

arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

### The Commission Orders

(a) The Postal Service shall file the record in this appeal by January 29, 1998.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

**Cyril J. Pittack,**  
*Acting Secretary.*

**Nassau, Minnesota 56272**

[Docket No. A98-1]

### Appendix

December 22, 1997: Filing of Appeal letter.  
January 14, 1998: Commission Notice and Order of Filing of Appeal.

February 3, 1998: Last day of filing of petitions to intervene (see 39 CFR 3001.111(b)).

February 13, 1998: Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115 (a) and (b)).

March 2, 1998: Postal Service's Answering Brief (see 39 CFR 3001.115(c)).

March 17, 1998: Petitioner's Reply Brief should Petitioner choose to file one (see 39 CFR 3001.115(d)).

March 24, 1998: Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116).

April 21, 1998: Expiration of the Commission's 120-day decisional schedule (see 39 U.S.C. 404(b)(5)).

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certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, January 21, 1998, at 3:00 p.m., will be: Institution and settlement of injunctive actions

Institution and settlement of administrative proceedings of an enforcement nature

The subject matter of the open meeting scheduled for Thursday, January 22, 1998, at 10:00 a.m., will be:

The Commission will consider adopting (1) a rule requiring plain English for the cover page, summary, and risk factor sections of prospectuses filed under the Securities Act of 1933; and (2) codifying earlier interpretive advice on how public companies can comply with the current rule that prospectuses be clear, concise and understandable. The purpose of the proposed change is to make prospectuses simpler, clearer, more useful, and more used. For further information, please contact David Maltz at (202) 942-1921.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: January 14, 1998.

**Jonathan G. Katz,**  
*Secretary.*

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thereunder,<sup>2</sup> a proposed rule change to permit a FLEX equity option to have a term of five years in certain circumstances.

The proposed rule change was published for comment in the **Federal Register** on November 14, 1997.<sup>3</sup> No comments were received on the proposal. This order approves the proposal.

### II. Description

The CBOE is proposing to allow FLEX equity options<sup>4</sup> traded on the Exchange to have a maturity beyond three years and up to five years when the longer term is requested by a submitting member and the FLEX Post Official<sup>5</sup> determines that sufficient liquidity exists among Equity FLEX Qualified Market Makers. Currently, FLEX equity options, by operation of Rule 24A.4(a)(4)(i), are limited to a maturity of three years.

When the Exchange filed for permission to list and trade FLEX equity options<sup>6</sup> it determined to limit the maturity of these options to three years because, unlike FLEX Index options which had been traded on the Exchange since February 1993 and which could have a maturity of up to five years, the Exchange was concerned that there would not be sufficient liquidity in many equity option classes to support series with a longer term to expiration. The CBOE represents, however, that since it has traded FLEX equity options, the Exchange has had numerous requests from broker-dealers to extend the maturity of FLEX equity options to five years. According to the Exchange, among the reasons the broker-dealer firms have been interested in seeking an extension in the allowable maturity is that such longer expiration FLEX equity options might be used to hedge a firm's issuance of long-term structured products linked to returns of an individual stock. The Rule would permit the longer term FLEX equity options (up to a maximum of five years) to be listed when requested by the submitting member if the FLEX Post

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Exchange Act Release No. 39305 (November 6, 1997), 62 FR 61156 (November 14, 1997).

<sup>4</sup> FLEX equity options are flexible exchange-traded options contracts which overlie equity securities. In addition, FLEX equity options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

<sup>5</sup> Under CBOE Rule 24A.1(g), a FLEX Post Official is the Exchange employee designated pursuant to Rule 24A.12 to perform the FLEX post functions set forth in that rule.

<sup>6</sup> SR-CBOE-95-43 approved in Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996).

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 19, 1998.

A closed meeting will be held on Wednesday, January 21, 1998, at 3:00 p.m. An open meeting will be held on Thursday, January 22, 1998, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39524; File No. SR-CBOE-97-57]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to an Extension of the Permissible Maturity Term of FLEX Equity Options

January 8, 1998.

### I. Introduction

On October 23, 1997 the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4

<sup>1</sup> 15 U.S.C. 78s(b)(1).

Official determined that sufficient liquidity existed among Equity FLEX Qualified Market Makers. The CBOE believes that by allowing for the extension of the maturity of FLEX equity options to five years in situations where there is demand for a longer term expiration and where there is sufficient liquidity among Exchange qualified market-makers to support the request, the proposed rule change will better serve the needs of CBOE's customers and the Exchange members who make a market for such customers.

