• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected;

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

II. Current Actions

The Office's of Management and Budget (OMB's) approval of this ICR will expire on November 30, 2001. OMB's approval should be extended because without the relief provided by this exemption, broker-fiduciaries who provide investment management services to accounts for which they also effect transactions for the purchase or sale of securities, may be barred by ERISA from providing these combined services to employee benefit plans, causing disruption of the existing business practices of plans and the businesses that service them.

In order to insure that the exemption is not abused, that the rights of participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department has included in the exemption five information collection requirements. The first requirement is written authorization executed in advance by an independent fiduciary of the plan whose assets are involved in the transaction with the broker-fiduciary. The second requirement is, within three months of the authorization, the broker-fiduciary furnish the independent fiduciary with any reasonably available information necessary for the independent fiduciary to determine whether an authorization should be made. The information must include a copy of the exemption, a form for termination, and a description of the broker-fiduciary's brokerage placement practices. The third requirement is that the broker-fiduciary must provide a termination form to the independent fiduciary annually so that the independent fiduciary may terminate the authorization without penalty to the plan; failure to return the form constitutes continuing authorization. The fourth requirement is for the broker-fiduciary to report all transactions to the independent fiduciary, either by confirmation slips or through quarterly reports. The fifth requirement calls for the broker-fiduciary to provide an annual summary of the transactions. The annual summary must contain all security transaction-related charges incurred by the plan, the brokerage placement practices, and a portfolio turnover ratio.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: PTE 86–128 for Certain Transactions Involving Employee Benefit Plans and Securities Broker-Dealers.

Type of Review: Extension of a currently approved collection.

OMB Numbers: 1210–0059.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Total Respondents: 23,000.

Total Responses: 292,000.

Frequency of Response: Quarterly; Annually.

Total Annual Burden: 98,200 hours.

Total Annual Cost (Operating & Maintenance): $188,200.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: August 10, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01–20717 Filed 8–16–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Pension and Welfare Benefits Administration (PWBA) is announcing that collections of information included in the following Prohibited Transaction Class Exemptions (PTE) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA 95). This notice announces the OMB approval numbers and expiration dates.

FOR FURTHER INFORMATION CONTACT: Address requests for copies of the information collection requests (ICRs) to Gerald B. Lindrew, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 2001 (66 FR 11181), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of PTE 81–6, Certain Security Lending by Employee Benefit Plans. In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210–0065. The approval expires July 31, 2004.

In the **Federal Register** of February 15, 2001 (66 FR 10512), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of PTE 85–68, Employee Benefit Plans Investing in Customer Notes of Employers. In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210–0094. The approval expires July 31, 2004.

Under 5 CFR 1320.5 (b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Dated: August 10, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01–20718 Filed 8–16–01; 8:45 am]

BILLING CODE 4510–29–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44681; File No. SR–CBOE–00–12]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 by Chicago Board Options Exchange, Inc. Relating to the Expansion of the Equity Hedge Exemption From Position and Exercise Limits

August 10, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] notice is hereby given that on March 31, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or

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

''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On July 20, 2001, the CBOE filed Amendment No. 1 with the Commission[2] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposed to expand the current equity hedge exemption to eliminate position and exercise limits for certain qualified hedge strategies. The current reporting procedures, which serve to identify and document hedged positions, would remain in place. The text of the proposed rule change is set forth below. Proposed additions are *italicized* and proposed deletions are in brackets.

* * * * *

CHAPTER IV—BUSINESS CONDUCT

Position Limits

Rule 4.11 No change.

*Interpretations and Polices * * **

.01–.03 No change.

.04 Equity Hedge Exemption

(a) [The following positions, where each option contract is ''hedged'' by 100 shares of stock or securities convertible into such stock, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract, shall be exempted from established position and exercise limits up to that number of option contracts, equal to the limit as computed in Interpretation .02 above: (I) long call and short stock; (ii) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock.] *The following qualified hedging transactions and positions shall be exempt from established position and exercise limits as prescribed under Interpretation .02 above:*

(1) Where each option contract is ''hedged; or ''covered'' by 100 shares of the underlying security or securities convertible into such underlying security, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract; (i) long call and short stock; (ii) short call and long stock; (iii) long put and long stock; (iv) short put and short stock.

