

[Release No. 34-35220; File No. SR-CBOE/94-48]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc.; Relating to the Placement of CBOE Memberships in Trust

January 11, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 1, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "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 CBOE proposes to adopt a new Rule 3.25 that would enable an individual CBOE member to place his membership in trust for estate planning purposes, subject to certain conditions and requirements.

The text of the proposed rule change is available at the Office of the Secretary, 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 self-regulatory organization included statements concerning the purpose of an 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 self-regulatory organization 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, the Proposed Rule Change

The purpose of the proposed rule change is to include in CBOE's membership rules a new Rule 3.25 that would enable any individual member to place his membership in trust, subject to various conditions and requirements set forth in the rule. Rule 3.25 is designed to make the membership transfer process simple for members and for the Exchange and is structured to correlate

the substance and mechanics of the new rule with CBOE's existing rules, including, for example, CBOE's rules respecting sales and leases of memberships and transfers of memberships to family members.

The Exchange believes that the proposed rule change will provide members with useful, but appropriately controlled, estate planning flexibility. For example, the proposal will permit a member who has placed his membership in trust to provide for the appointment of a successor trustee in the event of the member's disability. The successor trustee would then hold the membership for the benefit of the member during the disability period, provided the membership is leased during that period in accordance with CBOE's membership lease rules.

Specifically, the proposed rule change would provide that an individual member in good standing may, during his lifetime, transfer his membership to a trust for which he is the sole trustee and sole present beneficiary. Under paragraph (c) of proposed Rule 3.25 a member who has placed his membership in trust ("Trust Member") may transfer his membership, in accordance with the provisions of Rule 3.14(c)(1), to an eligible family member who is approved for Exchange membership, or, in accordance with Rule 3.14(c)(3), to a member organization. Any such transfer must conform to the collateral deposit requirements of the final sentence in Rule 3.14(c). In addition, the proposed rule change provides that a Trust Member may transfer his membership from the trust to himself to be held directly.

Paragraph (b) of the proposed rule change would authorize a Trust Member to provide in his trust agreement for the appointment of a successor trustee in the event the Trust Member dies, is declared legally incompetent, or becomes disabled. A successor trustee could be so appointed for one of two purposes only—either to effect a transfer of the membership after the member's death in accordance with the Exchange's membership transfer rules, or, to retain the membership in trust for the benefit of an incompetent or disabled Trust Member, provided the membership is leased in accordance with Exchange Rule 3.16(b) ("Leased Memberships").

Any transfer of a membership into trust would be subject to Exchange review. Under paragraph (d) of proposed Rule 3.25, a member seeking to effect such a transfer must furnish the Exchange with a copy of the trust agreement together with an attorney's

certification that the agreement conforms to the requirements of the new rule. The Exchange may disapprove a transfer by written notice to the member if the Exchange finds that the trust agreement does not so conform. In addition, the new rule specifies that, notwithstanding a transfer into trust, the membership must remain subject to all Exchange rules, and the Trust Member must remain personally responsible for all obligations and liabilities associated with use of the membership.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act and with Section 6(b)(1) of the Act in particular in that it is designed to enable the Exchange to enforce members' compliance with Exchange rules and to protect investors and the public interest.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

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

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 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 the self-regulatory organization consents, the Commission will:

(A) By order approve the 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 submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 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