

(7) *Estimated annual number of respondents:* 6,000.

(8) *Total annual responses:* 6,535.

(9) *Total annual reporting hours:* 2,032.

(10) *Collection description:* Under Section 12(a) of the Railroad Retirement Act, the RRB is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection obtains information needed to determine if a representative payee is handling benefit payments in the best interest of the annuitant.

FOR FURTHER INFORMATION CONTACT:

Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312-751-3363) or Charles.Mierzwa@rrb.gov.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 or Ronald.Hodapp@rrb.gov and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,
Clearance Officer.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50291; File No. PCAOB-2004-04]

Public Company Accounting Oversight Board; Order Approving Proposed Rules Relating To Oversight of Non-U.S. Registered Public Accounting Firms

August 30, 2004.

I. Introduction

On June 18, 2004, the Public Company Accounting Oversight Board (the "PCAOB") filed with the Securities and Exchange Commission (the "Commission") proposed rules pursuant to section 107 of the Sarbanes-Oxley Act of 2002 (the "Act") and section 19(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), relating to oversight of non-U.S. registered public accounting firms. Notice of the proposed rules was published in the **Federal Register** on

July 26, 2004,¹ and the period for public comment ended on August 16, 2004. The Commission received five comment letters relating to these rules. For the reasons discussed below, the Commission is granting approval of the proposed rules.

II. Description

The Act directs the PCAOB to conduct a continuing program of inspections of registered public accounting firms and to investigate alleged violations of the Act, related securities laws, and auditing and related professional practice standards. Under the Act, non-U.S. registered public accounting firms are subject to PCAOB inspections and investigations to the same extent as U.S. registered public accounting firms.² The PCAOB's proposed rules provide that, in conducting its inspections and investigations of non-U.S. firms, the PCAOB, in appropriate circumstances, may rely on the work of non-U.S. oversight systems, based on the PCAOB's analysis of the independence and rigor of that home country oversight system. The proposed rules supplement, rather than replace or supersede, the PCAOB's existing rules with respect to inspections and investigations of registered public accounting firms, which apply to both domestic and foreign registered public accounting firms.

With respect to inspections, the proposed rules establish a cooperative framework that uses a "sliding scale" approach, in which the degree of reliance the PCAOB will place on a firm's home country oversight system will vary depending on the PCAOB's analysis of that system. The PCAOB will determine the degree, if any, to which it may rely on an inspection conducted pursuant to a non-U.S. firm's home country oversight system. After making that determination, the PCAOB, to the extent consistent with its responsibilities under the Act, will conduct its own inspection of the firm in question in a manner that relies on the non-U.S. oversight system to the degree the PCAOB has determined to be appropriate. In making its determination, the PCAOB will evaluate information concerning the home country oversight system's level of independence and rigor, including (1) the adequacy and integrity of the oversight system, (2) the independence of the system's operation from the auditing profession, (3) the nature of the

system's source of funding, (4) the transparency of the system, and (5) the system's historical performance. The rules contain examples of the criteria the PCAOB might apply in determining the appropriate level of reliance to place on a non-U.S. oversight system. The rules also provide that the PCAOB's evaluation of the appropriate degree of reliance to place on a non-U.S. oversight system will be based on its discussions with the appropriate oversight authority within that system, including discussions concerning the specific inspection work program proposed for the firm in question.

With respect to investigations of conduct that may violate laws in both the United States and a foreign jurisdiction, the proposed rules provide that, in appropriate circumstances, the PCAOB may rely on a non-U.S. oversight authority's investigation or sanction of that firm. The PCAOB's reliance would depend in part on its assessment of the independence and rigor of the non-U.S. oversight system and also may depend on the oversight authority's willingness to update the PCAOB regarding the investigation on a regular basis and its authority and willingness to share relevant evidence with the PCAOB.

The PCAOB's proposed rules also provide that the PCAOB may, as it deems appropriate, provide assistance to non-U.S. oversight authorities that are conducting inspections or investigations of U.S. registered public accounting firms pursuant to a non-U.S. oversight system. The rules provide that, in determining the extent of the assistance it will provide, the PCAOB may consider the independence and rigor of the non-U.S. oversight system that has requested the PCAOB's assistance.

III. Discussion

The Commission received five comment letters regarding the PCAOB's proposed rules for oversight of non-U.S. registered accounting firms.³ The commenters generally supported the PCAOB's willingness to rely, to the extent possible, on inspections and investigations of non-U.S. firms by their home country oversight bodies. Several commenters also recognized that the PCAOB already had made modifications to respond to certain of the comments the PCAOB received during its development of the proposed rules.

Three of the commenters expressed concern with the PCAOB statement that,

¹ Release No. 34-50047 (July 20, 2004); 69 FR 44555 (July 26, 2004).