(2) A long call position accompanied by a short put position, where the long call expires with the short put, and the strike price of the long call and short put is equal, and where each long call and short put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock (''reverse conversion'').

(3) A short call position accompanied by a long put position where the short call expires with the long put, and the strike price of the short call and long put is equal, and where each short call and long put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock (''conversion'').

(4) A short call position accompanied by a long put position, where the short call expires with the long put, and the strike price of the short call equals or exceeds the long put, and where each short call and long put position is hedged with 100 shares of the underlying security (or other adjusted number of shares). Neither side of the short call, long put position can be in-the-money at the time the position is established (''collar'').

(5) A long call position accompanied by a short put position with the same strike price and a short call position accompanied by a long put position with a different strike price (''box spread'').

(6) A listed option position hedged on a one-for-one basis with an over-the-counter (''OTC'') option position on the same underlying security. The strike price of the listed option position and corresponding OTC option position must be within one strike of each other and no more than one expiration month apart.

(7) For those strategies described under (2), (3), and (4) above, one component of the option strategy can be an OTC option contract guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

(8) An OTC option contract is defined as an option contract that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

(b) The equity hedge exemption is in addition to the standard limit and other exemptions available under Exchange rules, interpretation and policies. [In no event may the equity hedge exemption for any class of stock options exceed twice the standard limit established by Rule 4.11, except that the equity hedge exemption for a Market-Maker who also receives a market-maker exemption from the standard limit pursuant to Interpretation .05 below may not exceed twice the market-maker exempted position.]

.05–.07 No Change.

* * * * *

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 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

1. Purpose

The CBOE is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity option position.[3] In May 1988, the Exchange exempted from established position and exercise limits four commonly used hedge positions: (i) Long call and short stock; (2) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock.[4] This equity hedge exemption was in addition to the standard limit and other exemptions available under Exchange rules, interpretations, and policies. The total aggregate option position held by a member or customer account could not exceed two times the standard limit. In November 1993, the definition of a hedged position was expanded to include securities readily convertible into common stock.[5] In October 1995, the equity hedge exemption was further expanded so that the total unhedged

[2] Letter from Steve Youhn, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated July 19, 2001 (''Amendment No. 1''). In response to comments from Commission staff, the Exchange submitted Amendment No. 1, which (i) deletes language contained in Exchange Rule 4.11 Interpretation .04(b) regarding the limitation on the number of contracts that can be maintained under equity hedge exemption and (ii) includes examples of the proposed qualified hedge strategies.

[3] The Pacific Exchange, Inc. (''PCX'') has filed a similar proposed rule change to eliminate position and exercise limits for certain qualified hedge strategies. Securities Exchange Act Release No. 44680 (August 10, 2001) (File No. SR–PCX–00–45).

[4] Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201 (June 2, 1988) (SR–CBOE–87–27).

[5] Securities Exchange Act Release No. 33212 (November 17, 1993), 58 FR 62173 (November 24, 1993) (SR–CBOE–93–52).

and hedged option position could not exceed three times the standard limit.[6] Contemporaneous with the expansion of the equity hedge exemption, the standard position and exercise limits were also expanded, the most recent increase, in December 1998,[7] increased the five-tier position and exercise limit structure to 13,500, 22,500, 31,500, 60,000 and 75,000 contracts.

The CBOE believes that since the inception of the equity hedge exemption in 1988, the types of hedge strategies employed have become more diversified. The Exchange has learned through its experience in administering and processing equity hedge exemption information that market participants no longer rely solely on a strict stock option hedge. While market participants continue to utilize traditional hedge strategies such as a covered call or reverse conversion strategy, listed option contracts are now utilized to hedge a wider spectrum of securities. For example, firms that conduct an over-the-counter (''OTC'') options business may use listed options to hedge proprietary positions established through the facilitation of customer OTC transactions. These market participants maintain that hedging with a listed option provides a more realistic hedge because the listed option is a mirror image of the OTC option. They also believe that, in some instances, hedging with listed options can be more economical than hedging with common stock.

