

fee waivers and expense reimbursements) and subaccount expenses for the fiscal year preceding the date of the proposed substitution. In addition, for twenty-four months following the proposed substitutions, John Hancock and JHVLICO will not increase asset-based fees or charges for Contracts outstanding on the date of the proposed substitutions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-26831A; File No. 812-13129]

### John Hancock Life Insurance Company, et al.

April 12, 2005.

**AGENCY:** Securities and Exchange Commission.

**ACTION:** This is to amend and restate the "Hearing of Notification" section in a notice issued April 11, 2005 on an application authorizing the substitution of shares of certain series of John Hancock Trust for shares of certain series of various registered investment companies under Section 26(c) of the Investment Company Act of 1940 (Investment Company Act Release No. 26831).

The amended and restated "Hearing of Notification" section now reads as follows:

*Hearing of Notification:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 28, 2005 and should be accompanied by proof of service on Applicants, in the form of an affidavit or for lawyers a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 05-7602 Filed 4-12-05; 3:34 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51510; File No. SR-CBOE-2004-59]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the Chicago Board Options Exchange, Incorporated Relating to Back-up Trading Arrangements

April 8, 2005.

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 August 27, 2004, the Chicago Board Options Exchange, Incorporated ("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 Exchange. On October 21, 2004, the Exchange amended its proposal.<sup>3</sup> On October 26, 2004, the Exchange further amended its proposal.<sup>4</sup> On March 23, 2005, the Exchange submitted a third amendment.<sup>5</sup> 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 Exchange is filing with the Commission proposed new rules that will facilitate the CBOE entering into arrangements with one or more other exchanges that would provide back-up trading facilities for CBOE listed options at another exchange if CBOE's facility becomes disabled and trading is prevented for an extended period of time, and similarly provide trading facilities at CBOE for another exchange

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

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

<sup>3</sup> See letter from Jaime Galvan, Attorney, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated October 20, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange modified the text of proposed CBOE Rule 6.16 and made certain other clarifying changes to the original submission. Amendment No. 1 replaced CBOE's original filing in its entirety.

<sup>4</sup> See letter from Jaime Galvan, Attorney, CBOE, to Brian Trackman, Special Counsel, Division, Commission, dated October 25, 2004 ("Amendment No. 2"). In Amendment No. 2, the Exchange corrected typographical errors in the proposed rule text.

<sup>5</sup> See Amendment No. 3, dated March 23, 2005 ("Amendment No. 3") In Amendment No. 3, the Exchange modified portions of the proposed rule text and corresponding sections of the Form 19b-4 describing the rule proposal. Amendment No. 3 replaces CBOE's previously amended filing in its entirety.

to trade its listed options if that exchange's facility becomes disabled. The Exchange also proposes to adopt a rule addressing general Exchange procedures under emergency conditions and to eliminate a rule adopted following the events of September 11, 2001. Additionally, the Exchange has submitted a corresponding back-up trading agreement between itself and the Philadelphia Stock Exchange as Exhibit B to its Form 19b-4 filing. This back-up trading agreement is available for viewing on the Commission's Web site, <http://www.sec.gov/rules/sro.shtml>, and at the Exchange and the Commission.<sup>6</sup> The text of the proposed rule change, as amended, is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

\* \* \* \* \*

Chicago Board Options Exchange, Inc.  
Rules

\* \* \* \* \*

#### CHAPTER III

#### MEMBERSHIP

#### Temporary Access

#### Rule 3.22

[Until emergency conditions in the aftermath of the terrorist on New York City on September 11, 2001 cease, the Exchange may permit a person or organization to conduct business on the Exchange provided that the person or organization (i) is a member in good standing of the American Stock Exchange "AMEX", (ii) is not subject to a statutory disqualification under the Exchange Act, and (iii) is not subject to an investigation conducted by any self-regulatory organization under the Exchange Act that may involve the fitness for membership on the Exchange of that person or organization. Any such person or organization granted temporary access to conduct business on the Exchange "TPO" shall only be permitted (i) to act in those Exchange capacities that are authorized by the Exchange and that are comparable to capacities which TPO has been authorized to act on the AMEX and (ii) to trade in those securities in which the TPO is authorized to trade on the AMEX. Each TPO shall be subject to, and obligated to comply with, the rules of the Exchange that are applicable to exchange members, but shall have none of the rights of a member of the Exchange except the right to conduct business on the Exchange to the extent

<sup>6</sup> See *infra* note 10. The Commission notes that the text of the back-up trading agreement that appears on the Commission's Web site was filed as part of Amendment No. 3.