

party borrowings of a borrowing Fund at the time of the Interfund Loan. After the final report is filed, each Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N-SAR.

18. No Fund will participate in the credit facility unless the Fund has fully disclosed in its registration statement all material facts about its intended participation.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46113; File No. SR-CBOE-2002-35]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To Amend Rule 6.8 To Permit the Exchange To Allow Broker-Dealer Orders To Be Executed on RAES for Any Product Within Index Floor Procedure Committee's Jurisdiction

June 25, 2002.

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 June 18, 2002, Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. 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

CBOE proposes to amend Interpretation and Policy .01 of CBOE Rule 6.8 to permit the Exchange to allow broker-dealer orders to be executed on the Retail Automatic Execution System ("RAES") for any product within Index Floor Procedure Committee's jurisdiction. The text of the proposed rule change is available at the 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, 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. 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, Proposed Rule Change

1. Purpose

The proposed rule change broadens the recent amendment to CBOE Rule 6.8.01, which granted the Index Floor Procedure Committee, on a pilot basis, the authority to allow broker-dealer orders for options on Nasdaq-100 Index⁴ Tracking Stock ("QQQ") to be executed on RAES.⁵ The proposed rule change would broaden the products that would be eligible to participate in the pilot to any series of any products within the scope of responsibilities of the Index Floor Procedure Committee, pursuant to the Board approved charter for that Committee.⁶ In addition, the proposed rule change would give the Exchange the discretion to determine in which series broker-dealer orders could be executed on RAES.⁶ All other aspects

⁴ See Securities Exchange Act Release No. 45967 (May 30, 2002), 67 FR 37888 (May 30, 2002) (SR-CBOE-2002-22).

⁵ The CBOE represents that RAES has sufficient capacity to handle the processing of the potential increased order flow.

⁶ Under the current rule, it is the Index Floor Procedure Committee that has the discretion to permit broker-dealer orders for options on QQQ to be executed on RAES. The Exchange discretion would be limited to any series of any products that are within the jurisdiction of the Index Floor Procedure Committee.

of Interpretation and Policy .01 remain unchanged.

For competitive reasons, CBOE believes that it is appropriate to expand the products available under the pilot program to those products that are under the jurisdiction of the Index Floor Procedure Committee. CBOE believes that the expansion of products in the pilot program will give the Exchange a fuller and richer data set to evaluate when it considers whether the pilot program has been effective and whether it has achieved its anticipated purpose.

CBOE believes that giving the Exchange the discretion to add permitted products to the pilot program will enhance the Exchange's ability to administer and evaluate the pilot program. Currently, only one type of product participates in the pilot program, but due to the potential increase in the number of products that may participate in the pilot program under the proposed rule change, CBOE believes the discretion to permit broker-dealer orders on RAES should operate differently.⁷ The Exchange believes this is appropriate so that new products will be added to the pilot program in a manner that will optimize the evaluation of the pilot program. Since the evaluation and conclusions of the pilot program could have a broader impact than just on those products that are under the jurisdiction of the Index Floor Procedure Committee, CBOE believes that it is appropriate for the Exchange to have the discretion to determine which products within the jurisdiction of the Index Floor Procedure Committee should be added to the pilot program and when they should be added.

2. Statutory Basis

The CBOE believes that the proposed rule change is consistent with section 6(b)(5) of the Act⁸ in that it is designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest. CBOE believes, that like the recently amended Interpretation and Policy .01 to CBOE Rule 6.8, the proposed rule change could enhance competition for the automatic execution of broker-dealer orders in a broader range of products. CBOE also believes that the expansion of the products eligible for the pilot program will give the Exchange a better array of information to evaluate the appropriateness of competing for orders

⁷ New products will be added to the pilot program upon the recommendation of the Index Floor Procedure Committee.

⁸ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

of the accounts of broker-dealers in this manner.

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 not necessary or appropriate in furtherance of purposes of the Act.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder¹⁰ because the proposed rule change (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, (or such shorter time as the Commission may designate); and the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.¹¹

A proposed rule change filed under Rule 19b-4(f)(6)¹² normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CBOE has requested that the Commission waive the 30-day pre-operative waiting period. CBOE contends that, acceleration of the operative date is consistent with the protection of investors and the public interest because the changes that are proposed make no substantive changes to

Interpretation and Policy .01 to CBOE Rule 6.8. In addition, the proposed rule change will increase competition in those products that are a part of the pilot and permit the Exchange to compete for orders of the accounts of broker-dealers in these products.

The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest.¹³ Acceleration of the operative date will permit the Exchange to extend the pilot to a broader number of products, thus increasing competition for such products. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁴

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the File No. SR-CBOE-2002-35 and should be submitted by July 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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¹³ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ Commission staff has provided interpretative guidance to the Exchange regarding the application of Section 11(a) of the Act, 15 U.S.C. 78k(a), to the RAES system. See letter from Paula Jensen, Deputy Chief Counsel, Division of Market Regulation, Commission, to Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE, dated May 16, 2002.

¹⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46110; File No. SR-ISE-2001-34]

Self Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the International Securities Exchange LLC Amending Its Obvious Error Rule

June 25, 2002.

On November 19, 2001, the International Securities Exchange LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the definition of the term "obvious error" contained in ISE Rule 720 for options with a theoretical price of less than \$3.00.

The proposed rule change was published for comment in the **Federal Register** on May 1, 2002.³ The Commission received no comments on the proposal.

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 exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

ISE Rule 720 gives the Exchange authority to bust or adjust trades that result from an "obvious error." The Rule currently defines an obvious error based upon the market conditions and the difference between the execution price and the "theoretical price" of the options series. To be an obvious error, the difference in execution and theoretical price must be the greater of

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 45811 (April 24, 2002), 67 FR 21788 (May 1, 2002).

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ See 15 U.S.C. 78s(b)(3)(C).

¹² 17 CFR 240.19b-4.