

investor protection and the public interest.

The Commission believes that proposed Supplemental Rule (a)(2) is consistent with Section 6(b)(10)¹³ of the Act, which requires that national securities exchanges adopt rules prohibiting members that are not beneficial holders of a security from voting uninstructed proxies with respect to the election of a member of the board of directors of an issuer (except for uncontested elections of directors for companies registered under the Investment Company Act), executive compensation, or any other significant matter, as determined by the Commission by rule.

The Commission believes that proposed Supplemental Rule (a)(2) is consistent with Section 6(b)(10) of the Act because it adopts revisions that comply with that section. As noted in the accompanying Senate Report, Section 957, which enacted Section 6(b)(10), reflects the principle that “final vote tallies should reflect the wishes of the beneficial owners of the stock and not be affected by the wishes of the broker that holds the shares.”¹⁴ The proposed rule change will make C2 compliant with the new requirements of Section 6(b)(10) by specifically prohibiting, in C2’s rule language, broker-dealers, who are not beneficial owners of a security, from voting uninstructed shares in connection with a shareholder vote on the election of a member of the board of directors of an issuer (except for a vote with respect to the uncontested election of a member of the board of directors of any investment company registered under the Investment Company Act of 1940), executive compensation, or any other significant matter, as determined by the Commission by rule, unless the member receives voting instructions from the beneficial owner of the shares.¹⁵

The Commission also believes that proposed Supplemental Rule (a)(2) is consistent with Section 6(b)(5)¹⁶ of the Act, which provides, among other things, that the rules of the Exchange must be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the rule assures that shareholder votes on the election of the board of directors of an issuer (except for a vote with respect to the uncontested election of a member of the board of directors of any investment company registered under the Investment Company Act of 1940) and on executive compensation matters are made by those with an economic interest in the company, rather than by a broker that has no such economic interest, which should enhance corporate governance and accountability to shareholders.¹⁷

Based on the above, the Commission finds that the C2 proposal will further the purposes of Sections 6(b)(5) and 6(b)(10) of the Act because it should enhance corporate accountability to shareholders while also serving to fulfill the Congressional intent in adopting Section 6(b)(10) of the Act.

The Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁸ for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. The Commission believes that good cause exists to grant accelerated approval to proposed Supplemental Rule (a)(1), because this proposed rule will conform the C2 rule to ISE Rule 421, NYSE Arca Rule 9.4 and FINRA Rule 2251, which were published for public comment in the **Federal Register** and approved by the Commission, and for which no comments were received.¹⁹ Because proposed Supplemental Rule (a)(1) is substantially similar to the ISE, NYSE Arca and FINRA rules, it raises no new regulatory issues.

The Commission also believes that good cause exists to grant accelerated approval to proposed Supplemental Rule (a)(2), which conforms the C2 rules to the requirements of Section 6(b)(10) of the Act. Section 6(b)(10) of the Act, enacted under Section 957 of the Dodd-Frank Act, does not provide for a transition phase, and requires rules of national securities exchanges to prohibit broker voting on the election of a member of the board of directors of an

issuer (except for a vote with respect to the uncontested election of a member of the board of directors of any investment company registered under the Investment Company Act of 1940), executive compensation, or any other significant matter, as determined by the Commission by rule. The Commission believes that good cause exists to grant accelerated approval to proposed Supplemental Rule (a)(2), because it will conform the C2 rule to the requirements of Section 6(b)(10) of the Act.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁰ that the proposed rule change (SR-C2-2011-005) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Cathy H. Ahn,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63917; File No. SR-CBOE-2011-017]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Amend an Exchange Rule Relating to Giving Proxies

February 16, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 10, 2011 the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposed rule change on an accelerated basis.

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹³ 15 U.S.C. 78f(b)(10).

¹⁴ See S. Rep. No. 111-176, at 136 (2010).

¹⁵ The Commission has not, to date, adopted rules concerning other significant matters where uninstructed broker votes should be prohibited, although it may do so in the future. Should the Commission adopt such rules, we would expect C2 to adopt coordinating rules promptly to comply with the statute.

