

and coordination with persons engaged in regulatory, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Exchange believes that the proposed rule change is also consistent with section 11A(a)(1)(D) of the Act,¹⁰ which calls for the linking of all markets for qualified securities.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the 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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule, which is based on an ITS Plan amendment approved by the Participants: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days or such shorter time as the Commission may designate,¹¹ the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³

At any time within 60 days of the filing of the proposed rule change, as amended, 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 furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule 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, D.C. 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 BSE. All submissions should refer to File No. SR-BSE-00-06 and should be submitted by October 10, 2000.

For the Commission, by the Division of market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43273; File No. SR-CBOE-00-29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Market Performance Responsibilities of the Exchange's Modified Trading System Appointments Committee

September 11, 2000.

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 July 11, 2000, the Chicago Board Options Exchange, Inc. ("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 proposes to amend its rules governing designated primary market-makers ("DPMs") to modify a provision requiring that the Exchange's Modified Trading System Appointments Committee ("MTS Committee") undertake certain performance evaluation and remedial action functions with respect to DPMs and other Exchange members trading in DPM crowds. 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 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change concerns the role of the CBOE's MTS Committee in reviewing the performance of DPMs and Market Makers and Floor Brokers that regularly trade at DPM trading stations. The purpose of the proposed change is to clarify that while the MTS Committee has the authority, by rule, to perform the market performance evaluations and remedial action functions set forth in CBOE Rule 8.60³ with respect to members that regularly trade at DPM stations, it will not be obligated to perform such evaluations and functions when they are carried out by other appropriate Exchange committees.

1. Background

On June 3, 2000, the Commission approved a rule change that updated and reorganized the Exchange's rules

¹⁰ 15 U.S.C. 78k-1(a)(1)(D).

¹¹ On August 4, 2000, the Exchange provided the Commission with the five business day notice required by Rule 19b-4(f)(6) of the Act:

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ CBOE Rule 8.60(a) requires the periodic evaluation of members to determine whether they have fulfilled various performance standards, including those related to quality of markets, competition among market makers, observance of ethical standards, and administrative factors.

relating to its DPM program,⁴ which has been in existence for approximately 13 years. That change also incorporated certain modifications to the operations of the DPM program. Among those was a requirement in recently adopted Rule 8.88(b) that the MTS Committee perform the market performance evaluation and remedial action functions set forth in CBOE Rule 8.60 with respect to DPMs and other members that regularly trade at DPM trading stations.

At the time the CBOE submitted the rule change proposal in December 1998, it was anticipated that only about one-half of the equity option trading crowds on the Exchange would operate under the DPM system, and that, therefore, it would be feasible and practical for the MTS Committee to perform the market performance evaluation and remedial action functions specified above for all DPMs and all members that regularly trade in DPM crowds.⁵ The Exchange's Market Performance Committee has historically carried out the market performance and remedial action functions for all trading members other than DPMs who traded in equity option crowds, whether they traded in non-DPM crowds or DPM crowds. The rule change contemplated that the MTS Committee and the Market Performance Committee would equally divide the evaluation and remedial action responsibilities required under CBOE Rule 8.60 for equity option crowds with the MTS Committee performing these functions for members of DPM crowds and the Market Performance Committee performing these functions for members of non-DPM crowds. On June 29, 1999, however, the CBOE members voted to expand the application of the DPM program to all of its equity option trading crowds in an effort to address the strategic needs of the Exchange. This, in turn, has resulted in the MTS Committee having to assume market performance responsibilities for a much larger group of members than originally anticipated.

2. Proposed Change

Because of the significant shift to a DPM system for all equity option classes, the Exchange now believes it is too cumbersome for the MTS Committee to undertake all of the market performance evaluation and remedial action functions for all equity option trading crowds required by CBOE Rule 8.60. This is particularly true in light of the other significant responsibilities

delegated to the MTS Committee, such as considering applications for DPM appointments, appointing DPMs, conducting detailed operational reviews of each DPM, making decisions on DPM appointment transfer proposals, and removing DPMs.

The Exchange therefore proposes to modify CBOE Rule 8.88(b) to state that the MTC Committee *may* (as opposed to *shall*) perform the market performance evaluation and remedial action functions set forth in CBOE Rule 8.60 with respect to DPMs and the Market Makers and Floor Brokers that regularly trade at DPM trading stations. The Exchange believes that this proposed change is consistent with the historical application of CBOE Rule 8.60 because it still allows the Market Performance Committee to continue administering performance evaluations of members, a function it has typically performed. Further, the proposed change is consistent with former CBOE Rule 8.80(b)(10),⁶ which allowed, but did not require, the MTS Committee to perform the market performance evaluation and remedial action functions set forth in CBOE Rule 8.60 with respect to DPMs.

