

Market Performance Committee ("MPC") provides an exemption. However, because any joint account participant trading in-person would be entitled to participate in the same side of a trade with his fellow joint account participants in the same trading crowd as a result of the proposed regulatory circular,<sup>7</sup> the Exchange believes it is appropriate to no longer require an exemption from the MPC to have more than one participant use the joint account for trading on RAES. In any event, to participate on RAES, a member must be present in the trading crowd.

## II. Discussion

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, and, in particular, the requirements of Section 6(b)(5)<sup>8</sup> in that it will help remove impediments to a free and open securities market and facilitate transactions in securities, while protecting investors and the public interest.

Specifically, the Commission believes that it is appropriate for the CBOE to modify certain joint account trading policies for equity options while keeping restrictions in place that are designed to ensure market integrity. First, the rule change will make the policy governing joint account trading in equity options more consistent with the current policy regarding index option trading. The Commission notes that the CBOE's policy regarding equity option trading will continue to be more restrictive than that governing index option trading in that only joint representation by participants trading in person will be permitted in equity option trading crowds. Multiple representation of orders for the same joint account in equity option trading crowds will not be permitted if one or more of the orders is represented by a floor broker.

Second, the change in policy will eliminate the disparity in treatment between member organizations that choose to employ a joint account for their exchange trading, and those member organizations which use individual market-maker accounts. Member organizations which choose to have their various market-makers trade in a joint account so that the member organization's positions can be more easily monitored and managed, would

no longer be disadvantaged by only having a single joint account represented in a trading crowd at one time. Thus, by eliminating a distinction that currently exists between member organizations that manage their positions differently, the rule change furthers the objectives of Section 6(b)(5) of the Act by providing rules that perfect the mechanisms of a free and open market.

With respect to protecting investors and the public interest, the Commission notes that the CBOE's proposed regulatory circular contains provisions designed to ensure that joint account participants do not engage in abusive or illegal trading, thereby ensuring the maintenance of fair and orderly markets and market integrity. As mentioned above, the proposed circular provides that members are prohibited from entering orders in a particular crowd with floor brokers for their individual or joint account whenever they are trading in-person in that crowd; this applies even though the orders are for an account they are not then actively trading. Additionally, the regulatory circular states that "[i]t is a member's responsibility to ensure that they do not trade in-person or enter orders with floor brokers such that any of the following results: (1) A trade occurs between a joint account participant's individual account and the joint account of which he or she is a participant, (b) a trade occurs between two joint accounts that have common participants, or (c) a trade occurs in which the buyer and seller are representing the same joint account and are on opposite sides of the transaction."<sup>9</sup> Finally, the Commission notes that the CBOE has surveillance procedures designed to detect and deter abusive trading by joint account participants.<sup>10</sup>

Accordingly, the Commission believes that expanding the ability of joint account participants to trade in equity options classes in limited circumstances will not threaten the integrity of CBOE's market.

The Commission finds good cause for approving Amendment No. 1 to the proposal prior to the thirtieth day after the date of publication of the notice of filing thereof in the Federal Register

Specifically, Amendment No. 1 merely clarifies the regulatory circular to highlight that members must ensure that they do not trade in-person or enter orders with floor brokers such that a trade occurs in which the buyer and seller are representing the same joint account and are on opposite sides of the transaction. The Commission believes that emphasizing this requirement in the regulatory circular clarifies the responsibilities of joint account participants trading in equity options and strengthens the market integrity aspects of the proposal.

Based on the above, the Commission finds good cause for approving Amendment No. 1 to the proposed rule change on an accelerated basis and believes that the proposal, as amended, is consistent with Sections 6(b)(5) and 19(b)(2) of the Act.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the File No. SR-CBOE-95-65 and should be submitted by April 12, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-CBOE-95-65), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Margaret H. McFarland,

Deputy Secretary.

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<sup>7</sup> Pursuant to Interpretation .06 to CBOE Rule 8.9 ("Securities Accounts and Orders of Market Makers"), joint account participant trading on opposite sides of a transaction is prohibited.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See Amendment No. 1, *supra* note 4.

