addition, the CBOE states that the German legislature recently adopted new laws regarding insider trading that also provide for the creation of an independent regulatory authority.[17] The Exchange understands that these developments will facilitate the effective coordination between the Commission and the appropriate German regulatory authorities of warrant trading on the Germany 25 Index because they will enhance the surveillance of trading in the stocks comprising the Index.[18] In addition, the Exchange will continue to pursue its own independent surveillance sharing agreement with the Deutsche Börse AG (the holding company that owns the FSE) and/or the FSE.[19]

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to permit trading in warrants based on the Germany 25 Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, 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 inappropriate 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 Exchange 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, 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 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, NW., Washington, DC. 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–95–40 and should be submitted by September 18, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

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[17] The Commission notes that this new regulatory body, the Bundesaufsichtsamt fur den Wertpapierhandel, was established in January 1995.

[18] Telephone conversation between Eileen Smith, Director, Product Development, Research Department, CBOE, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on August 8, 1995.

[19] *Id.*

[20] 15 U.S.C. 78f(b)(5) (1988).

[21] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36124; File No. SR–CBOE–95–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To Add Two Position and Exercise Limit Tiers for Qualifying Equity Option Classes and To Expand the Equity Option Hedge Exemption

August 18, 1995.

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 August 7, 1995, the Chicago Board Options Exchange (''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 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 amend Rule 4.11 (Position Limits) and Rule 4.12 (Exercise Limits) for equity options to add two upper position and exercise limit tiers for those equity option classes that meet certain criteria for high liquidity in the underlying stocks. In addition, CBOE proposes to expand the current equity option hedge exemption from twice to three times the standard or base position limit. 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 Exchange 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

In 1994, the CBOE and the American Stock Exchange initiated discussions with Commission staff on the effect of increasing the number of position and exercise limit[3] tiers for equity options

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1994).

[3] Position limits impose a ceiling on the aggregate number of option contracts on the same side of the market that an investor, or investors acting in concert, can hold or write. Similarly, exercise limits impose a ceiling on the aggregate long positions in option contracts that an investor, or investors acting in concert, can or will have exercised within five consecutive business days.

The equity option position limits provided in Exchange Rule 4.11 are set at 4,500 or 7,500 or 10,500 contracts, and were increased to these levels in December 1993. Inadvertently, according to the Exchange, the corresponding exercise limits in Exchange Rule 4.12 were not increased at the same time from the Previous 3,000 or 5,500 or 8,000 contract levels. The CBOE has proposed to increase the exercise limits accordingly, and to make other amendments to the equity option position and exercise limit rules. *See* Securities Exchange Act Release No. 35759 (May 24, 1995), 60 FR 28432

from three to five, in response to feedback from customers and member firms that existing position and exercise limits for certain classes were too low. The discussions also included whether investors, particularly investors with sizeable assets or accounts, could benefit from an expansion of the equity hedge exemption contained in Rule 4.11, Interpretation and Policy .04, from a maximum allowable position of twice the standard or base limit to three times the limit.[4] As set forth in greater detail in a recent report prepared by the Exchange (''Study''),[5] the CBOE determined that position and exercise limit tiers can be added and that the equity hedge exemption can be expanded to benefit investors without increasing the potential for market disruption.

The CBOE is proposing to add two tiers above the current position and exercise limit tiers for equity options provided in Exchange Rules 4.11 and 4.12, at 20,000 and 25,000 contract levels.[6] The criterion to qualify for the proposed 20,000 contract limit will be that the underlying security must have at least 240 million shares outstanding with 60 million shares traded in the past six months, or have 80 million shares traded in the past six months. To qualify for the proposed 25,000 contract limit, the underlying security must have at least 300 million shares outstanding with 75 million shares traded in the past six months, or 100 million shares traded in the past six months.

According to the Exchange, the number of equity option classes currently listed at the CBOE that would qualify for one of these higher position and exercise tiers is small. The Exchange represents that based on available statistics as of June 30, 1995, approximately 73 classes would meet the above shares outstanding and six month trading volume criteria for the 25,000 contract tier, and approximately 22 classes would qualify for the 20,000 contract tier, out of approximately 580 equity option classes currently listed on the CBOE.

