

will be installed). Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not involve a significant reduction in a margin of safety. The proposed change revises the CT for an inoperable CIV within the scope of the CEOG Joint Application Report CE-NPSD-1168-A from 4 hours or 72 hours to 7 days. CIVs, individually and in combination, control the extent of leakage from the containment following an accident. The proposed CT extension applies to the reduction in redundancy in the containment isolation function by the CIVs for a limited period of time but does not alter the ability of the plant to meet the overall containment leakage requirements. In order to evaluate the proposed CT extension, a probabilistic risk assessment evaluation was performed in CEOG Joint Application Report CE-NPSD-1168-A. The risk assessment concluded that, based on the use of bounding risk parameters for CE-designed plants, the proposed increase in the CIV CT from 4 hours or 72 hours to 7 days does not alter the ability of the plant to meet the overall containment leakage requirements. It also concluded that the proposed change does not result in an unacceptable incremental conditional core damage probability or incremental conditional large early release probability according to the guidelines of RG 1.177. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, the proposed change presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of "no significant hazards consideration" is justified.

Dated at Rockville, Maryland, this 5th day of November, 2003.

For The Nuclear Regulatory Commission.

Herbert N. Berkow, Director,

*Project Directorate IV, Division of Licensing
Project Management, Office of Nuclear
Reactor Regulation.*

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48750; File No. SR-CBOE-2003-52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Make Changes to Its Fee Schedule To Amend Certain Application Fees

November 6, 2003.

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 November 3, 2003, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") submitted to 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 change from interested persons.

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

The CBOE proposes to make changes to its Fee Schedule to amend certain application fees. The text of the proposed rule change to the fee schedule is available at the Office of the Secretary, the CBOE, 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 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, Proposed Rule Change

1. Purpose

The CBOE proposes to make the following amendments to its Fee Schedule concerning its application fees, as described below.

First, the application fee for a new joint account is currently \$250 per person (with a minimum of \$500). The Exchange states that this fee has not increased for many years,³ and now proposes to move to a flat fee of \$1,000 for all new joint account applications.

Second, the Exchange currently charges \$250 whenever a member organization requests an addition of a member to a joint account. The Exchange proposes a change to eliminate this fee for participant additions to joint accounts whose members are part of the same broker-dealer. The Exchange states that the vast majority of additions to joint accounts are currently for joint accounts whose members are part of the same broker-dealer. Recent revisions in the joint application account form have significantly reduced the time and effort that the Exchange staff must expend in processing such changes. In cases where the members of a joint account are not part of the same broker-dealer, the \$250 fee would continue to be imposed for each addition to the joint account.

Finally, the Exchange proposes to establish a \$10,000 cap on application fees that are incurred due to a member organization's change in its organizational structure (e.g., when a limited partnership restructures itself as a limited liability corporation). The Exchange believes that this cap would still allow the CBOE to recover its processing costs occasioned by such structural changes, while also mitigating the fee impact upon member organizations who find themselves required to enact such changes in their structure.

The Exchange believes that these changes would help continue to fairly allocate its costs for processing changes in joint accounts while also passing along to members the savings from increased efficiencies that the Exchange has recently achieved in this area.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act⁵ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among the CBOE members.

³ See Securities Exchange Act Release No. 14197 (Nov. 22, 1977), 42 FR 61097 (Dec. 1, 1977) (approving SR-CBOE-77-26, which established the \$250 joint account application fee).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of 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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁶ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁷ 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 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 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-2003-52 and should be submitted by December 4, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48764; File No. SR-NYSE-2003-34]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Amendment and Restatement of the Constitution of the Exchange To Reform the Governance and Management Architecture of the Exchange

November 7, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, (the "Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 7, 2003, the New York Stock Exchange, Inc. ("NYSE" or the "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 self-regulatory organization. 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

The Exchange is amending and restating the Constitution of the Exchange. The changes to the Constitution will significantly reform the governance and management architecture of the Exchange.

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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these 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 aspects of such statements.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

The Exchange is proposing to amend and restate its Constitution to significantly change and enhance its governance structure. The amended and restated Constitution, marked to show changes from the Exchange's existing Constitution, is included in Exhibit A hereto.

The objectives of the new governance architecture are to

(1) Place responsibility for governance, compensation and internal controls, as well as for supervision of regulation, in the hands of a Board of Directors that is independent both from NYSE management and from the members, member organizations and listed companies.

(2) Separately preserve the existing engagement of the broker-dealer community and listed company community with the NYSE by creating a Board of Executives that will also include the executives of major public and private "buy-side" entities as well as lessor members of the Exchange.

Thus, the proposed rule change calls for a Board of Directors that is completely independent except for the CEO. Requiring independence from owner-constituents goes beyond what we expect of public companies, and it aligns the Exchange's Board with the interests of investors. It is the additional Board of Executives that is intended to ensure ongoing engagement with all of our constituents. Moreover, the Regulatory unit reports directly—and not through the CEO—to our independent Board of Directors, yet retains sufficient proximity to the marketplace to assure the market sensitivity that the Exchange believes is fundamental to effective regulation of the capital markets.

The Exchange notes that its current investigation of specialist trading practices, and the Commission's parallel investigation regarding our surveillance for and enforcement of the affected rules, have caused commentators to call for changes that would end broker dealer self-regulation through exchanges as well as radically alter the auction market. The Exchange also notes that, while the preliminary findings of the internal review of its compensation practices and the preliminary findings of the Commission's inspection and investigation of our specialist regulation have informed our new architecture, neither of these processes are complete and, therefore, the Exchange cannot be

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ 17 CFR 240.19b-4(f)(2).