15A(b)(6), 7 and 15A(b)(9) 8 of the Act. Pursuant to sections 15A (b)(5) and (b)(6), the proposed rule change equitably allocates the fees between NASD members and non-NASD members. Because both members and non-members are subject to the same fee schedules and arrangements, there is no unfair discrimination between member and non-member subscribers. Pursuant to section 15A(b)(9), the proposed rule change does not impose any unnecessary or inappropriate burden on competition, but reflects an attempt to update a rule that contains provisions that are no longer applicable because they do not adequately represent current market practices or pricing. In light of the technological advancements in the telecommunications area, increased costs are commensurate with providing current and potential subscribers with access to the various communications services and equipment. However, the schedule of NASD charges for services and equipment is based on a per unit cost; therefore, members and nonmembers are subject to the same charges. Thus, the revision in subscriber deposit requirements does not impose any unnecessary or inappropriate burdens on competition.

IV. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with sections 15A(b)(5), 15A(b)(6), and 15A(b)(9).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR–NASD–95–48) be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.
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[Release No. 34-36534; File No. SR-CBOE-95-65]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Joint Account Participant Trading in Equity Options

November 30, 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 October 20, 1995, 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 Exchange proposes to revise its policy regarding joint account participation in equity options. 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, 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, the Proposed Rule Change

The purpose of this rule change is to revise that provision of the Exchange's policy governing joint account participant trading in equity options that currently prohibits the simultaneous representation in a trading crowd by more than one member of a

joint account.1 Under the proposed regulatory circular, a joint account may be simultaneously represented in a trading crowd but only by participants trading in-person. All other provisions of the current regulatory circular would remain unchanged, including a prohibition against orders being entered in the crowd via a floor broker when a joint account participant is trading in the crowd in-person. This change in policy is also reflected in a deletion of one sentence and the addition of another from paragraph (a)(ii) of Rule 8.16, RAES Eligibility in Equity Options.

There are two reasons why the Exchange has determined to propose this change, which has been recommended by the Exchange's Equity Floor Procedure Committee. First, the change will make the policy governing joint account trading in equity options more consistent with the current policy governing index option trading, where multiple representation of orders for the same joint account is permitted by participants in the joint account trading in-person at the trading post, or by floor brokers representing the orders at the post.2 The policy proposed for equity options is more restrictive, in that it would only permit joint representation by participants trading in-person, and would not permit multiple representation of orders for the same joint account if one or more of the orders is represented by a floor broker. The policy for index options reflects that, as a practical matter, floor broker representation is often required in index option trading crowds, where special trading practices and procedures have been adopted to deal with the special needs of these very large crowds. Since a trader from another crowd may be unfamiliar with these practices, he may need to use the services of a floor broker who is regularly present at the index crowd and who understands its trading practices. Smaller equity option trading posts do not present the same practical need for the services of floor brokers, which is why the proposed policy permitting joint account representation at equity option posts is limited to inperson representation of orders by market-makers.

⁷ Section 15A(b)(6) requires the Commission to determine that a registered national securities association's rules are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, to impose any schedule or fix rates of commissions, allowances, discounts, or other fees to be charged by its members, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the NASD.

⁸ Section 15A(b)(9) requires the Commission to determine that a registered national securities association's rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

^{9 15} U.S.C. 78s(b)(2) (1988).

^{10 17} CFR 200.30-3(a)(12).

¹This policy is set forth in Regulatory Circular RG 93–50, which is a reissuance of RG 91–68, submitted for immediate effectiveness as File No. SR–CBOE–91–48, noticed in Securities Exchange Act Release No. 30334 (February 4, 1992), 57 FR 4900 (February 10, 1992).

² See Regulatory Circular RG 95–64, which is a reissuance of Regulatory Circular RG 91–57, approved in Securities Exchange Act Release No. 31174 (September 10, 1992), 57 FR 42789 (September 16, 1992).