To accommodate more fully the hedging needs of investors, the Exchange is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity option position. Accordingly, the CBOE proposes to amend Interpretation .04 of Exchange Rule 4.11 to expand the definition of a ''qualified'' hedged position. Listed below are the proposed qualified hedge strategies and their accompanying examples.

(i) Positions hedged or covered with the underlying security or securities readily convertible into stock (long call/short stock or short call/long stock or long put/long stock or short put/short stock). This hedge strategy is currently exempt pursuant to the equity hedge exemption provision contained in Exchange Rule 4.11; contracts are covered on a one-for-one basis.

For example, account ABC is short 5,000 GE Apr 35 calls and long 500,000 shares of GE common stock. Account ABC is also short 1,000 GE April 40 calls but has no corresponding stock hedge. The account is exempt on 5,000 contracts hedged with stock and the short 1,000 GE April 40 call position is not considered hedged and thus applied to the applicable position limit.

(ii) Reverse Conversion (buy call/sell put (same expiration)/sell stock.[8] For example, assume account ABC establishes the following position:

Long 25,000 GE April 35 calls
Short 25,000 GE April 35 puts
Short 2,500,000 shares of GE common stock

Under the proposed rule change, two options contracts (i.e., one long call and one short put) will be treated as one contract for hedging purposes. Each reverse conversion option position must be hedged with 100 shares of the underlying security to remain exempt. Account ABC increases its position by establishing a long call position of 5,000 April 40 contracts with no qualified hedge. Option contracts held by account ABC number 55,000 on the short call long put side of the market. The 50,000 contract reverse conversion position is a qualified hedge strategy and is thus exempt from the position and exercise limit. The remaining 5,000 contracts and any future position established by the account in which a non-qualified strategy is employed would be added to the account's existing 5,000 contract position and applied to the standard position limit.

(iii) Conversion (sell call/buy put (same expiration)/buy stock).[9] The components and hedge treatment of the conversion strategy is the same as the reverse conversion except that the option component of the position is on the short side of the market (i.e., short call, long put) and is hedged with long stock.

(iv) Collar (call sell/buy, both out-of-the-money when established with the same expiration where the strike price of the short call exceeds the strike price of the long pub/buy stock).[10] A collar strategy provides downside protection by the use of put option contracts and finances the purchase of the puts through the sale of short call options contracts. The goal of this strategy is to bracket the price of the underlying security at the time the position is established. For example, assume that the price of an underlying equity, XYZ, is $53 and account ABC is long 5000 shares of XYZ at $53. Account ABC sells 40 XYZ April 55 calls and purchases 50 XYZ April 50 puts. Under the collar exemption, one collar (i.e., one short call, and one long put) must be hedged with 100 shares of the underlying security to remain exempt. Additionally, both call and put components of the option strategy must be out-of-the-money at the time the position is established, both contracts must expire at the same time, and the strike price of the short call must exceed the strike price of the long position. One leg of the option position (i.e., short call or long put) can be an OTC contract guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

(iv) Box Spread (buy call, sell put at one strike price, sell call, buy put at another strike price). Assume that account maintaining the following position:

Long 5,000 April 35 calls
Short 5,000 April 40 calls
Long 5,000 April 40 puts
Short 5,000 April 35 puts.

This position is a qualified box spread and would be exempt from the position limit. Any future option positions established that do not meet the requirements of the qualified hedge strategies would be applied to the account's applicable position limit.

(vi) Listed vs. OTC Options Spreads (options are to generally be within the strike of each other and no more than one expiration month apart). Member firms that conduct an over-the-counter options business utilize the listed options marked to hedge their customer facilitated OTC transaction. It is the CBOE's understanding that some member firms participate in stock by-back programs whereby the firm purchases OTC put option contracts from the subject corporation, the corporation, in turn, will be assigned its short put position, thereby ''buying back'' its own stock.[11]

To hedge this position, the firm will sell put option contracts in the listed market. For example, Firm ABC purchases 50,000 XYZ puts with a strike price of 63.34 expiring in 1/19/03 from XYZ Corporation. At the expiration of the OTC contract, the firm will sell to

[6] Securities Exchange Act Release No. 36371 (October 13, 1995), 60 FR 54269 (October 20, 1995) (SR–CBOE–95–42).