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ As the Commission stated in approving NYSE rules prohibiting broker voting in the election of directors, having those with an economic interest in the company vote the shares, rather than the broker who has no such economic interest, furthers the goal of enfranchising shareholders. See Securities Exchange Act Release No. 60215 (July 1, 2009), 74 FR 33293 (July 10, 2009) (SR-NYSE-2006-92).

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ See *supra* notes 9 and 12.

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

The Exchange proposes to amend its proxy voting rules in accordance with provisions of Section 957 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). The text of the rule proposal is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary and at the Commission.

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 self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

Section 957 of the Dodd-Frank Act adopted new Section 6(b)(10) of the Act,³ which requires the rules of each national securities exchange to prohibit any member that is not the beneficial owner of a security registered under Section 12 of the Act⁴ from granting a proxy to vote the security in connection with certain shareholder votes, unless the beneficial owner of the security has instructed the member to vote the proxy in accordance with the voting instructions of the beneficial owner. The shareholder votes covered by Section 957 include any vote with respect to (i) the election of a member of the board of directors of an issuer (except for a vote with respect to the uncontested election of a member of the board of directors of any investment company registered under the Investment Company Act of 1940 (the "Investment Company Act"), (ii) executive compensation, or (iii) any other significant matter, as determined by the Commission, by rule.⁵

Accordingly, in order to carry out the requirements of Section 957 of the Dodd-Frank Act, the Exchange is

proposing to amend CBOE Rule 31.85, *Giving Proxies by TPH Organizations*, which governs when Trading Permit Holder Organizations ("TPH Organizations") may and may not give a proxy to vote stock without instructions from the beneficial owner of the shares. First, Item 19 of CBOE Rule 31.85(b) already prohibits TPH Organizations from giving a proxy to vote shares without instructions from beneficial owners when the matter to be voted upon is the election of directors (other than in the case of an issuer registered under the Investment Company Act, provided the matter is not the subject of a counter-solicitation). Therefore the Exchange is proposing to simply amend Item 19 so that the text is consistent with the language in Section 6(b)(10)(B) of the Act.⁶

Second, the Exchange proposes to add new Item 21 (and related commentary) to CBOE Rule 31.85(b) to provide that a TPH Organization may not give a proxy or authorize a proxy to vote without instructions from beneficial owners when the matter to be voted upon relates to executive compensation. The proposed commentary to Item 21 would clarify that a matter relating to executive compensation would include, among other things, the items referred to in Section 14A of the Act (added by Section 951 of the Dodd-Frank Act), including (i) an advisory vote to approve the compensation of executives, (ii) a vote on whether to hold such an advisory vote every one, two or three years, and (iii) an advisory vote to approve any type of compensation (whether present, deferred, or contingent) that is based on or otherwise relates to an acquisition, merger, consolidation, sale or other disposition of all or substantially all of the assets of an issuer and the aggregate total of all such compensation that may be paid or become payable to or on behalf of an executive officer. In addition, a TPH Organization may not give or authorize a proxy to vote without instructions on a matter relating to executive compensation, even if such matter would otherwise qualify for an exception from the requirements of Item 12, Item 13 or any other Item under CBOE Rule 31.85. Any vote on these or similar executive compensation-related matters would be subject to the requirements of CBOE Rule 31.85, as amended.⁷

⁶ See 15 U.S.C. 78f(b)(10)(B).

⁷ The Exchange is also proposing to add cross-referencing commentary related to new Item 21 in Items 12 and 13. The Exchange is also proposing a non-substantive change to include a heading for

Third, the Exchange proposes to add new Item 22 to Rule 31.85(b) to provide that a TPH Organization may not give a proxy or authorize a proxy to vote without instructions from beneficial owners when the matter to be voted upon involves any other significant matter, as determined by the Commission, by rule.⁸

Fourth, the Exchange is proposing to add the words "or authorize" in certain places throughout CBOE Rule 31.85 to clarify that the rule includes not only the giving of a proxy but also the authorization of such proxy.