In preparing the Study, the CBOE compiled information relating to the market impact of increased position and exercise limits for equity options, and addressed among other things: (1) The maximum underlying dollar value of an at-limit (hedged) position; (2) the percentage of shares outstanding that could be controlled under the proposed, expanded limits (unhedged position); (3) how contract volume compares between institutional and retail customers in those classes eligible for the new tiers; (4) position limit violation and exemption history for the existing three tiers; and (5) other evidence supporting an expansion of the current position limit tiers.

The CBOE believes that the findings set forth in the Study should alleviate concerns that the new position limit tiers and expanded equity hedge exemption may increase exposure to market disruption.[7] These findings are summarized below. For a fully hedged position utilizing the expanded equity hedge exemption, although the maximum underlying dollar value of an at-limit position under the increased limits will obviously be greater than under the increased limits will obviously be greater than under the current limits, the largest dollar value controlled in any equity option class would not exceed 2.06% of the total market capitalization of the underlying equity. The CBOE noted in the Study that the actual underlying dollar value controlled will be less than that implied by the calculation because the at-limit position is at least two-thirds hedged with the underlying security.

Further, for an unhedged position under the limits proposed in the Study, the maximum percentage that could be controlled by any one investor or group of investors acting in concert would not exceed 7.2% of outstanding shares in any eligible equity option class, in comparison to a maximum of 10.92% of outstanding shares that currently can be controlled in an option class in the 10,500 contract tier. With respect to current classes in which the percentage of shares controlled exceeds 5%, the CBOE represents that to date there have been no position or exercise limit violations.

The CBOE states that the Study also elucidated a need for expanded position and exercise limits. First, the Exchange represents that the majority of both institutional and retail customer volume is equity options traded on the Exchange is transacted in equity option classes qualifying for one of the expanded tiers. Second, for calendar year 1994, the CBOE notes that all but one of approximately 80 position limit violations occurred in equity option classes qualifying for the 10,500 contract tier, and that all but seven of approximately 340 market-maker exemptions granted were also for equity option classes in the 10,500 contract tier. Third, as noted in the Study, the CBOE received letters and comments affirming the need to increase the current position limits.[8]

In addition to the proposed 25,000 and 20,000 contract tiers, the CBOE is also proposing to expand the equity hedge exemption provided in Exchange Rule 4.11, Interpretation and Policy .04, so that the maximum allowable position, after exempting from the base position limit specified positions where the option contract is hedged by 100 shares of stock or securities convertible into stock, will be three times instead of twice the standard or base limit currently provided. For example, the maximum position allowed in a single equity option class in the proposed 25,000 contract tier will be 75,000 contracts, of which 50,000 contracts must be hedged. The CBOE believes that its data supports this proposal. The proposed increase in the maximum hedge exemption will apply to all position limit tiers, not just the proposed 25,000 and 20,000 contract tiers. The CBOE notes that in the Study, approximately 30 to 35 customer accounts and 25 market-maker/member

(May 31, 1995) (notice of File No. SR–CBOE–95–22).

[4] The equity hedge exemption exempts certain specified equity options positions from the stated (or base) position limits in Exchange Rule 4.11 where the option contracts are hedged by 100 shares of stock or securities convertible into such stock (or hedged by the same number of shares represented by an adjusted option contract), up to a maximum allowable position of twice the standard or base limit.

[5] The purpose of the Study was to analyze the market impact of increased limits and an expanded hedge exemption. *See* Letter from Mary Bender, Senior Vice President, Division of Regulatory Services, CBOE, to Holly Smith, Associate Director, Office of Market Supervision, Division of Market Regulation, Commission, dated April 28, 1995.