² Section 106(a) of the Act.

³ The comments were submitted by two accounting firms, a professional association of non-U.S. accountants and two non-U.S. governmental authorities.

in determining the degree of reliance it would place on another oversight system, it would consider the background, qualifications and independence of the persons involved in that oversight system. The PCAOB has stated, however, that it would consider a variety of factors with no single factor being determinative, and that its level of reliance will not depend on how similar the oversight system is to the PCAOB. One of these commenters also disagreed with the PCAOB's decision not to permit appeals of its determinations about reliance on other oversight systems, but welcomed the PCAOB's statement that it would discuss its determinations with the home country oversight body.

One commenter expressed concern that the PCAOB-designated "expert" on U.S. accounting and auditing matters might not be able to obtain full access to audit workpapers, due to conflicts with non-U.S. laws. That commenter encouraged the PCAOB to wait until it had more experience in working with non-U.S. oversight bodies before requiring that such an expert participate in each inspection, in order to avoid duplication of effort. The PCAOB's view is that using "experts" will help ensure that inspections of non-U.S. firms by foreign oversight bodies address compliance with U.S. requirements.

Two commenters expressed concern with PCAOB participation in non-U.S. oversight activities and argued for mutual recognition of other oversight systems if the U.S. and non-U.S. systems are equivalent. The PCAOB considered the possibility of instituting a mutual recognition system, but rejected that idea in favor of a system that gives the PCAOB more flexibility to determine how best to carry out its responsibilities under the Act. One of these commenters also noted the risk of multiple inspections and investigations of "internationally active" companies and the risk that such companies could be subject to duplicative sanctions for the same offense, but also welcomed the PCAOB's commitment to continued discussions of potential legal conflicts and its willingness to consider reciprocal assistance to other oversight bodies. A third commenter also suggested that the PCAOB take greater account of international law conflicts, which in some jurisdictions may prohibit or restrict the PCAOB from entering the jurisdiction to inspect or investigate local entities, unless there is an agreement with or cooperation from local authorities. We understand that the PCAOB is discussing these matters with its foreign counterparts.

Under the proposed rules the PCAOB has broad discretion in determining the extent to which, in carrying out its statutory authority to inspect and investigate registered public accounting firms, it will rely on the work of non-U.S. oversight systems, and the extent to which it will provide assistance to non-U.S. oversight systems. Many of the issues relating to implementation of the proposed cooperative framework will be negotiated by the PCAOB on a case-by-case basis with non-U.S. oversight bodies in those jurisdictions where such an oversight body exists. Like the United States, other jurisdictions also are in the process of developing or strengthening their own systems for auditor oversight. We encourage the PCAOB to continue its discussions with non-U.S. oversight bodies and to consider ways it can work cooperatively with its foreign counterparts to carry out its responsibilities under the Act.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rules are consistent with the requirements of the Act and the securities laws and are necessary and appropriate in the public interest and for the protection of investors.

It is therefore ordered, pursuant to section 107 of the Act and section 19(b)(2) of the Exchange Act, that the proposed rules governing oversight of non-U.S. registered public accounting firms (File No. PCAOB-2004-04) be and hereby are approved.

By the Commission,
Margaret H. McFarland,
Deputy Secretary.

[FR Doc. E4-2072 Filed 9-3-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50292; File No. SR-CBOE-2004-39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to Extending a Limited Pilot Program for Maximum Bid/Ask Differentials

August 31, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,²

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

notice is hereby given that on July 7, 2004, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted 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. On August 19, 2004, the Exchange filed Amendment No. 1 to the proposed rule change.³ In Amendment No. 1, CBOE changed the filing from a proposed rule change filed under Section 19(b)(2) of the Act⁴ to one filed under Section 19(b)(3)(A) of the Act.⁵ Specifically, the Exchange designated its filing as non-controversial pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and to Rule 19b-4(f)(6).⁷ Accordingly, the proposed rule change became effective upon filing Amendment No. 1 on August 19, 2004. The Commission is publishing this notice, as amended, 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 proposes to amend its rules to extend a limited pilot program relating to maximum bid/ask differentials.⁸ The text of the proposed rule change, as amended, is available at the offices of the Exchange and the Commission's Public Reference Room.

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.

³ See letter from Angelo Evangelou, Senior Attorney, CBOE, to Kelly M. Riley, Assistant Director, Division of Market Regulation, Commission, dated August 19, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange submitted a new Form 19b-4, which replaced and superseded the original filing in its entirety.

⁴ 15 U.S.C. 78s(b)(2).

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ See Securities Exchange Act Release No. 48471 (September 10, 2003), 68 FR 54251 (September 16, 2003) (SR-CBOE-2003-08).