Finally, the Exchange is proposing to amend Appendix A to the rules of the CBOE Stock Exchange, LLC ("CBSX," the CBOE's stock trading facility). Appendix A lists the rules contained in Chapters 1 through 29 of the Exchange Rules that are applicable to the trading of equity securities on CBSX. The Exchange is proposing to amend Appendix A to include a cross reference to CBOE Rule 31.85 in order to make clear that CBOE Rule 31.85 regarding the giving of proxies by TPH Organizations applies to CBSX TPH Organizations as well as CBOE TPH Organizations.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act⁹ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(10)¹¹ requirements that all national securities exchanges adopt rules prohibiting members from voting, without receiving instructions from the beneficial owner of shares, on the election of a member of a board of directors of an issuer (except for a vote with respect to the uncontested election of a member of the board of directors of any investment company registered under the Investment Company Act of 1940), executive compensation, or any other significant matter, as determined by the Commission, by rule. The Exchange also believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirements that an exchange have

the commentary to Item 20 so there is consistent formatting of the various commentaries that appear throughout the rule.

⁸ The Exchange notes that the Commission has not at this time identified other significant matters with respect to which TPH Organizations should be prohibited from voting uninstructed shares.

⁹ 15 U.S.C. 78a *et seq.*

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(10).

¹² 15 U.S.C. 78f(b)(5).

³ 15 U.S.C. 78f(b)(10).

⁴ 15 U.S.C. 78l.

⁵ 15 U.S.C. 78f(b)(10)(B).

rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange is adopting the proposed rule changes to comply with the requirements of Section 957 of the Dodd-Frank Act, and therefore believes the proposed rule changes to be consistent with Section 6(b)(5) of the Act, particularly with respect to the protection of investors and the public interest. Finally, the Exchange believes the proposed changes to Appendix A of the CBSX Rules to incorporate a cross reference to CBOE Rule 31.85 is consistent with Section 6(b)(5) of the Act, particularly with respect to the protection of investors and the public interest, because the changes would make it clear that CBOE Rule 31.85 (regarding the giving of proxies by TPH Organizations) applies to CBSX TPH Organizations as well as CBOE TPH Organizations.

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

CBOE does not believe that the proposed rule change will 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

The Exchange neither solicited nor received comments on the proposal.

III. 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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2011-017 on the subject line.

Paper Comments

Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2011-017. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2011-017 and should be submitted on or before March 16, 2011.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

In its filing, the Exchange requested that the Commission approve the proposal on an accelerated basis. The Exchange stated that it believed good cause existed to grant accelerated approval because Section 957 of the Dodd-Frank Act does not provide for a transition period and because the proposed rule text is based upon New York Stock Exchange ("NYSE") Rule 452.¹³

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁴ The Commission believes that the proposal

is consistent with Section 6(b)(10)¹⁵ of the Act, which requires that national securities exchanges adopt rules prohibiting members that are not beneficial holders of a security from voting uninstructed proxies with respect to the election of a member of the board of directors of an issuer (except for uncontested elections of directors for companies registered under the Investment Company Act), executive compensation, or any other significant matter, as determined by the Commission, by rule. The Commission also believes that the proposal is consistent with Section 6(b)(5)¹⁶ of the Act, which provides, among other things, that the rules of the Exchange must be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposal is consistent with Section 6(b)(10) of the Act because it adopts revisions that comply with that section. As noted in the accompanying Senate Report, Section 957, which adopts Section 6(b)(10), reflects the principle that "final vote tallies should reflect the wishes of the beneficial owners of the stock and not be affected by the wishes of the broker that holds the shares."¹⁷ The proposed rule change will make CBOE rules compliant with the new requirements of Section 6(b)(10) by prohibiting broker-dealers, who are not beneficial owners of a security, from voting uninstructed shares with respect to any matter on executive compensation or any other significant matter, as determined by the Commission, by rule.¹⁸

The Commission believes that the proposal is consistent with Section

¹⁵ 15 U.S.C. 78f(b)(10).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ See S. Rep. No. 111-176, at 136 (2010).