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>7</sup> Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)<sup>8</sup> requirement that the rules of an exchange be 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 to protect investors and the public interest.<sup>9</sup>

The Commission believes it is appropriate to extend the maximum permissible maturity term of FLEX equity options to five years for several reasons. First, FLEX equity options with a maturity term of up to five years should benefit investors by allowing them to hedge positions on a longer term basis through investment in one options series, rather than having to roll shorter term expirations into new series to remain hedged on a longer basis. In this regard, the Commission notes that the FLEX equity options market is characterized by large, sophisticated institutional investors (or extremely high net worth individuals) who have the experience, ability and, in many cases, need to engage in negotiated, customized transactions.<sup>10</sup> The longer-term FLEX equity options will allow investors to customize their portfolios further over an extended period of time.

Second, the extension of the permissible maturity term for FLEX equity options to five years potentially could expand the depth and liquidity of the FLEX equity market without significantly increasing concerns regarding intermarket manipulations or disruptions of the options or the underlying securities.<sup>11</sup> Third, under the rule, FLEX equity options with maturity terms between three and five years could only be issued if a FLEX Post Official determines that there is sufficient liquidity among Equity FLEX Qualified Market Makers. This will help to ensure that there is not a proliferation of longer term FLEX equity options series where no interest in trading such options exist. Finally, as with all exchange-traded options, the Options Clearing Corporation will act as the counter-party guarantor, thereby ensuring that obligations will be met over the long-term.<sup>12</sup>

For the foregoing reasons, the Commission finds that CBOE's proposal to extend the permissible maturity term of certain FLEX equity options, as described above, is consistent with the requirements of the Act and the rules and regulations thereunder.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-CBOE-97-57) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>11</sup> Position and exercise limits for FLEX equity options have recently been eliminated. See Exchange Act Release No. 39032 (Sept. 9, 1997), 62 FR 48683 (Sept. 16, 1997). In eliminating these limits, the Exchange adopted several important safeguards to monitor large positions in order to identify instances of potential risk and to assess additional margin and/or capital charges, if necessary. These safeguards also continue to apply to large positions in FLEX equity options regardless of the term of the option.

<sup>12</sup> As to any future proposal to permit options instruments with terms longer than five years, the Commission would need to re-evaluate several issues including margin requirements, disclosure, sales practices, and other legal and regulatory issues.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39541; File No. SR-MSRB-98-1]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G-38 on Consultants

January 12, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4, thereunder,<sup>2</sup> notice is hereby given that on January 9, 1998,<sup>3</sup> the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change, (File No. SR-MSRB-98-1), as described in Items I, II, and III below, which Items have been prepared by the Board. 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 Board is filing herewith a notice of interpretation concerning Rule G-38 on consultants (hereafter referred to as "the proposed rule change"). The proposed rule change is as follows:

#### Rule G-38 Questions and Answer Bank Affiliates and Definition of Payment

**Q:** A bank and its employees communicate with an issuer on behalf of an affiliated dealer to obtain municipal securities business for that dealer. In return, the bank and its employees receive certain "credits" from the dealer. These credits, which do not involve any direct or indirect cash payments from the dealer to the bank or its employees, are used for internal purposes to identify the source of business referrals. Are the credits considered a "payment" under rule G-38 thereby requiring the dealer to designate the bank or its employees as consultant and comply with the requirements of rule G-38?

**A:** Rule G-38 defines a consultant as any person used by a dealer to obtain or retain

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> On November 13, 1997, the Board filed the same proposal under Section 19(b)(3)(A) of the Act, which renders the proposal effective upon receipt of filing by the Commission. See Securities Exchange Act Release No. 39391 (December 3, 1997), 62 FR 65114 (December 10, 1997). The Commission received four comment letters on the filing. See *infra* note 12. In order to provide additional time to fully air the concerns of commenters, the Board agreed to withdraw this filing and resubmit it, pursuant to Section 19(b)(2). See letter from Diane G. Klinke, General Counsel, Municipal Securities Rulemaking Board, to Katherine A. England, Assistant Director, Division of Market Regulation, dated January 9, 1998.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>10</sup> For example, with a required minimum size of 250 contracts to open a transaction in a new series, FLEX equity options are designed to appeal to institutional investors. See Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666, 6669 (February 21, 1996); see also Exchange Act Release No. 37336 (June 19, 1996), 61 FR 33558, 33560, (June 27, 1996).