The Exchange notes that, under the proposed rule change, the MTS Committee would still be allowed to perform market performance evaluation and remedial action functions under CBOE Rule 8.60, if appropriate, but the Exchange would simply have the authority to delegate those functions among various committees. The CBOE believes that this flexibility is consistent with SR-CBOE-97-61,⁷ approved by the Commission in 1997, which deleted specific references to a particular Market Performance Committee or a particular Floor Procedure Committee and replaced them with the terms "appropriate" Market Performance Committee and "appropriate" Floor Procedure Committee. The CBOE believes that, because all CBOE committees will exercise their authority pursuant to Exchange rules, the actual committee that exercises its authority under the rules should not be relevant. Accordingly, as the proposed rule would merely afford the Exchange greater flexibility in determining the appropriate committee or committees to carry out the administrative functions prescribed under CBOE Rule 8.60, the change is truly administrative in nature. Moreover, the proposed rule change would obviate the need to make a future

rule change simply to change the delegation of authority under CBOE Rule 8.60 between and among Exchange committees.

3. Statutory Basis

The CBOE believes that the proposed rule change will improve the administration of the Exchange's market performance evaluation and remedial action functions. Accordingly, the CBOE believes that the proposed rule change is consistent with Section 6 of the Act,⁸ and in particular Section 6(b)(5),⁹ in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the 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

Because the CBOE has designated the proposed rule change as constituting stated policies, practices, or interpretations with respect to the meaning, administration, or enforcement of its existing rules, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act¹⁰ and Rule 19b-4(f)(1).¹¹ At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate the 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 furtherance of the purposes of the Act.

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

⁴ Securities Exchange Act Release No. 43004 (June 30, 2000), 65 FR 43060 (July 12, 2000).

⁵ The MTS Committee currently has the ability to review and evaluate the conduct of DPMs pursuant to CBOE Rule 8.60.

⁶ CBOE Rule 8.80(b)(10) preceded current CBOE Rule 8.88(b).

⁷ Securities Exchange Act Release No. 39479 (December 22, 1997), 62 FR 68326 (December 31, 1997).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(i).

¹¹ 17 CFR 240.19b-4(f)(1).

Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 file number SR-CBOE-00-29 and should be submitted by October 10, 2000.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43281; File No. SR-CBOE-99-44]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change to Revise the Limits for Introducing New Series of Index Options

September 11, 2000.

I. Introduction

On August 18, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or the "Board") filed with the Securities and Exchange Commission ("SEC" or "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 relating to the limits for introducing new series of index options. The proposed rule change was published for comment in the *Federal Register* on March 14, 2000.³

II. Description of the Proposal

The CBOE has filed with the Commission a proposed rule change to

amend Interpretations .01 and .05 of Exchange Rule 24.9, "Terms of Index Option Contracts," regarding the limits on new series of index options. The proposal would permit the CBOE to introduce new series of index options if their strike prices are within 30% of the current index value. The proposed rule change also would permit the CBOE to introduce new series of index options with strike prices of more than 30% away from the current index value, where demonstrated customer interest exists for those new option series.

Currently, Interpretation .05 of CBOE Rule 24.9 allows the CBOE to list additional series of the same class of index options, other than options based on the S&P 100 Index ("OEX"), when the current index value of the underlying index moves substantially from the exercise price of those index options trading on the Exchange. Under the Exchange's rules, the exercise price for each new series of index options must be "reasonably related" to the current index value of the underlying index to which the options relate at or around the time the series of options is first opened for trading on the Exchange. Interpretation .05 defines "reasonably related," for all options other than long term index options ("LEAPS") and OEX index options, as: (a) The lesser of 50 points of the current index value or 15% of the current index value; and (b) where demonstrated customer interest exists, the lesser of 100 points of the current index value or 30% of the current index value. For OEX options, which are governed by Interpretation .01 of Rule 24.9, "reasonably related" is defined to be 8% of the current index value, or 20% if unusual market conditions exist. Under the Exchange's proposal, OEX options would be subject to the same parameters as other index options.

The CBOE represents that the proposed rule change will enable the Exchange to more effectively respond to changing market conditions and provide market participants with effective risk management strategies in rapidly changing markets. The CBOE believes that the proposal will benefit Exchange members and their customers, because the proposal will permit the CBOE to introduce new series of index options as warranted by market conditions and eliminate an obsolete formula that is tied to a fixed number of index options.

III. Discussion

The Commission finds that the proposal is consistent with the

requirements of the Act.⁴ In particular, the Commission finds that the proposed rule change furthers the objectives of section 6(b)(5),⁵ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and national market system.

The Exchange proposal would allow the Exchange to introduce new series of index options with strike prices that are within 30% of the current index value of the underlying index. In addition, the Exchange would be permitted to introduce new series of index options, without regard to the 30 percent limitation, whenever demonstrated customer interest exists.

The Commission believes that the proposed rule change will allow the Exchange to meet the needs of its members and their customers, while also promoting just and equitable principles of trade, and removing impediments to and perfecting the mechanism of a free and open market and national market system. The Commission also believes that the Exchange's proposal to utilize a single percentage, rather than a numerical standard, will assist the CBOE to better calculate whether, in a rapidly changing market, a proposed new series of index options is reasonably related to the value of the underlying index. Moreover, the Commission believes that allowing new series to be introduced without regard to the 30% limitation, whenever demonstrated customer interest exists, will provide greater flexibility to options customers. Finally, the Commission believes that it is appropriate for the Exchange to no longer maintain a separate definition of "reasonably related" for OEX options.

IV. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-CBOE-99-44) is approved.

⁴ 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).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4

³ Securities Exchange Act Release No. 42500 (March 7, 2000), 65 FR 13799 (March 14, 2000).