[6] As stated previously, the current position limits in Rule 4.11 are 4,500, 7,500, and 10,500 contracts with the position limits for any particular class of options determined as follows: (1) to be eligible for the 10,500 contract limit, either the most recent six-month trading volume of the underlying security must have totalled at least 40 million shares, or the most recent six-month trading volume of the underlying security must have totalled at least 30 million shares and the underlying security must have at least 120 mullion shares outstanding; (2) to be eligible for the 7,500 contract limit, either the most recent six-month trading volume of the underlying security must have totalled at least 20 million shares, or the most recent six-month trading volume of the underlying security must have totalled at least 15 million shares and the underlying security must have at least 40 mullion shares outstanding; and (3) to be eligible for the 4,500 contract limit, the underlying security must not satisfy the criteria for a higher limit. *See* CBOE Rule 4.11, Interpretation and Policy .02.

[7] The CBOE notes that the Study examined data that is based on contract limits well in excess of the limits actually proposed by CBOE herein (*i.e.*, proposed tiers of 40,000 and 20,000 contracts). Accordingly, the Exchange believes that an added measure of comfort can be drawn from the fact that if no material market disruption likelihood could be detected at the higher limits used in the Study, the same should remain true, and the potential for market disruption should be less likely, at the proposed 20,000 and 25,000 contract limits.

[8] *See infra* note 11.

firm accounts, representing approximately 35 equity option classes, used the equity hedge exemption on a consistent basis in 1994. Moreover, the Study indicated that many institutions had significant positions both in equity options qualifying for the expanded tiers and in the underlying securities. As noted below, the CBOE also received comments in support of expanding the equity hedge exemption.[9]

For the above reasons, the CBOE is requesting approval of the proposed 20,000 and 25,000 position and exercise limit tiers for qualifying equity option classes and an expansion of the current equity option hedge exemption from two to three times the base position limit. The CBOE strongly believes that the investing community—institutions, retail customers and member firms across the board—will benefit from the proposed increases in equity option position limits and the equity option hedge exemption, particularly investors with sizeable holdings, accounts, or assets who employ equity options to hedge large stock holdings, and who have found the existing equity option position limit tiers and hedge exemption to be too restrictive. The CBOE does not believe, based on existing data, that the increased position limits and equity hedge exemption proposed herein will increase the risk of or exposure to market disruption resulting from the higher numbers of equity option contracts permitted to be under common control.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing investors with enhanced hedging capabilities.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

The CBOE states that it received six letters from member firms nothing that the current position limits are too low and supporting an increase in the current position limit levels, particularly for institutional clients.[11] The CBOE states that it has also received comments from member firm representatives and customers that, with respect to sizeable portfolios or assets, they do not have adequate hedging capabilities under the current position limit tiers for equity options. Further, the CBOE represents that money managers have commented that the current equity option position limits are too restrictive with respect to the size of assets managed.

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 Exchange 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, 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 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, NW., Washington, DC. 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–95–42 and should be submitted by September 18, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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[9] *Id.*

[10] 15 U.S.C. 78f(b)(5) (1988).

[11] *See* Letter to Karen Charleston, CBOE, from Alfred Scerbo, Compliance Department, Bear, Stearns & Co., Inc., dated October 6, 1994; letter to Patricia Cerny, CBOE, from Heather Wood, Branch Manager, Prudential Securities, dated January 18, 1995; letter to Patricia Cerny, CBOE, from William McGowan, Senior Vice President, Mesirow Financial, dated December 20, 1994; letter to Karen Charleston, CBOE, from Scott Kilrea, LETCO, dated October 3, 1994; letter to Patricia Cerny, CBOE, from Lyn Lane, Vice President, Rauscher Pierce Refsnes, Inc., dated December 8, 1994; and letter to Patricia Cerny, CBOE, from W. Thomas Clark, Managing Director, Morgan Stanley, dated January 11, 1995.

[12] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36125; International Series Release No. 841 File No. SR–CBOE–95–39]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing and Trading of Options and Long-Term Options on the CBOE Germany 25 Index and Long-Term Options on a Reduced-Value CBOE Germany 25 Index

August 18, 1995.

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 August 4, 1995, the Chicago Board Options Exchange (''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 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 Exchange hereby proposes to amend certain of its rules to provide for the listing and trading on the Exchange of options on the CBOE Germany 25 Index (''Germany 25 Index'' or ''Index''). 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 Exchange 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

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).