<sup>10</sup> Based on conversations with its Equity Floor Procedure Committee, the Exchange believes that the change in policy is not likely to result in one joint account dominating, or "packing," an equity option trading crowd through the use of multiple joint account participants. Telephone conversation between Patricia L. Cerny, Director, Market Regulation, CBOE and James McHale, Attorney, OMS, Division, Commission, on March 14, 1996.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 17 CFR. 200.30-3(a)(12).

[Release No. 34-36982; File Nos. SR-MCC-96-03]

**Self-Regulatory Organizations;  
Midwest Clearing Corporation; Notice  
of Filing of a Proposed Rule Change  
Relating to the Pass-Through of  
Certain Fees and Charges and the  
Elimination of All Other Charges**

March 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on March 1, 1996, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-MCC-96-03) as described in Items I, II, and III below, which items have been prepared primarily by MCC. MCC amended the filing on March 7, 1996.<sup>2</sup> The Commission is publishing this notice to solicit comments from interested persons.

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

MCC proposes to add a provision to its Services and Schedule of Charges that will permit MCC to pass-through at cost to Sponsored Participants ("SPs") and Temporary Sponsored Participants ("TSPs")<sup>3</sup> fees and other charges assessed MCC by the National Securities Clearing Corporation ("NSCC"). MCC also proposes to eliminate the remainder of its existing fee schedule.

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

In its filing with the Commission, MCC 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. MCC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.<sup>4</sup>

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

The purpose of the proposed rule change is to permit MCC to charge SPs and TSPs at cost the fees and charges assessed on MCC by NSCC in connection with SPs' and TSPs' use of NSCC's services. The proposed rule change also eliminates all other existing MCC fees.

MCC proposes to eliminate its existing fee schedule in its entirety and replace it with the following schedule.

**Sponsored Participants and Temporary  
Sponsored Participants**

Fees and charges assessed on MCC by the National Securities Clearing Corporation  
Charge: Rebilled at Cost

MCC believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because it provides for the equitable allocation of reasonable fees and other charges among participants using its facilities.

**(B) Self-Regulatory Organization's  
Statement on Burden on Competition**

MCC does not believe the proposed rule change will impose a burden on competition that is 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**

Written comments on the proposals have not been solicited or received.

**III. Date of Effectiveness of the  
Proposed Rule Change and Timing for  
Commission Action**

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which MCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of MCC. All submissions should refer to the file number SR-MCC-96-03 and should be submitted by April 12, 1996.

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

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-36980; File No. SR-NASD-95-63]

**Self-Regulatory Organizations; Notice  
of Filing of Proposed Rule Change by  
National Association of Securities  
Dealers, Inc. Relating to Regulating the  
Conduct of Broker/Dealers Operating  
on the Premises of a Financial  
Institution**

March 15, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("1934 Act"),<sup>1</sup> notice is hereby given that on December 28, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items

<sup>1</sup> 15 U.S.C. § 78s(b)(1) (1988).

<sup>2</sup> MCC originally filed the proposed rule change under Section 19(b)(3)(A) of the Act. On March 7, 1996, MCC requested that the proposal be considered filed under Section 19(b)(2) of the Act. Telephone conversation between David T. Rusoff, Foley and Lardner [counsel to MCC], and Jerry W. Carpenter, Assistant Director, Peter R. Geraghty, Senior Counsel, and Cheryl O. Tumlin, Attorney, Division of Market Regulation, Commission (March 7, 1996).

<sup>3</sup> For a detailed discussion of the clearing arrangements for SPs and TSPs, refer to Securities Exchange Act Release No. 36740 (January 19, 1996) 61 FR 2553 [File No. SR-MCC-95-05] (notice of filing and order granting accelerated approval of a proposed rule change relating to a contingency plan for participants in connection with MCC's decision to withdraw from the securities clearing business). Release No. 36740 (January 19, 1996) 61 FR 2553 [File No. SR-MCC-95-05] (notice of filing and order granting accelerated approval of a proposed rule change relating to a contingency plan for participants in connection with MCC's decision to withdraw from the securities clearing business).

<sup>4</sup> The Commission has modified the text of the summaries prepared by MCC.

<sup>5</sup> 17 CFR 200.30-3(a)(12) (1995).

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