[7] Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (SR–CBOE–98–25).

[8] For these strategies one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account. For purposes of this rule filing, an OTC option contract is defined as an option that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

[9] *Id.*

[10] *Id.*

[11] The Commission notes that issuers would, of course, need to comply with all applicable provisions of the federal securities laws in ''buying bacvk'' their own stock.

XYZ Corporation 5,000,000 shares of its common stock at a price of $63.34. To hedge its position, the firm will sell put option contracts on the CBOE; often at a strike price close to the noted OTC contract with the same expiration date as the OTC contract. OTC contracts hedged on a one-for-one basis against listed option contracts would be exempt from the position limit. As the OTC position generally does not change, Exchange would require the exempt firm to forward to the Exchange, on the Monday following the monthly expiration, the status of its OTC position.

Within the list of proposed hedge strategies eligible for an equity hedge exemption, the Exchange proposes that the option component of a reversal, conversion, or collar position be treated as one contract rather than as two contracts. All three strategies serve to hedge a related stock portfolio. Because these strategies require the contemporaneous [12] purchase/sale of both a call and put component against the appropriate number of shares underlying the option (generally 100 shares), the Exchange believes that the position should be treated as one contract for hedging purposes.

Under the proposed rule change, the existing standard position and exercise limits will remain in place for unhedged equity option positions. Once an account nears or reaches the standard limit, positions identified as one or more of the proposed qualified hedge strategies will be exempted from limit calculations. The exemption will be automatic (*i.e.*, does not require pre-approval from the Exchange) to the extent that the member identifies that a pre-existing qualified hedge strategy is in place or is employed from the point that an account's position reaches the standard limit and provides the required supporting documentation to the Exchange.

The exemption will remain in effect to the extent that the exempted position remains intact and that the Exchange is provided with any required supporting documentation. Procedures to demonstrate that the option position remains qualified will be similar to those currently in place for equity hedge exemptions. Currently a qualified account must report hedge information each time the option position changes. Hedge information for member firm and customer accounts are reported to the Exchange electronically, via the Large Options Position Report. Market maker account information is also reported to the Exchange electronically by the member's clearing firm. For those option positions that do not change, a filing is generally required on a weekly basis. Finally, the existing requirement imposed on member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will remain in place.

The CBOE believes that, with the exception of covered stock positions, all of the proposed qualified strategies are market neutral.[13] According to the CBOE, none of the proposed strategies lend themselves to market manipulation and should therefore be exempt from position limits. In addition, the Exchange believes that the current reporting requirements under Exchange Rule 4.13, and internal surveillance procedures for hedged positions, will enable it to closely monitor sizable option positions and corresponding hedges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and further the objectives of Section 6(b)(5),[15] in particular, in that it is designed to promote just and equitable principles of trade 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

No written comments were solicited or received with respect to the proposed rule change.

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 CBOE 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, including whether the proposed rule change, as amended, is consistent with the Act. The Commission is especially interested in receiving written data, views and arguments concerning the use of a listed option position hedged on a one-for-one basis with an OTC option position on the same underlying security. In particular, the Commission staff has concerns that such exemption would grant members the ability to sell OTC options and hedge such positions on the exchange with listed options on an unlimited basis. This potentially raises manipulation concerns. Therefore, the Commission staff specifically requests comment on this issue. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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 20549–0609. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File Number SR–CBOE–00–12 and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20764 Filed 8–16–01; 8:45 am]

BILLING CODE 8010–01–M

[12] The Exchange notes that contemporaneous means ''at or about the same time.''

[13] According to the Exchange, where covered stock transactions are not market neutral (*i.e.*, long stock/short call; short stock/short put), the market exposure on such activity resides with the stock position where no limit is imposed. The CBOE believes that, as the short option premium serves to mitigate the stock exposure, no limit should be imposed on this strategy.

[14] 15 U.S.C. 78f(b).

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

[16] 17 CFR 200.30–3(a)(12).