¹⁸ As noted above, Section 6(b)(10) also prohibits broker voting for director elections, except for uncontested director elections of registered investment companies. The Commission notes that the Exchange already prohibits broker voting in director elections except for uncontested director elections for registered investment companies and is merely proposing to amend Item 19 so that the text is consistent with the language in Section 6(b)(10) of the Act. See CBOE Rule 31.85(b)(19). As to other matters, as determined by the Commission, by rule, the Commission has not, to date, adopted rules concerning other significant matters where uninstructed broker votes should be prohibited, although it may do so in the future. Should the Commission adopt such rules, we would expect the Exchange to adopt coordinating rules promptly to comply with the statute.

¹³ See Securities Exchange Act Release 62874 (September 9, 2010), 75 FR 56152 (September 15, 2010).

¹⁴ In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

6(b)(5) of the Act because the proposal will further investor protection and the public interest by assuring that shareholder votes on executive compensation matters are made by those with an economic interest in the company, rather than by a broker that has no such economic interest, which should enhance corporate governance and accountability to shareholders.¹⁹

The Commission notes that the CBOE's new rule prohibiting uninstructed broker votes on executive compensation covers the specific items identified in Section 951 of the Dodd-Frank Act, as well as any other matter concerning executive compensation, and has been drafted broadly to reflect the requirements of Section 6(b)(10) of the Act. The proposed rule language also specifically states that a broker vote on any executive compensation matter would not be permitted even if it would otherwise qualify for an exception from any item under Rule 31.85. The Commission believes this provision will make clear that any past practice or interpretation that may have permitted a broker vote on an executive compensation matter, under existing rules, will no longer be applicable and is superseded by the newly adopted provisions.

Finally, the Commission notes that the changes to reflect (i) that the CBOE rules prohibit not only the giving of a proxy, but also the authorization of the proxy and (ii) that CBOE Rule 31.85 regarding the giving of proxies by TPH Organizations applies to CBSX TPH Organizations as well as CBOE TPH Organization, should help to clarify the intent of the CBOE proxy rules and is consistent with the requirements of Section 6 of the Act.

Based on the above, the Commission believes that the Exchange's proposal will further the purposes of Sections 6(b)(5) and 6(b)(10) of the Act because it should enhance corporate accountability to shareholders. The rule filing should also serve to fulfill the Congressional intent in adopting Section 6(b)(10) of the Act.

The Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,²⁰ for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. As noted above,

Section 6(b)(10) of the Act, enacted under Section 957 of the Dodd-Frank Act, does not provide for a transition phase, and requires rules of national securities exchanges to prohibit, among other things, broker voting on executive compensation. The Commission believes that good cause exists to grant accelerated approval to the Exchange's proposal, because it will conform CBOE Rule 31.85 to the requirements of Section 6(b)(10) of the Act. Moreover, the Commission notes that the proposed changes are based on NYSE Rule 452.²¹

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²² that the proposed rule change (SR-CBOE-2011-017) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011-3982 Filed 2-22-11; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12468 and #12469]

Utah Disaster #UT-00009

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Utah (FEMA-1955-DR), dated 02/11/2011.

Incident: Severe Winter Storms and Flooding.

Incident Period: 12/20/2010 through 12/24/2010.

Effective Date: 02/11/2011.

Physical Loan Application Deadline Date: 04/12/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 11/14/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the

President's major disaster declaration on 02/11/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Kane, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ..	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12468B and for economic injury is 12469B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011-3947 Filed 2-22-11; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12465 and #12466]

New Jersey Disaster Number NJ-00019

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of NEW JERSEY (FEMA-1954-DR), dated 02/04/2011.

Incident: Severe Winter Storm and Snowstorm.

Incident Period: 12/26/2010 through 12/27/2010.

Effective Date: 02/11/2011.

Physical Loan Application Deadline Date: 04/05/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 11/04/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration,

¹⁹ As the Commission stated in approving NYSE rules prohibiting broker voting in the election of directors, having those with an economic interest in the company vote the shares, rather than the broker who has no such economic interest, furthers the goal of enfranchising shareholders. See Securities Exchange Act Release No. 60215 (July 1, 2009), 74 FR 33293 (July 10, 2009) (SR-NYSE-2006-92).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ See note 13, *supra*.

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30-3(a)(12).