

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 revise CBOE Rule 8.3(c) to give the Market Performance Committee ("MPC") authority to designate the maximum number of trading stations at which a single market maker's appointed classes of options are traded, and to add Interpretation and Policy .02 to CBOE Rule 8.3 to state that the MPC has designated such maximum number as ten trading stations. CBOE Rule 8.3 currently sets a five station upper limit on the maximum number of trading stations that may be covered by a single market maker's appointment.

In light of the recent and anticipated increases in both the number of options classes traded on the Exchange and the number of trading stations on the floor, the Exchange has determined that it needs greater flexibility to increase this limit from time to time in order to be able to respond promptly to any need for greater market maker participation that may result from such expansion. By granting authority to fix this number to the MPC, which already has the authority to grant exceptions to the current five-station limit on a case-by case basis, the Exchange believes it will have achieved the flexibility it needs. When and if the MPC changes the limit from ten stations as it is here proposing, the new limit will be reflected in a revision to Interpretation and Policy .02 under the Rule filed under Section 19(b)(3)(A)(i) of the Act as a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of Rule 8.3.²

The CBOE believes that the proposed increase in the current limit under Rule 8.3(c) from five to ten stations reflects that, in light of the expansion of the number of options classes traded in CBOE's marketplace and in the number of stations at which options are traded, a five-station limit is unduly restrictive and places CBOE's market makers at a

competitive disadvantage in relation to options market makers on other exchanges. Currently, the five-station maximum limits an individual market maker's affirmative market making obligations to, at most, slightly more than 9% of the trading stations on the floor, or less than 25% of all CBOE classes. To assure adequate market maker coverage of all classes traded on the CBOE, enlargement of the current five station limit to ten stations is needed.

In addition, CBOE believes that the importance of maintaining comparability among exchanges regarding the percentage of the classes traded in which a market maker may hold an appointment is not limited to general reasons of competitive fairness and equality. Comparability is also important because under the new short sale rule applicable to stocks traded in the Nasdaq market, the exception to the short sale rule for options market makers only applies to stocks underlying options in which the market maker holds an appointment. So long as CBOE market makers limited to holding appointments in less than 25% of the classes traded on the Exchange, CBOE's market makers will be at a competitive disadvantage in respect of their ability to hedge their options positions pursuant to the market maker exemption from the NASD short sale rule. CBOE recently filed a proposed rule change that would amend its Rule 15.10 by eliminating the provision that restricts the market maker exemption to Nasdaq National Market securities underlying options traded at no more than three stations. Instead, the market maker exemption would be available for all options classes to which a market maker holds an appointment.³

The proposed amendment is intended to enhance the ability of the Exchange to provide fair and orderly markets in options and to provide for competitive equality among exchanges, and therefore the Exchange believes that its proposal is consistent with the promotion of just and equitable principles of trade and the protection of investors and the public interest as required by Section 6(b)(5) of the Act.

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

CBOE 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

Written comments on the proposed rule change were neither solicited nor received.

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

Within 35 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 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 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 submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-94-44 and should be submitted by February 2, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

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² Although the CBOE has stated its desire to rely on section 19(b)(3)(A) of the Act if it should seek to change the limit, the Commission has requested that the CBOE provide it with additional information to justify the appropriateness of such reliance.

³ See Securities Exchange Act Release No. 34947 (November 7, 1994), 59 FR 59262 (File No. SR-CBOE-94-38), proposing to amend CBOE Rule 15.10(c)(2)(ii)(B).

⁴ 17 CFR 200.30-3(a)(12) (1993).