to approve, pursuant to section 11A(a)(3)(B) of the Act and Rule 11Aa3-2 thereunder, the proposed OLPP. The Commission finds that approval of the Plan is consistent with the Act, the rules thereunder, and specifically, with the objectives set forth in section 11A of the Act and in Rule 11Aa3-2 thereunder. The Commission believes that, by ensuring uniform procedures for the listing of standardized options, the proposed OLPP will help to maintain fair and orderly markets and remove impediments to, and perfect the mechanisms of, a national market system. Specifically, the Commission believes that by providing uniform procedures for selecting option classes and series, as well as adjusting options to reflect particular events affecting the underlying security, the proposed OLPP will ensure the continued fungibility of option contracts and permit effective multiple trading of options. The Commission also believes that the proposed OLPP will minimize potential confusion among member firms and investors by ensuring uniformity with respect to symbology, trading codes, and contract terms.

In addition, the Commission believes that the proposed procedures for petitioning the OCC to review the eligibility of a new option class will minimize the potential for trading options on ineligible securities, without preventing or delaying an exchange from commencing to list or trade any option, as required by the Settlement Order. The Commission notes that these proposed procedures would not prohibit a Sponsor from submitting a certificate to list an option class, while at the same time petitioning for review of another Sponsor's listing of the same class. The Commission, however, notes that, as self-regulatory organizations, each

exchange has an obligation to enforce its own rules, including its listing standards.

The Commission believes that the proposed provisions governing the admission of new sponsors to the OLPP and the circumstances under which a Sponsor would no longer be eligible to participate in the OLPP are consistent with the Act. The proposed procedures would permit new eligible exchanges to become sponsors of the Plan without the approval of current Sponsors, which should promote the multiple trading of options without permitting anticompetitive actions on the part of existing Sponsors to prevent or delay the plans of the new entrant into the market. In addition, the proposed procedures reasonably address the need to limit the eligibility to participate in the Plan of Sponsors that no longer trade, or never commenced trading, OCC issued and cleared options.

Finally, the Commission finds that the proposed OLPP would comply with the respondent exchanges' obligations under the Settlement Order. The proposed OLPP contains no requirement of advance notice of the intention to list a new option or provisions that would allow one exchange to prevent or delay another exchange from commencing to list or trade any option class other than the one-day advance notice requirement to the OCC needed for operational purposes.

#### V. Conclusion

*It is therefore ordered*, pursuant to section 11A of the Act,<sup>21</sup> and Rule 11Aa3-2 thereunder,<sup>22</sup> that the proposed OLPP, as amended, is approved.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-17519 Filed 7-12-01; 8:45 am]

BILLING CODE 8010-01-M

#### SECURITIES AND EXCHANGE COMMISSION

##### Sunshine Act Meeting; Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 16, 2001.

An open meeting will be held on Wednesday, July 18, 2001, in Room 1C30, the William O. Douglas Room, at

<sup>14</sup> An amendment to the Plan may be effected by a new Eligible Exchange executing a copy of the Plan, as then in effect (with the only change being the addition of the new Plan Sponsor's name in Section 9 of the Plan) and submitting such executing Plan to the Commission. Such amendment will be effective when it has been approved by the Commission or otherwise becomes effective pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder.

<sup>15</sup> 15 U.S.C. 78f(a).

<sup>16</sup> See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981).

<sup>17</sup> 15 U.S.C. 78k-1.

<sup>18</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>19</sup> 17 CFR 240.11Aa3-2.

<sup>20</sup> 17 CFR 240.11Aa3-2(c)(2).

<sup>21</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>22</sup> 17 CFR 240.11Aa3-2.