

for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 10, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey.

Dated at Rockville, Maryland, this 18th day of June 1996.

For the Nuclear Regulatory Commission.
Leonard N. Olshan,

*Project Manager, Project Directorate I-2,
Division of Reactor Projects—I/II, Office of
Nuclear Reactor Regulation.*

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-37313; File No. SR-CBOE-96-30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Its Retail Automatic Execution System Participation Requirements in OEX Options

June 14, 1996.

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 May 9, 1996, 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. The Exchange submitted to the Commission Amendment No. 1 on June 12, 1996.³ 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 respecting eligibility to participate in the CBOE's Retail Automatic Execution System ("RAES") for transactions in Standard & Poor's 100 Index ("OEX") options. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (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

The purpose of the proposed rule change is to amend Rule 24.17 ("RAES Eligibility in OEX") to require individual market-makers, who are eligible to participate on OEX RAES, to log onto OEX RAES any time they are present in the OEX trading crowd until the expiration date if they have logged onto OEX RAES at any earlier time in that expiration month.⁴ This rule proposal would conform the OEX RAES eligibility rule to a similar requirement in the SPX RAES eligibility rule and the RAES eligibility rule for equity options. The rule proposal also would move authority over certain of the provisions of the rule from the OEX Floor Procedure Committee to the OEX Market Performance Committee ("OEXMPC"). The OEXMPC was recently formed by the Exchange to handle market performance issues of the OEX trading post, including RAES related issues.⁵ The Exchange represents

that it will issue a regulatory circular to its membership outlining the duties to be performed by the OEXMPC.⁶

By requiring market-makers to log onto OEX RAES each time they are in the trading crowd, the Exchange expects to ensure that there is always adequate participation in RAES to handle the small customer orders that are eligible for RAES, even in the busiest market conditions, without having to assign an inordinate number of RAES trades to any particular market-maker. Currently, the Rule does not permit the Exchange to require RAES participation by members of the OEX trading crowd in the event there appears to be inadequate participation. The Exchange believes, however, that this proposed rule change will help to avoid forced participation.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, 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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five days prior to the filing date; and (4) does not become operative for 30 days from June 12, 1996,⁷ the rule change proposal has

things, recommend rules and programs to enhance market performance, respond to market performance related issues in the OEX trading crowd including RAES and firm quote concerns, monitor the opening rotation procedures used in OEX, and conduct OEX crowd evaluation surveys. See Amendment No. 1, *supra* note 3.

⁶Telephone Conversation between Timothy Thompson, Senior Attorney, CBOE, to John Ayanian, Attorney, OMS, Market Regulation, Commission, on June 12, 1996.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange submitted Amendment No. 1 to clarify the duties of the OEX Market Performance Committee, as described more fully herein. See Letter from Timothy Thompson, Senior Attorney, CBOE, to John Ayanian, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated June 4, 1996 ("Amendment No. 1").

⁴ The "expiration month" is from the Monday following an expiration date to the next expiration date. For example, the July expiration month starts on June 24, 1996, and ends on July 19, 1996.

⁵ The OEX Market Performance Committee was created in November 1995 in order to evaluate the performance of the OEX trading crowd in fulfilling its general market-related duties and to make recommendations on how to improve trading crowd performance. The OEXMPC will, among other

become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder. In particular, the Commission believes the proposal would qualify as a "noncontroversial filing" in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. 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 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR-CBOE-96-30 and should be submitted by July 15, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz,
Secretary.

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[Release No. 34-37315; File No. SR-OCC-95-18]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Clarifying Rules Regarding the Unavailability of Current Index Values

June 17, 1996.

On November 24, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-95-18) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ On March 19, 1996, OCC amended the proposed rule change.² Notice of the proposal was published in the Federal Register on March 27, 1996.³ No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

OCC has determined that certain technical changes should be made to its rules to clarify the respective rights and responsibilities of OCC and the options exchanges ("exchanges")⁴ with respect to the reporting of current index values and the determination of settlement values. Specifically, OCC is amending Article XVII, Section 4 of its by-laws, which empowers OCC to fix an exercise settlement amount in the event that OCC determines that the current index value is unreported or otherwise unavailable, to clarify that OCC has the authority to fix an exercise settlement amount whenever the primary market for the securities representing a substantial part of the value of an underlying index is not open for trading at the time when the current index value *i.e.*, the value used for exercise settlement purposes) ordinarily would be determined. OCC believes this authority is implicit in the language of the present by-law because in such circumstances the current index value would generally be "unreported or otherwise unavailable;" however, OCC believes the rule change will make OCC's authority explicit.

In addition, the rule change assigns the responsibility for fixing exercise

settlement amounts in situations where the current index value is unavailable or inaccurate to a panel consisting of OCC's Chairman and two designated representatives of each exchange on which the affected series is open for trading, one of whom shall be such exchange's representative on OCC's Securities Committee. This procedure to assign the decision-making responsibility to an exchange-controlled panel conforms with the procedures used in making determinations with respect to adjustments made pursuant to Article VI, Section 11.⁵ The rule change authorizes the panel to fix the exercise settlement amount based on its judgment as to what is appropriate for the protection of investors and the public interest taking into account factors such as fairness to holders and writers and the maintenance of fair and orderly markets. The panel may, but is not restricted to, fixing the exercise settlement amount on the basis of the reported level of the underlying index at the close of trading on the last preceding trading day for which a closing index level was reported.

Identical changes also are being made to Article XXIII, Section 5, which governs the fixing of exercise settlement amounts for Flexibly Structured Index Options Denominated in a Foreign Currency ("FX Index Options"). Under these proposed changes, the situation contemplated by the last two sentences of the definition of "expiration date" in Article XXIII, Section 1.E.(3) (*i.e.*, where the primary markets for underlying securities representing a substantial part of the value of an index is closed on an expiration date) will be explicitly covered by Article XXIII, Section 5; therefore, the last two sentences of Article XXIII, Section 1.E. (3) will be deleted.

The remainder of the changes to OCC's by-laws are technical changes that are being made primarily for the purpose of conforming OCC's by-laws to changes made in the Commission's approval of FX Index Options.⁶

II. Discussion

Section 17A(b)(3)(F)⁷ requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of

¹ 15 U.S.C. 78s(b)(1) (1988).

² Letter from James C. Yong, First Vice President and General Counsel, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (March 19, 1996).

³ Securities Exchange Act Release No. 36988 (March 20, 1996), 61 FR 13558.

⁴ The exchanges include the American Stock Exchange, the Chicago Board Options Exchange, the New York Stock Exchange, the Pacific Stock Exchange, and the Philadelphia Stock Exchange.

⁵ Section 11 of Article VI sets forth the procedures by which adjustments are made to options when there is a distribution, stock split, rights offering, reorganization or similar event with respect to the underlying security.

⁶ For a complete description of FX Index Options, refer to Securities Exchange Act Release No. 35149 (January 3, 1995), 60 FR 158 [File No. SR-OCC-94-08] (order approving proposed rule change).

⁷ 15 U.S.C. 78q-1(b)(3)(F) (1988).

⁸ Because the Exchange filed Amendment No. 1 subsequent to the original filing date, the 30-day period commences on the filing date of Amendment No. 1.

⁸ 17 CFR 200.30-3(a)(12) (1994).